

**LIBERTY TOWNSHIP ZONING COMMISSION**

**March 20, 2023**

**6:00 p.m.**

**MEETING MINUTES**

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The Zoning Commission was called to order at approximately 6 p.m. by Mr. Dobrozsi. The Pledge of Allegiance was recited.

Upon call of the roll, members in attendance were Mr. James Dobrozsi, Mr. Michael Ward, Mr. Michael Stater, Mr. Michael Dunn and Mr. Wayne Bradshaw. Also, in attendance was Bryan Behrmann, Director of Planning and Zoning and Thomas McIntyre, Senior Planner.

Mr. Dobrozsi reviewed the hearing procedures and performed a group swearing in.

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Mr. McIntyre presented the staff report and PowerPoint Presentation for case ZC22-017, Polly Nolan is requesting an Overlay District Review for a salon use and variances from Section 5.9.2 regarding street lighting, Section 8.4.2 regarding lot perimeter buffer and permission to defer installation of a frontage sidewalk for up to 5 years.

Mr. Dobrozsi asked if there were any questions for staff.

Mr. Stater asked about the parameters of the lighting requirement. Mr. McIntyre responded stating street lights are required on both sides of the street within the Bethany Downtown Business District Overlay (BDBD-O), however, staff is considering revising this requirement as the lights are tied to the property owner, not a municipality. If a business closes or moves the township cannot guarantee that the street light will be lit.

Mr. Dobrozsi asked when the row of properties on the south side of Bethany Road were rezoned from R-1 to B-1. Mr. Behrmann responded stating that the B-1 could be from when the township took over from the county zoning in 1992.

Mrs. Polly Nolan (7601 Bethany Road, Liberty Township, OH) gave an overview of the proposal. The property was purchased with the understanding that it was zoned appropriately and the salon use was permitted by right. Some time later she was informed via mail that the property was in violation of the Zoning Resolution regarding new construction and/or structural alteration, change in use and/or occupancy of an existing building and change in use of land to a use of a different classification. She then hired an architect to research the zoning resolution and determine what regulations, if any, are being violated and how to reach compliance in addition to creating a scaled plan showing the existing site improvements in addition to any proposed site improvements. After being informed that a landscape business used to operate out of the subject property she discovered that the driveway was backfilled with gravel and that there was a second access to Bethany Road on the west side of the property, making two entrances onto the roadway which seemed to be a safer option as one entrance was higher in elevation than the other which allowed for better sight distance. The Butler County Engineer's Office would not approve the second entrance as shown on the plan and would not return her calls which in turn made her hire an attorney to get to the bottom of this encroachment issue. The required minimum 24' wide driveway entrance is a requirement of the Liberty Township Fire Department so they can drive their trucks through the site. There are no sidewalks in the immediate area so a sidewalk along the frontage would go

nowhere. The arrangement with the lighting company has not been completed yet. The PUD overlay lets the township pick and choose what businesses they want in whichever particular area and feels that she has been harassed throughout the process.

Mr. Stater asked the applicant how she feels regarding #10 from the staff report regarding curb cuts and which option she would like to pursue. She asked for Mr. McIntyre to repeat #10. Mr. Behrmann clarified that the Engineer's Office is recommending keeping the western entrance and the eastern entrance interferes with the ingress/egress for the Lakota Freshman campus. Mrs. Nolan feels like this proposal will cause traffic to bottleneck where the driveway meets the roadway.

Mr. Dobrozsi asked Mrs. Nolan if she has read the staff report and is agreeable to the it. She is fine with the landscaping and the sidewalk along the frontage as a bike trail is planned bike trail is coming to the area. She is agreeable to the lighting as the senior living facility is going to be built across the street. She is agreeable to paving the driveway but does not feel the continuous curb is necessary. She does not want to install too much landscaping as it will make the driveway hard to find and will cover her sign. She would like to use the accessory structure at the rear for a pop-up vintage store or a place for a small birthday party.

Tascha Alsdorf (7601 Bethany Road, Liberty Township, OH) spoke in support and is the east adjoining property owner. The prior property owner had come up with the idea to rezone the parcels along the south side of Bethany Road to B-1 which allowed him to operate his landscaping business. She is in support of the existing business as Mrs. Nolan is beautifying the surrounding and improve her community.

Earl Alsdorf (7601 Bethany Road, Liberty Township, OH) spoke in support and has lived on Bethany Road since 1966 and the second driveway has been there for quite some time.

Mr. Bradshaw recalls a Comprehensive Plan revision in 2006 which was followed by the Bethany Downtown Vision Plan in 2009 along with the Bethany Downtown Business District Overlay. He finds it disappointing that Mrs. Nolan can hire an architect who is a professional but then is not made aware of any adopted plans for the area which does not mesh with her proposed business.

Mrs. Nolan had bought the property due to the second driveway entrance and paving the driveway in its entirety is an enormous expense. Additionally, this property reminds her of what Olde West Chester is like and wanted to recreate that same feel on Bethany Road.

Mr. Dunn made a motion to **CLOSE THE PUBLIC HEARING**. Mr. Ward seconded. Upon the call of the roll, the motion passed. **PUBLIC HEARING CLOSED**.

