

BOARD OF ZONING APPEALS & PLANNING COMMISSION

MINUTES OF MEETINGS

April 12, 2017

1. **Board of Zoning Appeals (BZA) Call to Order**

Chairperson Paul Culter called the regularly scheduled meeting of the Sharonville Board of Zoning Appeals to order. He reminded those planning to testify to sign in. All said the Pledge of Allegiance. Those planning to testify took the oath.

2. **BZA Roll Call**

Present: Paul Culter, Matt Eggenberger, Wendell Herrin, Andrew Sasser, Madeleine Dressing, Tom Pernik, and Councilman Mike Wilson.

Absent with Notice: Dan Ison

3. **BZA Approval of Minutes**

The minutes of the last meeting were approved as written by Wendell Herrin.

4. **BZA Nominations for Chair and Vice Chair**

Matt Eggenberger made a motion to nominate Paul Culter for Chair. Wendell Herrin seconded the motion. Paul Culter accepted the nomination. All voted in favor. Paul Culter made a motion to nominate Dan Ison as Vice Chair. Tom Pernik seconded that motion. All members voted in favor.

Mr. Culter gave a description of the variance process. He explained that a hardship was needed, and that financial hardship is not a valid reason. Each case is heard on its own merit. A simple majority of the voting members is needed for the granting of a variance. He then introduced the Board.

5. **BZA Old Business:**

None

6. **BZA New Business:**

a. **Variations for Sign Setback – 11935 Tramway Drive – Doug Lichtenberg or Lichtenberg Property #4 LLC – Sharonville Zoning Code 1153.12(c)**

b. **Variance for Sign Setback – 3428 Hauck Road – Doug Lichtenberg or Lichtenberg Property #4 LLC – Sharonville Zoning Code 1153.12(c)**

Bud Noe: Evening, Board. Welcome, Andrew. First item on New Business is variance for sign setback, which I believe is on your screens in front of you, what I'm about to say, as well as for the audience on the screens above on the walls. Variance for sign setback at 11935 Tramway Drive by Doug Lichtenberg of Lichtenberg Properties LLC. And this is in regards to our Sharonville Zoning Code 1153.12(c). On behalf of Lichtenberg Property, Doug Lichtenberg is requesting two separate variances as follows: to install a ground sign two feet behind the right of way at 11935 Tramway Drive, and number two, to install a ground sign five feet behind the right of way at 3428 Hauck Road. This is covered by like I said before, 1153.12(c) of the Sharonville Zoning Code, which states that ground signs must be 25 feet setback from the front lot line or the right of way. Therefore, variances of 23 feet for 11935 Tramway and 20 feet for 3428 Hauck Road are required. These two addresses front on different streets, but meet at the rear and the side lot lines. Both parcels are zoned General Industrial, and they are under the same ownership. In your packet you'll find out letter to Doug Lichtenberg. You'll find his application to the City of Sharonville for the variance petition for each of the two signs. Then you'll find our list of addresses where we mailed this out to the neighboring properties. On the next page, you'll find the outline and size, shape of the sign in particular with no face on it, because that was not addressed at this time. Since we do not control the content of the sign, we did not require him to put that on the plan at this time. The next page you'll find the "Image A." It's marked

“Image A,” of 11935 Tramway, with a red line indicating approximate setback of the sign, 33 feet from the center line of the street. And the next page after that, you’ll find the “Image B,” which is the Lichtenberg Properties. It’s 3428 Hauck Road, which shows approximately 47 feet back from the center line of the street. Next page you’ll find some various... a plan that was submitted to us with the various properties on there. It does not show them connecting on this particular sheet, unless you go to the little yellow area up in the right hand corner. You can see how the properties connect at the rear. Both of these streets have rather wide right of ways, which is part of the reason why with the proper setbacks the signs will most likely not be very visible to the general public. Are there any questions for me by the Board?

Matt Eggenberger: Bud, do you know why they have such a wide right of way?

Bud Noe: Future development, I would imagine. Both those streets someday, I think, were proposed to be wider than they are at this present time. I know that for Hauck Road. I’m not sure about Tramway, except Tramway was an industrial park. And I believe industrial parks normally have wider roadways than that which was built on that particular one at this time. Did that answer your question, Matt?

Matt Eggenberger: Yes it did, thank you.

Bud Noe: Okay. Any other questions by the Board?

Paul Culter: Thank you, Bud.

Bud Noe: Okay, I’ll turn it over to Doug.

Paul Culter: As a reminder, if you could state your name and address for the record please.

Doug Lichtenberg: Good evening. My name is Doug Lichtenberg. I am partner with my dad for the building at 11935 Tramway. It’s a newer building we completed approximately a year and a half ago. Our intent with the building is to lease it out. We’re going to... It’s about 35,000 square feet. We intend on dividing it into three spaces. We have one third of it currently leased. The reason we’re applying for the signage variance is that obviously it’s a panhandle lot; it has no frontage. You cannot see the building from either one of the streets. So we would like to install signage both on Hauck and Tramway, since both of those are access to our property, which simply lists the building address along with our three tenant names. If you look at the actual sign, the sheet that shows the specifications on the sign, it has a semicircular top to it. That’s where we would put our address and street name. This one here. And then there are three panels below that, where simply in white vinyl lettering, list the tenant names so people know or have direction as to how to get into the building. The reason for needing the variance, if you look at the image of... We’ll start on Tramway. If we were to set that back the required amount, it’s going to be behind this landscaping here, and you will not be able to see it. Not asking for a huge variance, but that’s why we want to scoot it forward, so it can be seen. There is plenty of other signs on the street that are way closer than what we’re requesting. I indicated, I think it’s American Window or Doors. They’re much closer with similar size sign, just up the street. And then down on Tramway, our sign is similar in color. Our new sign is similar in color and size to our existing sign. We just want to put it actually behind, further away from the street than the current one is. It would be right in line with the existing one, but just slightly behind. So I don’t think either one are presenting any kind of visual impairment or anything to traffic.

Paul Culter: Thank you. Any questions for the applicant?

Andrew Sasser: Image B, so it’s going to replace...? The new sign’s going to replace the existing sign, correct? Or the existing sign’s going to...?

Doug Lichtenberg: Well, the new sign is actually the actual sign. We already have it, and we walked out there and stood it up. It's kind of outlined in white.

Andrew Sasser: Right. Yeah.

Doug Lichtenberg: It's labeled. There's a realtor sign right behind it.

Andrew Sasser: Right.

Doug Lichtenberg: Will eventually go away.

Andrew Sasser: So my question to you though is, the new sign, does it replace existing sign? Or is in addition to?

Doug Lichtenberg: No, in addition. The existing sign is for the properties that are on Hauck Road.

Andrew Sasser: Okay.

Doug Lichtenberg: The building that you're actually seeing in the picture.

Andrew Sasser: Okay. That's all I had. Thank you.

Paul Culter: Thank you. Any other questions for the applicant?

Matt Eggenberger: Just to make sure I'm clear, so the existing sign is that your sign, on Image B?

Doug Lichtenberg: Yes, it is.

Matt Eggenberger: But it's not for the same building as that...?

Doug Lichtenberg: No, to help explain, if you look at... I don't know which image this is. But with the map there, there are several buildings in our complex there. The building that is shown just barely above the "B" in that image, that is this building here that you're seeing. And that existing sign is actually signage for all three of those buildings that are in a row there on that map. The new sign that we're requesting a zoning variance for is back... The building is not actually shown on the map, because it's too new. It's back where I have the label of 11935. So the building is way back off the road, and nobody really knows it's back there without signage.

Paul Culter: Did you look into combining signs, maybe making one large sign rather than putting up two signs?

Doug Lichtenberg: Well, they're really two separate properties, so we kind of wanted to keep them separate so people knew that it is totally separate.

Paul Culter: Are they addressed as such?

Doug Lichtenberg: They are addressed totally separately, yes.

Paul Culter: Okay, thank you. Any other questions or comments for the applicant?

Matt Eggenberger: Have you considered keeping it the same style as the existing sign?

Doug Lichtenberg: We did, and it's actually... That is the same manufacturer. They do not make that style anymore. And again it kind of goes back to it is a different property, so we kind of want it to match a little but not be identical.

Paul Culter: Alright, any other final questions for the applicant? Seeing none, are there any questions or comments from the audience on this case this evening? Seeing none, do I have a motion on this variance as presented?

A motion was made by Wendell Herrin to vote on the variance as presented, and the motion was seconded by Matt Eggenberger.

Roll Call / Vote

Paul Culter: I think based on the fact that there's a very large right-of-way there, and given the panhandle nature of the lot, I don't see any issue with the size or the placement of the sign. So I vote YES.

Matt Eggenberger: I vote YES for same reasons.

Wendell Herrin: I vote YES.

Andrew Sasser: I vote YES.

Madeleine Dressing: I vote YES.

Tom Pernik: I vote YES for the same reasons.

Paul Culter: Thank you. With that, your variance has been approved.

c. Variance for Location and Setback of Accessory Structure – 10740 Plainfield Road – Susan Nowlin and Glen McCann – Sharonville Zoning Code Sections 1125.02(b) & 1125.02(c)

Bud Noe: Next item on the agenda is (c) variance for location and setback of an accessory structure, 10740 Plainfield Road, Susan Nowlin and Glen McCann, our Sharonville Zoning Code sections 1125.02(b) and 1125.02(c). Susan Nowlin is requesting a variance to build an accessory building combination garage, pool change room / bathroom in the required side yard at two feet off the side lot line and four feet from the house. This request is in violation of sections 1125.02(b) and (c), which state in part that accessory buildings shall not be erected in the required front or side yard, and that no detached accessory building shall be located closer than 20 feet to any main building. Therefore, variances are required for an accessory building in the required side yard and for a 16 foot reduction in the setback to the main building. This structure's being erected to replace an existing accessory structure. This property is zoned R1-A. In your packet, you'll find our letter to the applicants. You'll find their application for a variance petition to the City of Sharonville, letters that went out to the neighboring property owners. You'll find an aerial site plan of the proposed structure outlined in black, located at the immediate right side of their property. And they have attached construction detail plans for the permit application and for your convenience, so you will know the type of structure they propose to build on the next two pages. And I've worked with the applicant on this application in the sense that the location of the structure, if it were to be brought into compliance with our code requirements, it would be in a location that would make it most likely unusable on their property (or a least a lot less usable that it would be at this location). I explained to them the variances needed. I did go over the plans with our Chief Building Official, and him and I came to the conclusion that the gutter line is where the two foot setback would come to on the structure of this nature. So, the wall of the garage would be approximately three and a half feet from the property line. Just want you to be aware of that, but the setback variance is to the gutter line and not to the wall of the garage. And the applicant agreed to put fire proofing in the garage. They're going to put fire rated drywall in the garage area, so they've worked well with us on this structure. Are there any questions for me at this time?

Paul Culter: Bud, the plans don't look like they show a gutter, or do they?

Bud Noe: Yes, they do.

Paul Culter: Oh, they do? Okay. I just thought it was running off there.

Bud Noe: Well, the two foot setback would be required to the fascia board, not necessarily to the exterior of the gutter.

Paul Culter: Okay.

Bud Noe: Any other questions?

Paul Culter: Do you know the height of this building? I mean the City doesn't measure it to the actual peak of the roof.

Bud Noe: It's the average between the...

Paul Culter: Eaves and the peak.

Bud Noe: Eave and the peak, and this building is within that allowance. We spec 14 feet. Generally you can go up to approximately 18 foot at the peak and still be within compliance.

Paul Culter: Thank you.

Bud Noe: Any other questions? Okay, with no more questions, I'll turn it over to Susan Nowlin.

Paul Culter: Will you state your name and address for the record, please?

Susan Nowlin: Susan Nowlin at 10740 Plainfield Road. I've never done this before, so bear with me. The new structure will be 20 feet wide, a garage, and be offset from the property line by approximately two to three feet. The new structure will be primarily a service garage, therefore it's desired that it be located near the house. There's currently a 10 by 14 shed located in the same area, and that'll be removed. And it basically just isn't serving our needs for storage. We have a lot of the patio, pool, and yard equipment, things like that, chemicals for the pool, stuff like that. The new structure also will have approximately a ten by eleven storage area, kind of towards the back of the garage. And it'll have a small bathroom changing area for the pool area. Lastly, we currently do park, you can kind of see on the drawing, cars there now. They're setback. Actually by pushing that back a little further, we'll have more room in the driveway area for guests and things like that. The driveway we... it's a double driveway, and on the right share you know with our neighbors. So it is tight in that area. So this would actually push... you know give us the ability to park our cars a little bit farther back, which would be good for the neighbors. Additionally the slope of yard, it does tend to start to go back. So it would be more difficult to put it further back into the yard. I think that's it. Any questions?

Paul Culter: [*Inaudible*].

Susan Nowlin: It's approximate. There's a... that box, grey box there, is an electrical whatever it's called. I don't know. So we would need to check with Duke Energy to see how far off we need, so we would move it back as needed.

Paul Culter: Not any further...?

Susan Nowlin: It would not come any further, no. It would be pushed back if anything.

Paul Culter: Any questions or comments?

Tom Pernik: Hi, Susan. Question for you. I notice that your design has an offset, you know on the left hand side it notches and then it goes deeper.

Susan Nowlin: Right.

Tom Pernik: Is that to just conform to the... not have to do anything with your fence?

Susan Nowlin: Not really. It's... The bigger part is really the garage area, where we would park the cars. Then it kind of it goes in really just it's sort of the way the yard goes, I guess. And then there's the like a ten by eleven storage area, which like we have the shed there now. But it was actually... It would be I think about the same distance down as that shed, depending on how far back we have to put it. But it's really that sort of an "L" shape. It's like additional storage in the back.

Matt Eggenberger: Do you have a garage now?

Susan Nowlin: We do. There is a two car garage there. What we would like to do is, if we are able to get this variance and build this garage, is convert that to a one car and potentially then use part of the current garage to have a mud room and potentially bring the laundry into that area if we can.

Matt Eggenberger: So it's an attached garage?

Susan Nowlin: Yeah, it's an attached garage. It's where you see the house, where it kind of juts out in the front on the right, that's the garage.

Matt Eggenberger: Is the current shed, is that closer to the property line?

Susan Nowlin: It is. We bought the house about four years ago. And I don't know if there was a variance for it or not, but I believe it's right on the property line. This would actually bring... You know we would get rid of that, and this would actually bring the structure in away from the property line. And we did talk to our neighbors in the front and our neighbors to the right, and they had no problem with the structure.

Tom Pernik: Susan, do you have a Homeowner's Association there, in your neighborhood?

Susan Nowlin: No.

Tom Pernik: You don't? Okay.

Paul Culter: Any other questions or comments from the Board? Seeing none, any questions or comments from the audience this evening on this case? Seeing none, do I have a motion on this variance as presented?

Wendell Herrin made a motion; second by Tom Pernik.

Roll Call / Vote

Paul Culter: Given the configuration of these lots, I mean these are flag lots and this garage structure set so far back from the street, and nobody's come out and spoken in opposition, the applicant has said that she has not received any concern from her neighbors; I'm going to vote YES.

Matt Eggenberger: YES for the same reasons.

Wendell Herrin: I vote YES for the same reasons.

Andrew Sasser: I vote YES.

Madeleine Dressing: I vote YES.

Tom Pernik: I vote YES.

Paul Culter: Thank you. With that, your variance has been approved.

Susan Nowlin: Thank you very much.

7. Planning Commission (PC) Call to Order

John Creech: I think we'll need the Planning Commission to come up. This item requires two actions tonight. The Board and then the Planning Commission action.

Paul Culter: The Board of Appeals will make our vote first, and then the Planning Commission will have to hear the Conditional Use if the variance is approved.

John Creech: Because it is the first item, thank you.

Paul Culter: So Mayor Hardman, do you want to call your Board to order?

Kevin Hardman called to order the regular meeting of the Sharonville Planning Commission to begin the joint portion of the meeting with the Board of Zoning Appeals.

Bud Noe confirmed that everyone in the audience had signed in as needed.

8. PC Roll Call

Present: Kevin Hardman, Jim Lukas, Bill Martin, Sam Schutte, Bill Knight, and Councilman Mike Wilson

Kevin Hardman: We'll hold off on the other business until this item is taken care of, so we'll start with our joint item of business which is the conditional use permit for solid fence at 11190 Macar Drive.

9. BZA New Business (continued)

d. Variance for Location of Fence – 11190 Macar Drive – Patrick Cassinelli – Sharonville Zoning Code Sections 1125.07 & 1125.10(b)

Bud Noe: Patrick Cassinelli is requesting a variance to install a fence in the side yard facing Cornell Road, which is his second front yard, which has front yard setback requirements. Sections 1125.07, "Yards on Corner Lots," states that in the case of a rear yard abutting a side yard (that would be the yard on Cornell Road), a side yard of an adjacent lot, the side yard abutting the street shall not be less than the front yard required for the adjoining lot. In this case that's 30 feet. 1125.10(b) states that fences are not permitted in a front yard on a corner lot. Therefore a variance is required for a fence in the required front yard. This property is zoned R1-B. And just for the record, and I made a note of it, Cornell Road for some reason has a hundred foot right-of-way at that point, which is rather extreme. And the adjoining lot at the rear is a panhandle extending to the green space owned by City of Sharonville. So, I did not use that Public Facilities nature of that property as an example, but we used the residents to the immediate east as the next adjoining lot. Just wanted you to be aware of that. In your packet you'll find our letter to Patrick Cassinelli, his application to the City of Sharonville for the variance and the Planning Commission application, letters that went out to the neighboring properties. And just for the record, the neighbor to the right on Macar called me and said she originally signed the Planning Commission sheet for the approval of the fence on her side of the property, and that she also had no objection to that solid fence being on the north side of the prop. She wanted me to state that in the record, so you were aware. She could not be here; she's taking care of her family member. Next page is an outline of their property. If you rotate it to the right, you'll see they have privacy fence section coming out from the left side of the house. That's the north rear corner, coming out 36 feet to the property line, and then going up behind the shed, to

the corner of the shed. And that's the part that's subject to this variance for the privacy fence in the front yard. But the remainder of the fence in the front yard continues to the back corner and then up the rear line. And then just for the record, the other part of the privacy fence is on the right side. It's a little section about six foot by six feet. The next page is a black and white aerial of the depiction of the property showing where the right-of-way is setback. And then the next page I printed this out from CAGIS and measured that off. It scales 102 feet. I believe the proper distance is 100 feet for the right-of-way on Cornell Road. So, any questions for me at this point?

Paul Culter: Thank you, Bud.

Bud Noe: Okay, if not I'll turn it over to Patrick Cassinelli.

Paul Culter: Again, if you could just state your name and address for the record please.

Patrick Cassinelli: Patrick Cassinelli, 11190 Macar Drive. We're wanting to put the fence up because in the future we're wanting to put a pool in the center of the yard. And we also have small dogs that like to chase after the animals, and I'm afraid they're going to get out to the street. As far as the distance of the fence running behind the shed, our yard is very small. And we really need that area. I'd like to keep the shed inside the fence also you know. And that way we can have room to enjoy our backyard.

Paul Culter: Okay, and again for the Board this evening, we're only hearing the front yard setback for six foot privacy fence on the side that's adjacent to Cornell Road. That's our concern this evening. So not the chain link fence behind it, not the six foot privacy fence on the side furthest away from Cornell. So, any comments/questions for the applicant?

Matt Eggenberger: Well, just to make sure I'm clear, it's this?

Paul Culter: Right, if you're looking at the screen in front of your or the screen behind us, the six foot privacy fence that is on the left hand side of that drawing, extending from the rear corner line of house to the property line or somewhat thereof, along Cornell Road, that's the only piece that we're looking at. And it's a unique situation, because this is a corner lot, which means it has two front yards, which is the reason why he's got to be here this evening.

Kevin Hardman: Actually, you're looking at the chain link that goes all the way down Cornell Road, too, because that's all front yard.

Paul Culter: Correct, yes.

Kevin Hardman: So you've got the six foot privacy fence; and that privacy fence goes all the way to the corner of the shed, right?

Patrick Cassinelli: Yes, the 36 feet from the corner of the house back to the shed.

Kevin Hardman: And then from the shed to the back, it's what?

Patrick Cassinelli: It's like 58 feet.

Kevin Hardman: West property line, that's all chain link there, correct?

Patrick Cassinelli: Yes.

Kevin Hardman: So that's all variance required from you, because that's all front yard.

Paul Culter: Correct, thank you.

Patrick Cassinelli: Cornell road comes up a very steep grade.

Kevin Hardman: Right.

Patrick Cassinelli: So, actually the six foot privacy fence, once you start up Cornell Road, I mean you can look right over it.

Kevin Hardman: How far is that fence from Cornell Road itself?

Patrick Cassinelli: I didn't scale that.

Kevin Hardman: Bud, do you have any idea of how far that fence is from the road?

Bud Noe: It's much further. It's about twice the distance as it is from the house.

Paul Culter: It's at least 50 feet from Cornell.

Bill Martin: I guess another question would be how far off the right of way is it?

Bud Noe: [*Inaudible*].

Sam Schutte: I had a question, just because I... make sure I didn't mishear earlier in the code. Because you know while this house does have in a corner lot two front yards, you know fences you draw the triangle across the corner. Are we saying that you know and I think it's what thirty-some feet each side of that triangle has to be, and the fence just has to be behind that...?

Paul Culter: It would not be anywhere near that triangle.

John Creech: Sight of distance triangle.

Sam Schutte: It's protruding into that triangle basically.

Paul Culter: Right.

Sam Schutte: Okay.

Paul Culter: So Board of Appeals, any other questions for the applicant?

Wendell Herrin: That shed that's on the Cornell side...?

Patrick Cassinelli: Yeah.

Wendell Herrin: Can that be moved up to behind the privacy fence? Because you have a chain link back there, and to hide the shed, if you moved it a few feet, you'd be behind the privacy fence. Can you do that?

Paul Culter: Correct me if I'm wrong, your privacy fence basically starts where that heavy wooded vegetated area starts, right?

Patrick Cassinelli: Yes.

Paul Culter: So, I think...

Patrick Cassinelli: It's very wooded.

Paul Culter: Yeah.

Patrick Cassinelli: Actually, Sharonville had to come out and cut a couple of dead trees down...

Paul Culter: So I don't think you can see the shed. When I was out there, and I drive past it all the time, you can't see the shed from the street unless you're coming past Malaer on Cornell heading east. But you can't see it otherwise.

Wendell Herrin: Yeah, a lot of bushes through there.

Paul Culter: Right.

Wendell Herrin: Okay.

Paul Culter: Board of Appeals, any other questions or comments for the applicant?

Jim Lukas: I have one, if I can. Is this a proposed chain link or a solid fence?

Patrick Cassinelli: Both.

Jim Lukas: Okay, because the at least the paragraph that Planning Commission was given, it says, "which states in part that solid fences may be permitted as a conditional use by Planning Commission." That implies to me that chain link is therefore not permitted...

John Creech: Chain link is permitted.

Jim Lukas: That's a... Chain link is considered a solid fence?

John Creech: They're asking for a variance to put the fence in the side yard, in the front yard because they're on a corner lot.

Kevin Hardman: He wouldn't need to come to us if it was just chain link.

John Creech: Right.

Kevin Hardman: He wouldn't need to come to Planning Commission. Only because a portion of it is a privacy fence, that's why it has to come to Planning Commission. Board of Zoning Appeals has nothing to do with the type of fence. They're only issue is putting the fence in the front yard. And I think that's where I have some concerns, is just because of that right-of-way that we have on Cornell Road. And you're going to be building a fence in that right-of-way. We already have a shed in the right-of-way on that property obviously, right?

Paul Culter: No, the shed and the fence are not in the right-of-way...

Bud Noe: *[Inaudible]*.

Paul Culter: No, it would be along the right-of-way. The right-of-way is... You can see it bows out at that side. It goes over 100 feet from one side to another. So his fence and the shed are inside or on that right-of-way line. It would not be...

Kevin Hardman: Okay, that's what I was misunderstanding. I thought you were saying it was in the right-of-way, that's why... Okay. So it's at the property line, is the end of the right-of-way.

Paul Culter: The shrubs and trees he was talking about that the City had to clear were in the right-of-way.

Kevin Hardman: Got you. Thank you.

Bill Martin: Do not we need a setback from the right-of-way?

John Creech: No.

Paul Culter: Board of Appeals, any other comments or questions for the applicant? Any questions or comments from the audience this evening on this case? Seeing none, do I have a motion on this variance as presented?

Wendell Herrin made that motion as presented; Matt Eggenberger seconded that motion.

BZA Roll Call / Vote

Paul Culter: Given the unique situation that it's a corner lot with two front yards, and with the grade change from Cornell Road down to the house itself, and the fact that the fence is proposed to start at the rear building line of the house, and that front yard if you will on Cornell Road is well over 300 feet from the adjacent residents farther east on Cornell, I'm going to vote YES.

Matt Eggenberger: I vote YES.

Wendell Herrin: I vote YES; I think it's appropriate for the conditions that we have here, so I vote yes.

Andrew Sasser: I vote YES.

Madeleine Dressing: I vote YES.

Tom Pernik: I'll vote YES.

Paul Culter: Thank you. With that, your variance for the location has been approved. So you'll still need to remain up here for Planning Commission's consideration and approval.

10. PC New Business

a. Conditional Use Permit for Solid Fence – 11190 Macar Drive – Patrick Cassinelli – Sharonville Zoning Code Section 1159

Kevin Hardman: I'll make a motion to approve the request for Conditional Use for privacy fencing as presented in the proposal before us tonight. Is there a second? Second by Mr. Lukas. Any further discussion?

Bill Knight: Do you plan on doing any kind of screen on the outside that faces the Macar area?

Patrick Cassinelli: Screening? I was going to on the Macar side was six foot privacy fence.

Bill Knight: Right.

Patrick Cassinelli: And on the right side of the home, I just put a six foot section and one eight foot section, and just to match both sides of the house. So you would see the privacy fence...

Bill Knight: I'm saying as far as screening just to kind of tone the fence down a little bit.

Patrick Cassinelli: Oh...

Bill Knight: Bushes...

Patrick Cassinelli: Yeah, well we have small bushes on the side of the home. And we're talking... You know I was going to... We're planning on landscaping.

Bill Knight: Right.

Patrick Cassinelli: Small shrubs.

Bill Knight: Kind of tone it down a little bit.

Patrick Cassinelli: Okay, we can do that.

Sam Schutte: I guess my question is really just in terms of I guess you know precedent, because I think it's a little... I'm not clear on why just the very corners of it are privacy fence and the rest is all chain link, or why it stops there. And is that something that you know we've done many times in the past or something?

Patrick Cassinelli: Mainly for cost. The chain link is much cheaper, and we just need the privacy from the front of the home. The rear is all wooded, and our neighbor to the right or to the left of our home, you know we have no reason to kind of block anyone off. You know that's our only neighbor that you can see from our yard. So we're just going with chain link fence there to keep the dogs in the yard.

Wendell Herrin: Can I make a comment? Down the road on Cornell, there's a very similar fence that was put up off of Malaer and Cornell. And it's a solid privacy fence down the Cornell side, and it looks very nice.

Patrick Cassinelli: Yeah.

Wendell Herrin: Have you seen that?

Patrick Cassinelli: Oh yes.

Wendell Herrin: And that's what I think some of the questions were. Can you do the whole...? But because so many bushes there, I don't know that you really need it.

Patrick Cassinelli: I don't even know that you can see...

Bill Knight: Along the Cornell Road side, just the Macar side, something similar to what is done on Malaer and Cornell.

Patrick Cassinelli: On the Macar side, I have privacy on my drawing here.

Bill Knight: Yeah, privacy. We're talking about landscaping in front of it.

Patrick Cassinelli: Oh, landscaping. Yes, I can do some landscaping in front of that. I have four... some small shrubs.

Bill Knight: And I will add that you know the present owner here on that property, he's brought it a long way compared to the previous owner. I think the City had to mow that several occasions, so he's doing a nice job of maintaining his property.

Wendell Herrin: I second that.

Madeleine Dressing: Yes.

Patrick Cassinelli: Cleaned up.

Kevin Hardman: Any other questions or discussion? Okay, there's a motion and there's a second.

John Creech: Just to be clear, is this subject to the condition that landscaping be added?

Kevin Hardman: I will amend the motion to reflect that, yes. Is that fine with you?

Patrick Cassinelli: Yes.

All members voted yes

Kevin Hardman: Thank you sir; you've been approved on the Planning Commission side. So thank you. We'll give the Board of Zoning Appeals a couple minutes to clear out.

11. BZA Adjourn

A motion to adjourn was so moved by Madeleine Dressing and seconded by Wendell Herrin.

The meeting was adjourned.

12. PC Approval of Minutes

The minutes of the March 8, 2017 minutes were approved as written and distributed.

13. PC New Business (cont.)

b. Conditional Use for Solid Fence in Rear Yard – 8143 Maywood Drive – Marcus Alexander – Sharonville Zoning Code Section 1159

Bud Noe: Item b on Planning Commission staff's agenda, conditional use for a solid fence in the rear yard at 8143 Maywood Drive by Mr. Marcus Alexander, Sharonville Zoning Code 1159. Marcus Alexander is requesting conditional use approval to install a solid privacy fence in his rear yard. This request would have been approved at the staff level with neighbor signatures as per Sharonville Zoning Code rules, but the owner applicant was not able to obtain such signatures. This request is made per Section 1159 of the Sharonville Zoning Code. Property is located in the R1-A zoning district. Your packet contains our letter to Marcus Alexander, his application for Conditional Use, aerial photographs of his property there with the... His is the one next to the one with the red lettering in the rear yard. The address is kind of hard to read, but the property below the one on the sheet, or the one with the red lettering. This is a letter that Mr. Alexander wrote to the Planning Commission members and to the Building Department explaining his need for the fence. We sent letters out to two neighboring properties. I've heard no response, although I am aware that one of the neighbors is here tonight to speak about this us. Are there any questions for me before I turn it over to Marcus Alexander?

Kevin Hardman: No, Mr. Alexander?

Bud Noe: Okay, I'll turn it over to Marcus Alexander.

Marc Alexander: Good evening.

Kevin Hardman: Good evening, sir. Go ahead and give us your name and address for the record.

Marc Alexander: Good evening. I'm Marc Alexander, 8143 Maywood Drive. This is my wife, Jenny Alexander.

Jenny Alexander: Jenny Alexander, 8143 Maywood.

Kevin Hardman: Anything you want to elaborate on at this point in time? I think your application's pretty self-explanatory. We all have that.

Marc Alexander: And if you need to see actual receipts of what it's already cost us with our dogs, I brought those.

Kevin Hardman: Show me... Tell me a little bit... What I don't under... Where is the fence going to go? I don't think I saw anything...

Marc Alexander: It's going corner off on both sides of the house, angling out, with access back on both sides and then going back on both sides, leaving the rear with a chain link that's already there. And all fences on that property are on my property. And I did have a survey done which states that.

Kevin Hardman: Is it in your...?

Marc Alexander: It's going to be secured. It's been broken into, the garage once, where they actually got in ours. They got into the neighbor's shed next door.

Kevin Hardman: The chain link is going to come down, correct?

Marc Alexander: Yes.

Kevin Hardman: It's going to replace the chain link.

Marc Alexander: Correct, which is already not looking very well as it is. It would actually be an improvement.

Kevin Hardman: Okay. Other questions for Mr. Alexander?

Jim Lukas: From what I see I'm going to be supporting this, unless the neighbor convinces me otherwise, but I know that there are some drainage issues toward the rear of the property. And just wondering if a solid fence will contribute more to drainage issues or not. I don't have much experience in how solid fences impact drainage. So just a question I have in my mind. I don't know, John, if you could answer that.

John Creech: I guess one way of addressing that would be raising the fence. You know it's a privacy fence, but at the low... where it goes... Instead of running it all the way down to the ground, that there be a space there at the bottom to allow water to basically run across the property.

Jim Lukas: I just don't want additional drainage issues to happen and it come back on us, well we approved it, and you know. So if there is a way to alleviate that, I don't know if Mr. Alexander has a response on if he cares if it's raised a little bit or not.

Marc Alexander: Not at all. One inch off the ground is fine, be easier to actually weed whack. I could lean against it when I have to do the yard.

Kevin Hardman: And you're talking about only the rear portion of the fence?

Jim Lukas: From my understanding, the drainage issues are in the rear. You guys are well aware of the drainage issues.

Marc Alexander: Yeah, definitely, where everything got re-changed, redirected above the ground, which is kind of like an insult.

Jim Lukas: But...

Marc Alexander: It will be raised. That's no problem.

Jim Lukas: But the drainage, it is in the rear though, correct? Not in any...?

Jenny Alexander: Right.

Marc Alexander: Yes. And it could be raised from garage level back one inch of a two by four, which would be easier to set and lay down.

Kevin Hardman: Any other questions from Planning Commission for the Alexanders? I see you. We're going to get to you. Just a second. Any other questions for the Alexanders? Okay, if you guys want to take a seat just a second. We'll have you... You'll get the last word here.

Jenny Alexander: Okay.

Kevin Hardman: Anyone else wishing to address the Commission on that issue? We need you to come up, and give us your name and address. That's all. You've got to be recorded, so...

Terri Vanzandt: Terri Vanzandt, 8133 Maywood Drive. I'm a neighbor. I'd just like to see a picture of what the fence is going to look like. And we do have a drainage issue in the back. That is correct. Is there a picture of what's going up?

Kevin Hardman: Thank you. Do you...? I don't think I... We don't have one in our packet.

John Creech: No, there was no picture provided.

Terri Vanzandt: So there's no idea what it's... at all?

Kevin Hardman: Well, we can get a...? Mr. Alexander, can I call on you sir? Do you have a...? What materials are you looking to use?

Marc Alexander: I'm pulling it up for you.

Terri Vanzandt: It's not a very good picture, but...

Kevin Hardman: We can't... Hang on one second.

Bud Noe passed the picture provided by Mr. Alexander around for Ms. Vanzandt and the Planning Commission to see.

Jim Lukas: There are some requirements though. It has to be weather resistant. It has to be well-maintained. The finished side of the fence must face the abutting properties. So there are some requirements associated with the fence.

Terri Vanzandt: That's really all I have.

Kevin Hardman: Okay.

Terri Vanzandt: Alright.

Kevin Hardman: Mr. Alexander, if you could come on back up for just a second. Obviously I've seen the picture, but what is that? What material is it?

Marc Alexander: It's actually a dog eared treated lumber fence.

Kevin Hardman: Dog eared treated lumber fence.

Marc Alexander: So it is weather resistant, natural to withstand the woods behind us. And it'll age accordingly to weather. So it doesn't have to be stained, painted or anything, just natural.

Kevin Hardman: Other questions? Go ahead and take a seat again. If you want to come on forward and yeah you have to come up and give us your name and address.

Robin Burbank: I'm actually Robin Burbrink, Bill Armstrong's daughter. My dad lives at 8153 Maywood Drive.

Kevin Hardman: Okay.

Robin Burbank: And so the Alexanders are going to replace the chain link. One of my questions would be is the solid fence going to go directly on the line where the current chain link fence is? And the drainage issue is, I think, paramount to all, probably all three parties involve. So, number one, we were never approached. My dad was never approached to even sign off this.

Terri Vanzandt: Second that.

Robin Burbank: So, we didn't know about this until we received the letter from Sharonville about the meeting. And we asked for the materials. So I think we would be very interested to see the specifics of where the fence is going to be placed, and the chain link fence has been a mutual thing both for the Alexanders' dogs and my dad's dogs. And so... My father actually replaced the chain link fence in the past. And we don't have an issue with the fence as long as there are no drainage issues, and it would have been nice to have been in on the discussion. And we would like to see specifics about... besides a not clear picture of a fence to know what the specifics are, where specifically where the fence lines are going to go and that kind of thing. And a guarantee because the drainage has been an issue for the last, well as long as I can remember. And so that there's not going to be additional drainage issues on either of our side properties, or blame from our side properties for the drainage issues onto the Alexander property.

Kevin Hardman: As long as there's clearance between the bottom of the fence and the ground, I can't imagine there's going to be [inaudible] drainage issues.

Robin Burbank: An inch doesn't sound like very much to me for clearance is the only thing I'll say, but I don't know. I'm not in construction.

Kevin Hardman: Yeah, I mean I can't... I hope that you're not getting more than an inch of water, sitting/standing water back there. But, I don't know how this would really impact it one way or another.

Bill Martin: Well, there is a concern if it's only one inch and it's carrying debris, that debris can clog and back it up. So I mean typically there's usually a four inch gap between the top and the bottom underneath a fence.

Sam Schutte: I guess I might suggest you know maybe just discussing how... or coming up with a plan with the City on how to replace a fence like this best in an area that has that drainage, if it's one inch or four inch or whatever. I mean I think we're fine with whatever.

Marc Alexander: In regards to the draining issue, that issue's been there before I even bought the property. The existing shed that was already in the back garage sunk. The concrete pad had cracked in half, so it was already measured by Sharonville showing that their property is higher for all the drainage comes off and goes all the way down the back of everyone's property. The lady who just sold the house on the corner of the street, I knew them very well. They've had issues. That's why they have two sump pumps that are in the bottom of their basement, to alleviate all the water because of how everything is higher and comes down to our lower end. So, nothing's going to change. It's all going to stay the way that it is.

Sam Schutte: I was just suggesting, just I'd hate for you to put a fence in and have it have issues.

Marc Alexander: Right, and you're more than welcome to come out and evaluate and look at it.

Sam Schutte: Well, no just whatever you want to do is fine as far as I'm concerned.

Marc Alexander: No, I'm just saying, but that problem with water has already been there before anything has already happened.

Sam Schutte: But I think you know, what's the right way to build a fence in that situation? You know that's what you should do.

Marc Alexander: Right.

Kevin Hardman: Is the current fence on the property line, or...?

Marc Alexander: Yes, it is. It is staked. I have pictures on my phone. You actually have a drawing of it. I actually showed Mr. Noe when I came down. It's actually plotted and staked.

Kevin Hardman: How does that...? And I think John maybe you could help me out. How does the ownership of a fence on a property line? How does that...? I mean, is the ownership Mr. Alexander's? Is it a combination of the folks?

John Creech: Typically a property line is laser thin.

Kevin Hardman: Right.

John Creech: So when a property owner puts it in, they usually put it on their side of that line. Not everyone goes out and gets a survey, but yeah oftentimes they do encroach over the line.

Kevin Hardman: But as far... There's not any issues of ownership of this fence as it exists right now?

Marc Alexander: I'll be more than glad to lay it back on his property.

Kevin Hardman: I'm sorry?

Marc Alexander: I'll be more than glad to lay it back on his property... [*inaudible*].

Kevin Hardman: Well, I'm just trying, because part of the condition of the privacy fence is going to be that the chain link goes away. Because we certainly don't want a chain link fence up against a solid fence.

Marc Alexander: Correct.

Kevin Hardman: So, but your intentions are to replace the chain link, and put the solid fence up in the same location where the chain link is.

Marc Alexander: That is correct.

Kevin Hardman: Or within... might be smarter to put it onto your property so there's no issue later on as to whose is whose.

Marc Alexander: It will be on our property.

Kevin Hardman: But that might be like one inch, whatever that case may be.

Marc Alexander: That's no problem

Kevin Hardman: But I just I guess... Not that I want to get into any property arguments here, but I've just heard from somebody else that they're the ones who installed or replaced the fence. So, the question I have is at least on can you tear down that fence? Whose property is that fence...?

Marc Alexander: My property.

Kevin Hardman: ...is the big question and that's something that... As long as it is, that's fine.

Marc Alexander: It's my property.

Kevin Hardman: And that's not something we really are going to decide here. Mr. Alexander, let me finish talking, okay? I don't want to get into that discussion. That's not for us to decide. I just think that the approval that I'm going to grant to you is that that fence be taken down as part of any building of a new fence, whether it's replacing on the same location or not. And if there are ownership issues, you'll need to settle those before that privacy fence goes up. Because we can't have both fences up. That makes sense.

Marc Alexander: May I ask one question?

Kevin Hardman: Yeah, sure.

Marc Alexander: If that fence is on my property right now, who do I need to talk to? Because I already have it staked, and I have wooden stakes that are tagged on the other side of it.

Kevin Hardman: Like I'm saying, that's not for us to decide. If that fence is on your property...

Marc Alexander: It is. And attached.

Kevin Hardman: My understanding is that's your property. But what I was hearing was the fence was on the property line. And that could potentially cause issues.

Marc Alexander: *[Inaudible]*.

Kevin Hardman: Great. Perfect. Again, I don't want to cause more problems than what already exists amongst the three of you. And that's not what we're here to do. But I'm just raising the issue that if that is an issue, you can't build that fence until the chain link is down.

Marc Alexander: That's fine.

Kevin Hardman: Or at least that will be part of our decision I think, from my standpoint.

Marc Alexander: It's at least 6-8 inches from the property line.

Kevin Hardman: Then you shouldn't have an issue, but again that's not my decision to make. That's... okay.

Marc Alexander: Thank you.

Kevin Hardman: Hang there just in case anybody else has any other questions or comments. Yes sir. Come on up.

Bob Moore: Bob Moore at 8152 Maywood. I don't have direct contact with the property, but I do have a couple of questions. The first thing that... And I didn't have any questions until after I heard some of the other items. I guess I know you're not concerned with whether the fence is on the property line or whether it's not. I would suggest though that even if a conditional permit is issued or conditional use is issued, that the other parties be able to verify the survey that was done. Because if that fence is on a property line, there are other issues. And just because a conditional use permit is issued, as Mr. Hardman explained, that's a different issue.

Kevin Hardman: And I don't want to get into that.

Bob Moore: Yeah.

Kevin Hardman: I don't think we as a body have any ability to make that determination.

Bob Moore: But who does? Does the Building and Zoning...?

Kevin Hardman: A court of law.

Bob Moore: Okay. So, the other question I have is if a new fence goes in, and we're concerned about the drainage and you want to raise the fence up... Mr. Armstrong has a small dog, which is contained now by a chain link fence. So if you're concerned about the drainage and want to raise that fence up, I think there has to be concern that the smaller dog can't get out. So there's that issue that I want to raise. And then the other one is an issue that I seem to always have whenever I sit in down here, is why do we want a conditional use permit? In other words, what problem are we trying to solve? So is there not another solution to the problem that's occurred, other than having to get special use permit to put a fence in? So that's my questions at the time.

Kevin Hardman: And I'll address the last one, because I think I can. I mean it's a conditional use. So basically what our zoning code says is we allow this use. It's not a special use.

Bob Moore: Right.

Kevin Hardman: We allow this use. We just feel like there are some times where we need to place conditions on it to protect that property, and to protect neighboring properties. And that's the stuff we're talking about as far as drainage, the requirements that we usually put on privacy fences, which is that the finished portion has to be facing out so that you know the nicer view is going out to the neighbors as opposed to in. So that's the condition. So our code says we allow this type of use; it's just that we also recognize that there needs to be conditions placed upon it. So that's a little bit different than a special use or something along those lines from that standpoint. So you know the presumption is that's okay. And normally everything about this proposal would have been passed, but for the fact for whatever reason there wasn't either an attempt or a refusal of the adjoining properties to agree to it with those usual conditions. So I think we've heard there probably might not have been an attempt to do that. And I think having read the packet, I can understand why. But regardless, that's kind of where we get to on the issues of conditional use. With regard to the drainage issue, that's something that I think we're all interested in... I mean we all know there's many places around Sharonville that have similar issues, and we don't want to see the building of a solid fence to exacerbate a problem that's already there. And I don't think the five of us are necessarily going to be able to solve that problem tonight. And I think if we're looking to approve this, the best way to do that would be that in consultation with the Building & Planning Department, that there has to be a sufficient plan that would address the issues of drainage, that it doesn't make any worse. Makes it better? Great. But doesn't make any worse the drainage issues that exist with regard to your property, Mr. Alexander, and neighboring properties.

Bob Moore: That's the only questions I had.

Kevin Hardman: Appreciate it, thank you. Any other questions from the Commission? I will then make a motion to approve the request for a solid privacy fence at 4183 Maywood Drive with the typical conditions required for the purposes of the privacy fence, as well as the condition that prior to it that the current chain link fence be torn down, and that the Building & Planning Department be consulted and make final approval with regard to issues of drainage. And in the even that can't be solved in that manner, it would come back to the Planning Commission.

Mike Wilson: I don't know that it makes a difference, but it's 8143 (is the house).

Kevin Hardman: It should be 8143 Maywood Drive, as I have a big red correction that I didn't get. Okay, so that's my motion. Second by Mr. Schutte. Any further discussion? Mr. Alexander, did you want to say something else?

Marcus Alexander: Before Richard Osgood removed himself from Sharonville, he was going to try and attempt to talk to Mr. Armstrong in regards to the drainage problem that is coming from his property since he diverted to go on

top of the ground instead of where it was in the ground, to go back out front. So I am totally in current trying to rectify some of this issue and go ahead and replace the drainage line that's going out front if he would give me permission to go ahead and drop the lines and add it in and divert it out, which I think would solve a lot of people's problems around here. And I'm just making that attempt.

Kevin Hardman: We appreciate it, and that's something you could certainly have... This is Mr. Osgood's replacement right here.

Marcus Alexander: I know; I met him.

Kevin Hardman: So, he knows what... Assuming this passes...

Marcus Alexander: He's got some big shoes to fill.

Kevin Hardman: He knows what we're discussing, and I think if we can facilitate something in addition to the stuff with regard to the fence, we certainly will try to help do that as best we can. Any other discussion?

Roll Call / Vote

John Creech: That was approval with conditions.

All members voted YES.

Kevin Hardman: Thank you. That was approved, and I would get in touch with the Planning Department, or Community Development Department as we call them now, and we'll work through these drainage issues.

c. Preliminary Site Plan Review – 6950 East Kemper Road – Mark Mullen of MJM Construction Inc. on behalf of Dr. Neal Lemmerman – Sharonville Zoning Code Chapter 1157

John Creech: This next item of new business, it's for preliminary site plan review for 6950 East Kemper Road. An application submitted by Mr. Mark Mullen of MJM Construction on behalf of the Dr. Neal Lemmerman. And it's for preliminary site plan review for a proposed 5,500 square foot medical office, dental office building. It's on 1.9 acres property on East Kemper Road. That property's zoned CS, Commercial Service District. And you should have a copy of the... There's the map that just shows the property location. This is actually next to I think the Pro OnCall, approved just a couple months ago. The preliminary site plan shows the proposed layout of the property on a very preliminary level now. It shows the building driveway access off Kemper Road, parking area, dumpster pad location in the back, sidewalk access from the parking area to the front of the building. Right now they're asking for Planning Commission consideration of the preliminary plan, this layout. If that's approved, then they'll move forward with the final site plan. Mr. Mullen is here if you have any questions.

Kevin Hardman: Mr. Mullen, come on down sir.

Mark Mullen: My name is Mark Mullen, the owner of MJM Construction, general contractor for Dr. Neal Lemmerman. And basically everything that's just been said, been done. We've got the preliminary plan. We've already got the feedback from your company that takes care of your site work, and I've got Apex Engineering working on that already. I've been informed that if we go to the next meeting that we'll have the exterior finishes taken care of, lighting taken care of for the parking lot, and also the landscaping detail. And that's about it. If you have any questions, I'll try to answer.

Kevin Hardman: Just from the Fire Department review here that I'm looking at... We've never usually seen these on these, but it talks about fire apparatus access road. What...? Is that an issue with regard to the current plan, do we know, or what's...?

John Creech: What you're looking... That's just the preliminary review comments. Those are pretty standard. We send everything to the fire department, but they will be addressed in the final plan.

Mark Mullen: Yes, I've handed everything over that your company, CT Consultants, has been handed over to Apex. They are addressing the issues.

Kevin Hardman: And everything that's on that parcel now is gone, right? This is all new construction.

Mark Mullen: No sir, we have not... There's been no demolition.

Kevin Hardman: No, I mean it's going to be gone.

Mark Mullen: Oh, yes.

Kevin Hardman: Yeah. This is all... yeah.

Mark Mullen: Even the fences.

Kevin Hardman: Right.

Mark Mullen: There's an old out building, a house, and a garage.

Jim Lukas: John mentioned the Pro OnCall from a meeting or two ago. I'm trying to visualize that approval, and if I remember right, the detention for that site was on the southeast part, as we look at this drawing, of the adjacent parcel. Is there any way that instead of having two detention basins, you could kind of work in conjunction with your neighbor to have one larger one? And I have the same question, rather than have two curb cuts so close together, is there any way that perhaps you can work with the adjacent owner on just one mutual curb cut? You know, just and I don't know if that's possible with the detention or not given the layouts for either site, because I don't have the other one in front of me, but...

Mark Mullen: Well, the topography, there is a large swale to the east side, which is the right side if you're looking at the drawing. There's a huge swale at that point in time. And I just finished a building on Tylersville where we did do a shared entrance. The building on this one that I know of is I know Dr. Lemmerman gave Duke Energy an easement because there's an actual utility pole sitting basically on the property line, or one foot off the property line, which meant they never had an easement for the last 30 or 40 years. So they finally were able to get one. But you know it's a matter of how far the other company has gone to the adjacent property to the west. You know I just came out of one where we shared. We shared an entrance, but we did not share a detention. And I don't know if there'll be enough room. That'd be a pretty good size detention area, I do believe. Because what we're doing is that we're looking at... The doctor in the future is possibly if he can... It's a big enough piece of property where he might go ahead and put another building in the back. So then that will add a lot more water to that detention area.

Jim Lukas: Yeah I certainly don't want to complicate things. I love that the doctor's chosen Sharonville as a location. I think it's going to be great for this site.

Mark Mullen: Oh, it's going to be a very nice building, too.

Kevin Hardman: But hey, if you can reach out to the folks that are building just to the west and see if you guys want to talk about ways to go in together, we'd love to have conversation.

Bill Martin: I'm actually doing something like that similar now on one of my projects, and I can tell you that it's not as easy as...

Kevin Hardman: I know.

Bill Martin: I mean there's a lot of legal easements that have to be created. I mean it's very cumbersome.

John Creech: They're also... Pro OnCall's pretty deep into their permitting.

Bill Martin: That's what I'm saying. I don't know how practical this is to go out and spend resources on investigating this.

Kevin Hardman: But man it would have been nice if they all would have come together, bought the properties together, built a nice big three story building, and everybody'd be happy. Right?

Mark Mullen: One driveway.

Kevin Hardman: Other questions or comments?

Bill Martin made a motion to approve the preliminary site plan as presented, and seconded by Jim Lukas.

All members voted YES

d. Conditional Use Permit Review – 2828 East Kemper Road – J.W. Wolterman of Cincinnati Escape Room – Sharonville Zoning Code Chapter 1137 and 1159

John Creech: Okay, this next item is a conditional use permit review for 2828 East Kemper Road. This is an application submitted by a Mr. J.W. Wolterman, the owner of Cincinnati Escape Rooms. They're proposing to lease a space at 2828 East Kemper Road to establish an escape room. Under our zoning, that's classified as Indoor Recreation. That's a Conditional Use in the GI (General Industrial) zoning district. And I understand that the space that they're going into was formally... It's actually called the Enterprise Business Park, and they occupied as training facility for I think it was General Motors. The escape room, and Mr. Wolterman will explain it, is basically I think this would be targeted for children aged eight to 14 years. And I understand there's no exterior or other changes, structural changes to this building.

Kevin Hardman: Good evening.

J.W. Wolterman: Hi, my name is J.W. Wolterman, 2300 Montana Ave, Suite 420. Yeah, so what we're building here is what I think will be the first in the country, an escape room facility that's built just for kids ages eight to 14. The idea is that you would come for a birthday party, or like a graduation or anything, or any kind of celebration. And we'll have party rooms, and we'll have four scape rooms. Just to make sure, in case you've been to an escape room before, and you... sometimes they lock the door in an escape room. We don't do anything like that. These are designed specifically for kids. There's no locking of the doors. It's all about their score. And yeah, so we're not going to do anything to the outside. It's something, I really like this location, and I like Sharonville because of the proximity to the demographics that we're looking for in the City of Cincinnati. And the Mosteller exit is right there off of 275. And yeah so we're just here to ask for the change of use.

Kevin Hardman: And this is the whole building, is that correct?

J.W. Wolterman: It's not the whole building, no.

Kevin Hardman: What portion?

J.W. Wolterman: So we'll have about 6700 square feet, which is about a third I believe of this building. And so we'll have an entrance to the outside, and then we kind of go straight back. I don't know if we have anything, but we liked this building because it has really high ceilings in the back of the warehouse, 16 foot high ceilings, so that we can build this kind of fantasy world for the kids.

Kevin Hardman: So you're leasing that portion of the building then?

J.W. Wolterman: Correct.

Kevin Hardman: Okay, is that...? That's not the...

Jim Lukas: Where the Chamber's at...

Kevin Hardman: Is it?

Jim Lukas: I don't know if it's that building, but it's in that...

Kevin Hardman: One of those two buildings. Yeah, that complex there.

Jim Lukas: Concentra's over there.

Kevin Hardman: Right, okay.

Sam Schutte: This is the one where the urgent care was, or used to be in the corner.

Kevin Hardman: Okay.

Bill Knight: How is the parking, Bud? How is the parking there?

Bud Noe: Plenty of parking.

Bill Knight: Plenty?

Kevin Hardman: I've got four kids that meet your demographic, so I'm all in favor of it, and we'll probably be there.

J.W. Wolterman: Fantastic.

Kevin Hardman: So, other questions? I want to do the adult one, and we haven't had a chance to get out there to do it yet, so someday.

Jim Lukas: I think it's a wonderful proposal. I think it's a homerun; I wish I would be an investor or something. Just a personal question before you... because you'll probably be gone when we leave. Any relationship to Bob Wolterman?

J.W. Wolterman: Bobby Wolterman I think is my dad's cousin.

Jim Lukas: I'm talking about the doctor in Cincinnati.

J.W. Wolterman: Yeah, he's my dad's cousin. My dad was one of 16 kids.

Jim Lukas: Okay.

J.W. Wolterman: And I think, so his father's brother I think had 12.

Jim Lukas: I just know Bob. So you're probably a relation to Patrick, too?

J.W. Wolterman: Yes, yeah.

Jim Lukas: Everybody knows Patrick Wolterman was the firefighter in Hamilton who I don't want to say passed away, because he was really murdered allegedly in an arson, but sorry about that.

J.W. Wolterman: Thank you.

Jim Lukas: But no, this is a wonderful proposal, and you have my support.

J.W. Wolterman: Thank you.

Kevin Hardman: Any other questions? Sharonville Chamber is right next door. Sign up and join them, and we'll all be out there to celebrate you when you open up.

J.W. Wolterman: Sounds good. Thank you.

Kevin Hardman: Other questions?

Sam Schutte: Do you know when you are opening, or what's your target opening date?

J.W. Wolterman: We're target opening, if we can do it quickly, it'll be beginning of July. If we do it right, it'll be August.

Kevin Hardman made a motion to approve the conditional use for an indoor recreational use as presented to the Planning Commission. That motion was seconded by Bill Knight. There was no other discussion

All members voted yes

John Creech: Thank you.

Kevin Hardman: Thanks, welcome to Sharonville. Glad to have you.

J.W. Wolterman: Great, thank you so much.

e. Conditional Use Permit Review – 11173 Reading Road – Diab Ellan on behalf of Lava Lounge – Sharonville Zoning Code Chapter 1135 and 1159.

John Creech: Okay, this last item of new business. This is also a conditional use permit review for 11173 Reading Road, the Lava Lounge. It's submitted by Mr. Diab Ellan. He's the owner of that business. He is requesting approval to place seating, chairs and tables, outside the Lava Lounge area on a sidewalk out in front of the building. It's on their property. That permit is required under our zoning code. We don't... The way our zoning code reads is, "Outside dining, consumption of food and beverages" is actually a conditional use permit in that zoning district. Although Mr. Noe and I visited that property, and they do sell soft drinks and energy drinks. So it is possible someone would buy a beverage and go sit outside. That's why he's here tonight. Basically no other changes are proposed, other than to place that furniture there, out in front.

Diab Ellan: No nothing. There is no other changes. We already have as your said, soft drink and water.

Sam Schutte: So you don't serve any food there.

Diab Ellan: No food, no alcohol.

Jim Lukas: I have a concern that the proposal is to place these on a current sidewalk. When I first saw this, I thought the request was to potentially concrete in the triangular portion and perhaps put some seating there. But I have some concerns with allowing it on a current sidewalk.

Diab Ellan: Yeah. Yeah, as you see where it is written concrete, we're going to take this grass and put concrete.

Jim Lukas: That's not what's proposed in front of us tonight.

John Creech: That's correct.

Jim Lukas: I mean I would love to see some details regarding that. What's proposed in front of us is that you're just going to put the seating on the current sidewalk.

Diab Ellan: Yes, that's what I going to do at this time, and later we going to, as we write, we're going to put the concrete and spend.

Jim Lukas: Again, I have concerns about just putting it on the sidewalk. It's a little disappointing also that you've known that you've needed our approval to allow for this, and yet you've had them in place even though you've known we've needed to approve this.

Diab Ellan: Yes, that's why I applied from the beginning.

Jim Lukas: Yeah, but it's a little disappointing that you continue to put them out knowing that you needed our approval first.

Diab Ellan: We take them out. We don't let anybody... I just put them out to take picture to send you guys.

Jim Lukas: Well, they were out this evening before I came to the meeting.

Diab Ellan: Yes, true. Earlier I was here, about 3:00. He tell me to go and put them out and take picture and send it to us. I email the picture.

Jim Lukas: Okay, great. That's good to hear. But, again I would be more than willing to be more receptive to sounds like your ultimate proposal in the future than I am with just placing them out in a current sidewalk. You know if there's a fire in the building and people have to get out that exit, they're going to be tripping over seats and tables. I just have some concerns with it.

Bill Martin: I guess one of the concerns I have is this is a safety issue also; I mean it doesn't really provide for any ADA consideration either. But even more so, this is kind of like the gateway from the north into our town. And frankly, this is not very attractive. And I just think that you know although I'm not necessarily opposed to concept, I would like to see some much better presentation of the project, that it's aesthetically pleasing for the City than just throw some tables and chairs out in front of the building. That just doesn't sit well with me.

Bill Knight: Why did you pick this spot as opposed to the rear of the building?

Diab Ellan: I'm sorry?

Bill Knight: Why did you pick the front, this location here opposed to the rear of the building? At one time there was a canopy. I see the canopy's gone now.

Diab Ellan: Why I pick up the front? I'm sorry.

Bill Knight: Why are you located it here versus the rear of the building?

Diab Ellan: This is the rear of the building actually, because all the cars on the road...

Bill Knight: The rear of the building is where the drive thru of the bank was at. That's the rear of the building.

Diab Ellan: Okay. Okay, this is also like the rear because all the cars coming this road just one way. Okay? It's the cars only one way. It's like the back also, but I build it like from... like yeah.

Sam Schutte: It is at an angle.

Kevin Hardman: I guess I'm going to kind of echo the concerns that you've already heard from Mr. Martin and Mr. Lukas. I'm not real comfortable with the proposal that's before us right now. I think what you have mentioned as your potential plan, which is to concrete in some portion of that and use that as seating area...

Diab Ellan: Yes.

Kevin Hardman: I think I'd be more in favor of seeing something along those lines, but I need to see it. And I guess here's my question to you is we can vote on this as you propose it tonight, which is to put the seating on that sidewalk area.

Diab Ellan: Yes.

Kevin Hardman: I don't know how favorable we're going to look on that. Or if you want to continue this until next month and relook at it based on the comments that we've made to you tonight about...

Diab Ellan: I need to cover this corner with concrete. That's why I didn't have approval for it.

John Creech: Could I add something? I think what they're also asking is you know if you... What you're proposing, if you put concrete in that area there, that you know...

Diab Ellan: The grass corner, yes.

John Creech: Right. That in addition to that, you probably want to add some type of amenity, maybe some potted plants, landscaping, those...

Diab Ellan: Yes, yes.

John Creech: Decorative fence. And is this going to be left out there...?

Diab Ellan: Yeah, it's going to be you know like... [inaudible]... It's nice looking.

John Creech: Right.

Bill Martin: When I think amenities, I'm thinking something that's going to shield it from the street.

John Creech: Right.

Bill Martin: And decorative fence and plants sounds right on target.

Kevin Hardman: And I think we need to see that plan from you. We need to see here's what we're going to put up, here's how we're going to do it, this is what it's going to look like.

Diab Ellan: You know I don't know much about all this stuff, but that's what we're going to do, going to put the seats. We're going to cover that grass. We're going to put some plants, nice flowers, like we have on the other side. We have a very nice landscaping done. The other side is you know?

Kevin Hardman: Okay, I'm hearing what you're saying to us right now.

Diab Ellan: Yeah.

Kevin Hardman: I'm not seeing that in what you proposed to us. And it's hard for us... I can't... We can't approve this based on what you're saying to us. Because it doesn't... We don't have anything concrete in front of us to say here's what... I mean I'm going to concrete in this triangle. I'm going to put in fences that look like this, with planters

on it. I don't have that. So what we need from you is a plan. I mean if the planters that you're going to buy, bring us picture of those planters you're going to buy. Bring us the pictures of the fencing that you would put up, so that we can get a better idea of what you're putting in there. Because I will tell you right now, as it stands right now, which is I think you know you took the pictures of the table and chairs along the sidewalk. I don't think you're going to get our approval. Okay?

Diab Ellan: That's what I have...

Kevin Hardman: I want to avoid you having to pay another fee.

Diab Ellan: I have no you know I never build anything, and what I know I'm putting seats in the concrete because not allowed to put any seats in the grass.

Kevin Hardman: Right.

Diab Ellan: When I come in here, he ask me for help for the case to go and put the tables and take the pictures.

Kevin Hardman: And we'll work with you. We want you to be successful here. We want that area to be a nice area for people who are coming into the City of Sharonville. So I know that John and our Community Development team will be more than happy to work with you to show you what... I know they know what we're looking for, okay? What we would to see from you to get some approval from us. Okay? They asked you to do what you have the ability to do right now.

Diab Ellan: Okay. I want to, but you know nobody give me idea. You guys...

Kevin Hardman: Okay, so I'm going to suggest to you this is what I think the best thing for you to do right now would be, is to ask for us to continue this until our next meeting, which will be next month. Okay?

Diab Ellan: Okay.

Kevin Hardman: You have contact with our Community Development team. Okay? They will work with you to kind of help sketch out what it is I... I think, John, you've got a pretty good idea of what we're looking for here, right?

John Creech: Yes.

Kevin Hardman: To help you in what you would present back to us the next time. Does that seem like a reasonable...?

Sam Schutte: Can I interject one thing I guess, which we haven't talked about, is you know we're... so this facility here it's a cigar bar, cigar lounge, smoking lounge. It serves some drinks. And we're saying, and I understand and I agree with you that the temporary option on the sidewalk is not going to probably pass. However, I'm not really sure that if we say well let's spend his time to make a pretty concrete area with a fence so that we can go smoke cigars outside, if we'd want that either. And so I think we should discuss that point, and I don't know if there's any kind of... if that even enters this equation, or if that doesn't even require conditional use, if he said we're not going to drink it out there. We're simply going to have seats outside and smoke a cigar. Is that allowed without any conditional use?

Bill Knight: I think his application specifically states outside dining, consumption of food and beverage.

Sam Schutte: Well that's because our code restricts that, but if he said we're not going to drink out there. We're just going to smoke cigars, doe she need our approval for that? Before we waste his time designing something.

John Creech: Yeah and we had that discussion actually in the office amongst ourselves, not with the applicant. Because yes, you could go in there. You could buy something to smoke or drink or whatever, and stand outside the

door. Or there, I think there are other picnic tables on an adjacent property that've probably been there a long time. But yeah, I think that is something, a discussion that should happen.

Sam Schutte: Because I think that if he does need conditional use to have an outdoor smoking area, I'm not sure that... I mean me personally, I don't know that I'd want that... everyone walking past that on their way to the movie theater and everything else, right? Not that I don't appreciate your business there, and I'm glad you're there. But it's just something that...

Bill Knight: That's one of the reasons that I brought up about the rear versus the front.

Sam Schutte: And maybe that wouldn't be as much of an issue.

Kevin Hardman: I think that in response to your question, I think the answer from my standpoint would be it would depend on what he's looking to do to shield that type of use. So, I think I can envision something that would say to me I'm okay with that. It may not be ideal, but I'm okay. I mean if I've got four or five foot fencing, nice looking fencing around there that is containing those folks to engage in... I mean bottom line is we know that your customers, if they're coming there, they're coming there to engage in the smoking, the cigars and whatever the case may be. So I think this would be very beneficial to your business, to have that kind of courtyard area to do that in. It may not be as beneficial to the other neighboring properties around you. So I would be looking to see what kind of shields there are from that standpoint. So I couldn't say I'm totally against it as we sit here right now, but I think there would be some significant conditions and things that we need to see from this standpoint.

Sam Schutte: Well, and I guess my question... And maybe what we should say is you know obviously we'd maybe table this a bit. But find out what are the rules and regulations. Because obviously you know smoking in general smoking indoors in Ohio's not allowed. However, it is in his case.

Diab Ellan: Excuse me, we're authorized for smoking, because of what we sell you know. The law in Ohio freestanding 80% of tobacco or smoking will be smoking place.

Sam Schutte: Okay. And my question is just how does that relate to an outdoor thing as well. I mean it's legal to smoke outdoor.

Diab Ellan: They smoke in outdoor for the place is not allowed to. They allowed to smoke outdoor for everybody in Ohio.

Sam Schutte: Yeah.

Kevin Hardman: I don't think anything could stop us from these people coming outside into this lot and smoking.

Sam Schutte: Correct, unless you have to have conditional use to have tables there. And then we could say no, we don't want people smoking.

Jim Lukas: So yeah, I think it's similar enough to what we do have in our code that it would require a conditional use.

Sam Schutte: And that's what I'm saying. It's a little complicated, but...

Kevin Hardman: Right. So I mean the question... Yeah. So, obviously if there's chairs and tables, it's going to encourage it. But there's nothing that stops it from happening now without the chairs and tables. So that's... I mean there's nothing. I mean somebody can stand out in that lawn right now and smoke a cigar.

Sam Schutte: Sure. But I think like you said, what encourages it and makes it a sort of...? And gateway to the city. I think there'd be things we'd want to investigate and discuss there before we just say go for it.

Kevin Hardman: That's why I'm suggesting that Mr. Ellan have some conversation with Community Development, unless he wants us to go forward today with this proposal as presented. You know it's kind of up to you.

Diab Ellan: What's going to happen you know?

Kevin Hardman: You've heard the discussion.

Diab Ellan: Yeah I think they don't have much idea about it, property, as I heard them saying about smoking. But the smoking allowed in Ohio state outside for anybody, except there is certain rules for to smoke inside. But we have permit from the Health Department, the Board of Health smoke inside even.

Kevin Hardman: And that's not the issue.

Diab Ellan: I know. I know just...

Kevin Hardman: The issue is the encouragement of that business out in the public arena, outside. That's the issue right now. And where as we have a conditional use to do that for food and beverage, okay?

Diab Ellan: Okay, but no. The people going to smoke outside also. I don't want to give you wrong impression.

Kevin Hardman: Right. So we would need to have... Again, I think what you're hearing from the majority of folks up here is as this is presented to us today, it's not going to pass. Okay? That's just my gut. I don't know. We haven't taken a vote.

Sam Schutte: The temporary option on the sidewalk is not going to pass.

Kevin Hardman: So if you would like us to continue this for 30 days to explore other options that again, we can't guarantee you will pass even with some of those options. But at least give you an opportunity to come up with some ideas that might be more favorable to us. We'll continue for that purpose that you don't have to again have it denied and pay another fee to come before us again. But that's...

Diab Ellan: I going to speak to John then later and see idea what you want me to put in the plan you know. As I tell you, I have...

Kevin Hardman made a motion to table this item until the May meeting of the Sharonville Planning Commission. Sam Schutte seconded that motion. There was no further discussion.

Roll Call / Vote

All voted YES to table this item.

Kevin Hardman: Alright, so be in touch with John. And you'll be back here in May. And we'll see what else you can come up with. Okay?

Diab Ellan: Alright, thank you.

Kevin Hardman: Thank you.

14. PC Discussion

a. Agriculture in Front Yards of Residential Uses

Kevin Hardman: Our next item, we have a couple items of discussion. One being Agriculture in Front Yards of Residential Uses. Where are we at with this, John?

John Creech: Okay, so the information I provided to you was basically an update from what we talked about the last time. I think I've incorporated some of the comments that the Commission made. So basically what you're... These next couple slides [*referring to the PowerPoint presentation*] and the information you have there, is you have what we talked about the last time. And then the new information is all underlined. So I'll just go right into the changes. So basically we need to create a definition for *agriculture*, because that does not exist in the Sharonville Zoning Ordinance right now. And the way it was proposed when we first talked about it, and this was my reading of some emails that were forwarded to me, was that the City was seeking a total prohibition of planting in the front yard. So, and the Commission said no we don't want to go that way. We want to you know allow in some fashion. So basically it's the definition has been tweaked, and it says it'll comply with these new setback requirements of Chapter 1125.02. And this was what we talked about the last time, where it said "subject to Chapter 1125.02." And we changed it. I think Mr. Martin made the comment, or it was discussion about did we want agriculture just on vacant lots. You know if there's no principal building. Because right now I think you could probably do that, because it says it's a permitted use; although no one's done that. So what I've added here is that agricultural uses shall be considered an accessory use to any permitted residential use. So basically that means there has to be a house there before someone can go and just plant a garden on a vacant lot. And in addition to that... Okay, that's just the same thing, that it comply with the setback requirements. But this is where there was some discussion with the Commission. It was about oh, should we say there should be a certain percentage of they should be allowed for this. And you know with the enforcement part of it, the easiest way to do it is simple dimensional measure. So basically what we did is we said maybe one third of that front yard setback could be allowed for planting. Because typically that's where people plant landscaping around their house anyway. So if you look at all of our zoning districts, those setbacks there, like 40 foot, that's a typical one. Divide that in a third, that's about 13 feet. So how does that look on the ground? So I wanted to just run through a couple of examples here. So actually this is up in the Butler County portion of Sharonville, because I found it easier to use their maps just to show. So this property, I think it's Bennington Drive and I'm not sure what that north street is, Indian Ridge?

Sam Schutte: Indian Springs Road.

John Creech: Indian Springs. So basically that house has a 40 foot setback on a corner. It's on a corner lot. And that first line there shows the... You can see I've drawn in 40 feet. So with the additional, with that 13 feet there, that's what you're looking at. That's the area that they would be allowed to do a garden in, which basically corresponds to the area where people plant things anyway.

Kevin Hardman: The way that this is written now, would it require that that 13 feet be like how you have it positioned there, close as opposed to...

John Creech: Right.

Kevin Hardman: That 13 feet being around here and how do we...?

John Creech: Yes, that's a good point. The way it's written is it would be measured from the house toward the street. Right. So that's... And this property here is built right on the setback, 40 foot. So then the next example is a house that's a little deeper back than the 40 feet. So it would... And then same area. They would actually have, you can see there it's set back 45 feet on one side, 50 on the other. So they would actually have, you know because there house is setback, they've got a little more room there. But still, it meets that setback, or what we propose. But I just wanted to show you those two examples. So, I don't know if you have any questions.

Jim Lukas: I'm aware of two situations currently in the City. I know one wouldn't meet what we're suggesting, because it's right on the roadway. But there's a second one on Cornell, I think, as you drive up the hill. Do we know if they would comply with this or not? Or you may not even be aware that they're...

John Creech: No, I'm not. But I did have an email conversation with our Law Director about this proposal. He's looked at it. And that was one of his questions. It's like the ones that are out there. Obviously, they're already there. They're established, so they would be grandfathered in. And then we had the conversation about well, when would the... Because we have this clause that says that if you don't do it, then you lose that grandfather status. But let's say

there's one out there that would not meet this, we'd think it would have to be at least one season that they would not plant, and then they would have to comply.

Bill Knight: Make it four months. Make it easy.

Jim Lukas: Well, that was my next question was the non-conforming. I always thought that if you did a new regulation, and that somebody doesn't comply, it becomes a non-conforming status.

John Creech: Right.

Jim Lukas: And then after so long, they would have to comply. And I thought you said... If that's the case, I thought you said at our last meeting that our code is a two year non-conforming...

John Creech: No, it's one year.

Jim Lukas: I'm glad.

John Creech: Yeah, I had looked into it. It's...

Jim Lukas: One year is standard. I've seen them as low as six months.

John Creech: Right.

Jim Lukas: But two years was definitely much too long versus what I've ever seen, so...

Kevin Hardman: Questions? Comments on that?

Sam Schutte: I guess my only kind of question is you know do we think that that is the right size of setback Too big, too small, just right? It still definitely allows someone to have a pretty mondo garden/area, which may be a good thing.

Bill Knight: I think as far as size, like I said if somebody comes up with a unique situation that's not, they always have the BZA to fall back on, too.

Sam Schutte: If they wanted it bigger than...?

Bill Knight: Yeah.

Sam Schutte: If this was smaller and they wanted it bigger.

Kevin Hardman: I mean that's... John, I appreciate you and whoever else was involved in kind of working this out... I didn't know how we would do it based on our conversations to kind of [inaudible] these incidental uses that we didn't want to really ban, so to speak. Sam, I don't know the answer to your question, if this is too much or too little. I can see it potentially being too much for somebody who wants to take advantage of it, you know? We can make it what... You did a third, is that what you did?

John Creech: Right, and you know like I said, that's usually the area where people plant foundation plantings around their house.

Bill Knight: Well that, also trees, too. So you know you're allowing for trees. That was part of our discussion at one point.

Kevin Hardman: Yes.

Sam Schutte: I mean you know; you can look at this example. There is certainly a lot of grass there still, but you know you wouldn't notice it that much, so.

Mike Wilson: John, there was a picture that flashed up for just a minute and then it went away of agriculture in the front yard. There.

Sam Schutte: Yeah.

Mike Wilson: Even though they could be setback to that distance off the road, the 13 feet you're talking about, I would not like to see those wooden structures in front of the house.

Bill Knight: They're getting into accessory structure. Correct me if I'm wrong. And you can't put an accessory structure in the front yard.

John Creech: Right.

Kevin Hardman: Okay.

Sam Schutte: Even the stakes? Just like a simple stake?

Bill Knight: Well, the stakes, but here you're talking about you know this trellis.

Mike Wilson: The trellis doesn't bother me as much as the little A-frame thing on the right hand side there, and then the stakes.

Bill Knight: I think it would still fit in the description of structure, something being built.

John Creech: So, this is very good point to the conversation. So, we should probably add to that that anything within that front yard area, 13 feet, that there not be any structures, hoop houses, greenhouses, those sort of things.

Mike Wilson: Some height requirement.

Bill Knight: It's always easier to spell it out.

John Creech: Right. I could see someone trying to put in...

Bill Martin: One other comment in relation to what he was saying. I think we've given them a great flexibility of area that they could construct in, but would it make any sense to say not to exceed "x" amount of square feet?

John Creech: Well, Mr. Noe and I talked about that. I mean this is the easiest way to do it, because anyone if we get a complaint, we can go out and measure from the front of the house. Hey, you're more than 13 feet or whatever.

Bill Martin: Well, no I'm saying leave the 13 feet in place. But say... but the total area of the agricultural planting cannot exceed "x" amount of square feet. That way you can kind of control people going crazy.

John Creech: Mm hmm. Sure, I mean we could do it.

Bill Knight: I guess the downside on your end, the enforcement end, are you going to be sending Bud up to measure front yards? And I'm serious about it, because that is an illegal search. You need a search warrant to go on...

Kevin Hardman: I mean something like... Yeah.

Sam Schutte: Well, really big houses and really big yards might be less than 13 feet and have more; right, then you're giving credit...

John Creech: Yeah, definitely the larger the property, the more growing you have for sure.

Sam Schutte: I mean I definitely agree with the call them accessory structures, or planting assistants, whatever...

Kevin Hardman: I think, because we went through this, I think everything that's on this picture under our current code would be allowed.

Bill Knight: Currently.

Kevin Hardman: I mean everything that's in here, under our current code, never mind I mean just assume there's... All those structures would be allowed. And so...

Bill Knight: Matter of fact, this gives me some good ideas. I'm going to do this in our front yard before we pass this.

Sam Schutte: Grandfathered in.

Kevin Hardman: So we're talking about two different parts of the code. The one we're talking about tonight would be the agricultural growing.

Mike Wilson: Oh, I see.

Kevin Hardman: You're probably addressing another issue that we need to look at, which is structures...

Mike Wilson: That's true.

Sam Schutte: Right.

Kevin Hardman: In the front yard

Mike Wilson: It is. And actually that looks pretty good. The house looks great; the things in front look pretty good. But three years from now when the wood doesn't look new and crisp, I'm thinking that it might look a little more run down.

John Creech: Right.

Sam Schutte: Well, even somebody wants to build like an arbor right in front of their house, would they allow it?

Mike Wilson: There is if you've ever been much down in Oakley, there's a couple of side streets down there where over the sidewalk, I was just down there this weekend, over the sidewalk they've taken eight foot railroad ties and made a tent out of them. And then vines are growing up there. I don't know. There are like three houses on this street. If you've ever been to Sleepy Bee's, that's where I was for breakfast on Sunday, and it's down that street. And I can just imagine that if you have some... It looked horrible, and that's a pretty cool little area down there. So I don't know how they get by with that. But they were much bigger than these, and covered up most of the house.

Kevin Hardman: On the square footage area, Bill, I guess my question would be how would we put a... I mean because every lot's going to have a different size.

Bill Martin: Yeah.

Kevin Hardman: So, what would you...? Do you have a thought on how we would... what kind of number we could put on the square footage?

Bill Martin: I don't know.

Kevin Hardman: Yeah.

Bill Martin: To me, it's just a make way... Like he was, I'm trying to address his concern about a [inaudible].

Kevin Hardman: Right, and that's, like I said, that was what I think we talked about the last time this came up. And I think they came up with this idea to do it just simply from the measurement from the front of the house.

Bill Martin: I like that idea, but everybody's going to try to push the envelope.

Kevin Hardman: Sure.

Bill Martin: And I don't know... I have no idea what the average size... I mean let's face it; we're not here to... This is not an agricultural area. This is a place for someone to grow their house vegetables, so I can't imagine that if you gave them ten by ten garden's a pretty good size garden in the residential neighborhood. So that's 100 square feet, and I don't know. It could be any, you know if it's 13 feet out and nine feet long, you know. I don't know, but I'm just... You plant a lot of tomatoes and...

Kevin Hardman: We could probably do that, just say not to exceed 100 square feet. I think you're probably right; a ten by ten area isn't... so that it would be contained within that...

John Creech: Yeah, any area can't exceed 100 square feet.

Bill Martin: Or it could be [inaudible] by nine, I mean whatever they want to do.

John Creech: Right.

Kevin Hardman: So they'd have that. So it wouldn't be able to go all the way to the street. And then it would have to... It couldn't be any more than 100 square feet. I think that kind of covers. That's probably a good idea.

Jim Lukas: I can support that. We have to remember, it's allowed in their rear yards, too. I mean we're only talking about the front. So I could support that easily.

Mike Wilson: You're just talking about... You're not talking about landscaping; we're just talking fruits and...

John Creech: Right.

Kevin Hardman: Agricultural.

John Creech: And I didn't read it specifically, but that's why we're creating that definition. Because that definition is missing in our code, and is very specific to cultivated plants for eating, not decorative landscaping.

Bill Knight: Edible.

Sam Schutte: Yeah, and I think if you look at, you know I'm just kind of thinking like if I took the side of my house and made five foot by 20 little tomato bed, just use green stakes so you wouldn't... It wouldn't look bad really; it'd just a bunch of tomato plants growing on the side of my house, you know?

Kevin Hardman: So would we simply be able to add to that 1125.02 chart an extra column that would say "maximum agricultural area, front yard, 100 square feet;" and that would go all the way down for every single area. Does everybody kind of...? I just would like us if we could move this forward today, it would be great to get it back in front of Council with that change. Does that sound reasonable?

John Creech: Oh yeah. And the other thing is, about the structures. Those structures...

Kevin Hardman: I think we should hold off on the structures.

Mike Wilson: That's a different part of the code.

Kevin Hardman: On something else.

Bill Knight: Fix it all like new, get everything spelled out.

Kevin Hardman: Yeah, I think we need to look at the structures a little more closely. Because I think that's going to be more of than agricultural.

John Creech: Arbors and yeah.

Kevin Hardman: Mm hmm.

John Creech: Bird baths, and...

Kevin Hardman: I've got a neighbor in my neighborhood who has a garden; it's not growing anything, but it's got gardens. She's got a big archway you know right up to her... It's been there for a long time. So I mean picket fences, would that...? You know, I think we do have controls [inaudible, so I think there's some things we probably need to talk about on that front.

Sam Schutte: I think this is a good way to cover the agricultural question, and then separate question.

Kevin Hardman made a motion to approve the zoning changes as presented with the amendment to include the 100 square foot area as well. Bill Knight seconded the motion. There was no further discussion.

Roll Call / Vote

All members voted yes

Kevin Hardman: Now, if I'm not mistaken, that's going to have to go to Council, and they're going to have to have a public hearing, right? We don't have to have a public hearing, do we? Okay.

b. Medical Marijuana

John Creech: This next discussion item is about medical marijuana. And probably most of you are familiar with this. I understand you have a moratorium in place. But there's a section of that state law that became effective last year that allows cities to create their own regulations. They can ban it outright, and now we did some investigating. And we think that probably a lot of communities, the community I worked in before, Hamilton, we banned retail sales for medical marijuana. And it understand now they're going back to address the processing and the growing of it. But what we're proposing is that we create the definitions in our zoning code, and we address no retail sales, retail dispensaries, no processing, and... let's see cultivation, retail dispensary, and processing. I don't have a zoning map, but we've got a big zoning map in our office. Actually that big one there. And you can really group the five business areas in town into kind of these distinct areas. I listed them out there: The Northern Lights/East Kemper Area on the west side as I understand, the Sharon Road/Crowne Point Area, Downtown/North Lebanon Road Area just right up the street here, Lebanon/I-275 Area, and the Summit Woods office park. That's actually General Business. So, typically if you're going to have a medical marijuana retail dispensary, it's probably going to be located in a business area. Our five business areas, there's a lot of residential close to those, right abutting in a lot of places. So we really don't think that would be a good idea to allow that use there. That's another reason why we think it'd be good to ban it. Also had a conversation with the Economic Development Department. I've put that in there, and obviously their objective is with the shortage of land we have, they want to maximize what we have out there with the greatest number of people for jobs. And it's really unclear how many jobs there will be as a result of all the medical marijuana uses. So, those things being said, we're proposing that some new definitions be added to the zoning code.

And all of those definitions come straight out of the state law. So those definitions would be added: medical marijuana, medical marijuana retail dispensary, medical marijuana cultivation, and processing. And then we would go and add prohibited uses. Those three... Those definitions would be prohibited uses in basically all the zoning districts in town. And we already have in the Northern Lights overlay, there's a small section of prohibited uses that bans something. So it should be similar to that. So this wouldn't be a new thing in the zoning code; we already have that.

Kevin Hardman: Questions?

Jim Lukas: I wholeheartedly support this. My question is even though state law allows us to prohibit these uses, and a lot of cities are doing so, there are attorneys who think that that provision in the state law will be overturned one day by a court. And my question is should we put something in our code that should this law ever change you know per a court decision, we would allow it somewhere to kind of avoid a vested rights argument. You know if the state law is overturned, somebody rushes here and says, "Hey, I just bought a building to do this" while we're trying to change our code to say we're okay with it here or there. Is that a vested rights argument, and should we put something in our code to kind of prevent that? I don't think we have to make that decision today. I think we can move forward with this, and then maybe talk with Mark or talk with any legal expert or whatever. But I could see a vested rights argument saying you know somebody rushes in here once that law's overturned, if it's overturned. Just a thought.

Sam Schutte: I guess just kind of to dovetail onto that, you know I mean there... I've talked to folks about this; you know out, you know residents and stuff. There are certainly folks in the City that say like well what about the economic opportunity? And so on and so forth. And certainly that's a question mark, right? Like you said, we don't know about jobs created. But one question that I heard from several folks was, well you know we have this area where we said we have this adult novelty store. We said that's where these need to go. You know, why don't we say that's where these things should go? So you know maybe that would be one potential area to think about as a sort of backup if we said well, if this law was overturned or whatever. We're not allowed to outright ban it. That would be where we want it to go. Something like that.

Kevin Hardman: That's what I think Jim was talking about.

Sam Schutte: Yeah. Well, I'm just saying...

Jim Lukas: Yeah, that would be the area.

Sam Schutte: That's what I'm suggesting, because that's... And I guess that was the question.

Kevin Hardman: Red light district.

Bill Martin: I think that. I agree with Jim. We should probably move forward with this and do some further investigation on what Plan B is.

Bill Knight: I think this is a good move, because eventually it's going to come down to where it'll get pushed through. All marijuana will be legalized at one time or another. We're taking steps to address this, and I think we can use this for future.

Kevin Hardman: Alright.

Bill Martin made a motion to approve the zoning changes regarding the prohibition of medical marijuana uses. It was seconded by Bill Knight. There was no additional discussion.

Roll Call / Vote

All voted yes

Kevin Hardman: We'll refer those to Council.

c. Northern Lights Overlay District Signage – See attached

Kevin Hardman: Last item is with regard to our Northern Lights Overlay District signage.

John Creech: Okay, so I've been educated myself about this topic for you know past couple weeks. And this is a interesting project. I'm sure all of you probably know intimately about this. So, basically it looks like that overlay was adopted 2008. And there's a clause within the zoning code that says existing ground and pole signs located on Chester Road have to be replaced by February 2018. And there's a list of things that the City should have been doing or maybe did do to some extent in that period. And at the same time now the City has a small business grant program. There are some small businesses out there that want to utilize some of the existing signage, sign poles. But because of the zoning overlay, they're not allowed to do that. They can't do it. They have to comply with the Northern Lights Overlay. So, we're asking for the Planning Commission to allow us to basically revisit those specific sign standards in that area. You know Chester Road is a regional destination. You've got hotels there, the Convention Center, especially down on the south end. On the north end, there's some smaller businesses there. So you know it's kind of mixed. In the meantime, we're going to continue on, just like the ordinance says. So we'll be mailing courtesy letters to all the property owners out there, letting them know that there's this ordinance. These signs have to be removed. But if the Planning Commission says hey, you know we think we should revisit this, what we plan to do along with Economic Development is invite all of the business property owners on Chester Road to a meeting, maybe over at the Convention Center, bring them all in and basically talk about issue again, just for some feedback from them. I take that information, research some other signage opportunities, other types of signage in special district areas. Because that is an area that the City's put a lot of effort into, put a lot of planning into, and a lot of money with the improvements out there. We don't want to throw it all away. Maybe we just need to tweak it in some way. And then possibly research and review maybe the establishment of another type grant program just for signage to help some of the businesses. Because like I said, some are small some are large. Different types of research. Then we'll come back to the Planning Commission in June of this year, and let you know what the proposal would be. So in case you're not familiar, there are four types of signs allowed out there in that overlay zone. And I just scanned them in here for you. So if you're a single business, you're allowed basically that flagpole sign. Where it says "Freestanding Sign Alternative A." If you're a property that has two businesses there, the similar sign with two tenant logo panels, and then the other one with three. So that's one type of sign that's allowed. And then there's Alternative Sign B, which is more the monument sign; larger sign base area, but it has to be lower to the ground. So those are the only types of signs that are permitted out there.

Jim Lukas: But that's not a true monument sign, since there's a gap above the ground.

John Creech: Right. And we don't really even have a definition for sign. And yeah, so really no one out there has complied with this.

Kevin Hardman: And I will say, at least from my standpoint, I think Jim shares this. We don't see this being our vision for Chester Road anymore, if it every really was. I think, and some discussion with former mayor who has property on that particular street, I think they all kind of feel like this, at least the sign alternatives when we did this overlay, became a little rushed. And it got pushed through to get it done, so to speak. But I think in hindsight, I think we all realize this is not... It doesn't have the kind of flexibility we want it to have. And it really doesn't achieve... And this plan has changed a lot in the last ten years, too. That it's worth relooking at this, but I think to a large extent, what you see here, I think ultimately we'll be recommending kind of a basically a wiping out of that. Like he said, nobody's done it; nobody's complied with that. Apparently we understand there might be some... We're exempted from it. But, there might be some issues with actually being able to get the materials that are required to create some of this signage that we created. So, just to give you at least some idea of where we're headed with this. I think we're looking to scrap this all together. I think that's where John's going to go next.

John Creech: Right.

Bill Knight: I make a motion we scrap it.

Kevin Hardman: Well, I don't think we're ready to do that yet.

Bill Martin: I guess the only thing I would like to say is that I think we have to be consistent out there, and we certainly want to clean up the old stuff.

John Creech: Right. And yeah, we've got a couple slides here. We put them together, so I do want to show them to you; just some things we're thinking about. Because there are... And this is just a little Photoshop activity. We were thinking like yeah, there are some large signs out there, different things you could do, people to participate in different types of grant programs. You know you've got the LivInn, which is a large hotel with this large sign, which is allowed. It was obviously put in and met the zoning at the time. But there are different ways that a property owner could improve that sign. Yeah, just down the street, that's the existing daycare, building a new monument sign. And a lot of times a monument type sign with brick or stone or some type of theme material whatever, that a lot of times is what communities are trying to get. That's what they're going for. But d\I did want to show you, there have been a couple sign variances that have been approved out there. Obviously, the Convention Center; their sign doesn't comply. And it looks like in 2009, they went to the Architecture Review Board. They approved it, and then that recommendation came to the Planning Commission, and it was approved in 2009. And the other one was the racquet club. If you drive out there, you'll see they've got some work going on at their entrance off Chester Road. They'll be installing the stone walls with some fencing, and they'll be putting up new signs there. And then the other one is the Hyatt Place. And we're going to talk about a special meeting here in a moment, but they wanted to put up this monument sign instead of the other sign. And I think you just mentioned it, that there's really been no design or engineering on that type of sign with the flagpole. So it's kind of... It was just a concept, and no one's really done anything to see how that sign will work. So, I did want to let you know that the Hyatt hotel, I think their grand opening in sometime in early May, and they did ask us... We actually did hold a meeting of the Architectural Review Board. They approved their sign, and that recommendation for approval will be coming to the Planning Commission. But the next meeting of the Planning Commission is the second week of May. So in addition to what we've all talked about, we're also asking that you consider holding a special meeting on April 26th either at 6:00 or 6:30, whatever your pleasure.

Kevin Hardman: Anybody have any questions about that, I mean just to help us give them...? I'll tell you we've given them some feedback that we don't have... from an administrative standpoint. We think that's an attractive sign, and we're kind of bummed that we couldn't just get it approved. And they'd love to push it quicker.

Bill Martin: Well, it's a monument sign. That is the trend.

John Creech: Right.

Bill Martin: And frankly, they're a lot more attractive than pylon signs.

Sam Schutte: I definitely agree that you know several business owners I've talked to coming into the City or whatever and that are like, what is going on with the sign stuff? It's ridiculous. You know, so I think it's definitely time to revisit. And like you said, that's a pretty good looking sign.

Bill Martin: How's our redoing of the plan right now? I remember we started that process.

Kevin Hardman: Our master plan?

Bill Martin: Master plan, yeah.

Kevin Hardman: It's on hold.

Bill Martin: Oh. Well, that's important.

Kevin Hardman: It's on hold due to multiple reasons, but the individual, the company that was doing the plan, we have terminated from the plan. So we're rethinking how we go forward.

Bill Martin: I still get disgusted every time I drive by 275 and see all those wrecked cars sitting out there.

Kevin Hardman: So do I.

Bill Martin: That's not what I...

Kevin Hardman: Little bit of a sticking point with me as well.

Bill Martin: You know what? And you said it before, as small land as we've got, you know wonderful location that we have. We've got so much opportunity, why are we screwing around on that kind of stuff?

Kevin Hardman: Can I ask, John, maybe you know the answer? If ARB's already met, they've recommended approval of this sign, we can't do it tonight?

Jim Lukas: It's in our code.

Kevin Hardman: Oh, it had a timing issue.

John Creech: Our code it...

Bill Knight: I say with a general consensus, let them do like everybody else, put in in without a permit and kind of wing it.

Jim Lukas: Can we vote in advance?

John Creech: There are two things I'd like for the Planning Commission to give us some direction on. The first is should we...? You know we're going to send out those letters. And do we have permission to start sending out notices to hold these special meetings with all those property owners to look at changing the signs and come back in June? That's one. Second is the meeting on April 26th at 6:00 or 6:30?

Bill Martin: Can I say something about the meeting that you want to have with the property owners?

John Creech: Sure.

Bill Martin: I think it's in our interest to guide them.

John Creech: Mm hmm.

Bill Martin: Instead of let them tell us, let us guide them as to what the vision is. And let them have input, but I think we should have a clear vision of what we want.

John Creech: Sure.

Kevin Hardman: And I think we're looking a little bit about what you just saw. I don't think we want to ban pole signs. We can see a real interest in a hotel property still having that ability to have some visibility from 75. And we ban those now. But we would like to see something more attractive ground level, so it would be like encasing. I think that's where we're leaning. We've seen some additional things. I kind of like it. That's what we did with the Convention Center. I like the stone look more than I like the brick look. And it would be kind of looking that way. We're also looking at hey, do we have some funding to help that, to spur that along? Just say here's some stuff. You know but we also need to improve what's out there. So we're not going to just... LivInn's got a nice sign. Virgil's got a nice sign, because he recently refaced it. You've got some other things you can work with. But there's some out

there that don't have... They're going to have to do some work on the signs that they have. More than just wrap the base of them in stone. But I think that's the vision we're looking at to kind of... We'd love more monument type signs with that stone.

Bill Martin: I'm a developer by trade, and I have no problem at all going in if everybody's treated the same. But when I see one guy's got this kind of sign, and you're always trying to jockey for position. So I think it's in our interest to have a pretty solid code so we don't hand out variances all the time.

Kevin Hardman: And I think that's definitely what we're trying to do with this area. Right now I think that's the problem that we'd have with what we have, is just we're going to be handing out variance after variance. Go to the Architectural Review Board. Go through this process, okay put it up there. And I think we want to avoid that. That was the whole purpose of what existed, and it was just too rigid.

Sam Schutte: Well, and I think the requirements we set forth should be very like minimal cost impact. It shouldn't be expensive, too. You know like if we said well it has to be stone something. If that's expensive, we should not do that. We should make it aluminum or something.

Bill Martin: That faux stone is not that expensive.

Sam Schutte: I know, just an example.

Jim Lukas: But the alternative is your whole sign comes down.

Sam Schutte: I'm just saying the last thing we need is for it to be, well I was going to move there but gosh the sign's so expensive, what I have to do there compared to Mason or something.

Kevin Hardman: I bet they'd have a whole lot of other problems with Mason than they would Sharonville.

Sam Schutte: Again, another bad example. But whatever.

Kevin Hardman: But it is a good example. We do want to create a uniform image, but also give some ability to have some flexibility. And so if somebody wants to put a sign up, you know there is going to have to be a cost involved in that. We have to say what is that minimum cost that we as a city want to create an environment that's going... I mean we've put in when it's all said and done... I don't want to put a number on it, because I'll get it wrong. But, over ten million dollars' worth of infrastructure improvements to Chester Road for the purpose of attracting new business, attracting visitors, create a destination. Now it's time for those property owners to invest as well. You know we didn't put in ten million dollars because we just feel really good about it.

Jim Lukas: And that's not all City money. I don't want anybody to think that's all City money.

Kevin Hardman: But a good portion of it is. So we need to really look at... We need something.

Mike Wilson: I totally agree with the flexibility part. I like the opportunity to have unique and diverse look on signs, but hold to a high standard of having a line item veto on our signs. Because now you're going to have to doctor that up some. So I totally agree, flexibility yes, high standards though. It's hard to put that into words.

Bill Knight: And that's the same thing even on uses, a little bit of flexibility but high standards. The big thing now are the brew houses. Can they do that on Chester Road? That's light manufacturing. We need to maybe look at a definition for that.

John Creech: Mm hmm.

Bill Knight: That would be a drawing card to Chester Road.

Sam Schutte: I think what you said, Kevin, is making it attractive to businesses. We can't have signs just for sign's sake, or permitted uses just for that. It's about getting quality tenants, if you will or whatever on that site. And if it's expensive signs and a big long list of permitted uses and prohibited uses, then that just hurts us.

Kevin Hardman: So everybody's comfortable with us proceeding in the way we kind of laid out? We're going to meet with the groups. We're going to get the notices sent out so people are aware that hey, if nothing changes you're going to have to take your stuff down. And that this is what we're going to do. We're going to get together with you, talk about our vision and how you can be part of that. And then is everybody okay with April 26th at 6:00 or 6:30?

It was decided that the meeting would be held at 6:30 on April 26th with a motion by Jim Lukas and seconded by Bill Knight.

Jim Lukas: We will have to specifically notify the media.

15. PC Adjourn

A motion to adjourn was so moved by Kevin Hardman and seconded by Bill Knight.

The meeting was adjourned.

John Creech,
Secretary

Paul Culter,
BZA Chairperson

Kevin Hardman,
Planning Commission Chairperson