Mr. Dunn stated that the curb cuts isn't a Zoning Commission decision, it is an Engineer's Office decision which is a position that the Zoning Commission has not been in before to his knowledge.

Mr. Dobrozsi stated he is in favor of the proposal if the applicant can comply with all the requirements of the notice of decision.

Mr. Behrmann wanted to clarify that the original plan showed continuous curbs throughout while the revised plan does not show that in addition to A17 (landscaping) being removed from the revised plan as well. There are no current plans to widen Bethany Road at this time and doesn't foresee any traffic management plans being instituted in the future. To clarify the encroachment issues, he reiterated the options: (1) widen the western encroachment to 24' wide, (2) keep the western encroachment at 20' temporary curb-cut until the property to the west develops at which

time it could be expanded to 24' wide and (3) have a temporary 13' wide access drive which would have a "pull off" for another vehicle on the access drive.

Mr. Dobrozsi made a motion to **REOPEN THE PUBLIC HEARING**. Mr. Dunn seconded. Upon the call of the roll, the motion passed. **PUBLIC HEARING REOPENED.**

Mr. Dobrozsi asked Mrs. Nolan how much time she would like to get all of the requirements completed. The Engineer's Office has not approved her plan therefore she does not know what to pave which affects her timeline and budget. Mr. Dobrozsi suggested that she hire a professional engineer to design the parking lot and stormwater detention and have them submit a plan to the Engineer's Office which then cannot be ignored. Mrs. Nolan stated she is agreeable to all conditions i.e. continuous curbs, paving the driveway when a determination from the Engineer's Office is made, repainting the exterior of the business, planting more trees, allowing 3 years for the construction of the sidewalk and streetlights.

Steve Starr (2459 Wilkinson Boulevard, Charlotte, NC) stated he is seeing an inconsistency with the adjacent property landscape buffer along the western property line which would make it difficult to achieve compliance.

Mr. Bradshaw made a motion to **CLOSE THE PUBLIC HEARING**. Mr. Dunn seconded. Upon the call of the roll, the motion passed. **PUBLIC HEARING CLOSED.**

Mr. Dunn stated she should be given three (3) years to achieve compliance with all the required conditions.

Mr. Dobrozsi stated he would be agreeable to giving the applicant five (5) years to achieve compliance with all the required conditions.

After much discussion it was determined that continuous curbs will be added to condition #5 and a condition will be added making it #14 which will state that the applicant has 5 years to comply with all conditions or when adjacent properties are developed.

Mr. Ward made a motion to **APPROVE** Case ZC22-017 with continuous curbs being added to condition #5 and a condition will be added making it #14 which will state that the applicant has 5 years to comply with all conditions or when adjacent properties are developed. Mr. Dunn seconded. Upon call of the roll. Mr. Ward – yes; Mr. Dunn – yes; Mr. Dobrozsi – yes; Mr. Stater – yes; Mr. Bradshaw – yes. The motion passed 5-0.

Mr. McIntyre presented the staff report and PowerPoint Presentation for case ZC23-006, Hen-Jur, LLC is requesting a Major Modification to the Freedom Pointe MU-PUD and Preliminary PUD Plan.

Mr. Dobrozsi asked if there were any questions for staff.

Mr. Dan Wheeler (7368 Princeton Road, Liberty Township, OH) gave an update of the Freedom Point MU-PUD and a overview of the submitted application. The initial application for a Major Modification encompassed more acreage however it has been reduced in size and scope as TIF formalities are involved. The application is for a 4.2-acre section of the MU-PUD, specifically for Mike's Car Wash, so their development schedule for the season can be accommodated. The retail/restaurant building shown as Building #12B may become a medical office building as large

office buildings are not as marketable and simply not in demand in today's real estate environment. Most, if not all, medical office users want to own their individual suite, not rent from a property owner.

Jose Castrejon (3700 Park 42 Drive, Cincinnati, OH) provided a progress report regarding the entire Freedom Pointe development. The 75' buffer is nearing completion as the earth work and fencing is complete and the tree buffer is nearing completion assuming the weather cooperates. The area to be modified is the southwest corner of the development as office uses have provided to be difficult due to the hybrid work environment. As the market changes so does the demand for particular uses, which is the catalyst for the major modification application from office to commercial. When looking at the approved plan vs the proposed plan square footage of the structures is being reduced but the overall layout is not. Building #12B will be 124' from the eastern property line which will not be any closer than the previously approved Building #10 as shown on the preliminary development plan. Elevations and materials were provided as part of the application which comply with the PUD and Zoning Resolution. Sidewalk connectivity will be maintained as previously approved.

Mike Dahm (100 Northeast Drive, Loveland, OH) spoke to the caliber of car wash that Mike's Car Wash provides. They have received multiple awards from multiple municipalities with respect to the quality of development and business they provide. They are in the cleaning business therefore they keep their property clean as well. They keep minimal employees on site and have 37 locations in the tri-state area.

Eddy Krieger (100 Northeast Drive, Loveland, OH) provided a detailed overview of the proposed site. The hours of operation are from 7 a.m. – 9 p.m. daily. The entrance to the building is on the west side of the building and exits on the east side of the building. There is a vacuum battery on the north side of the building.

Mr. Wheeler spoke to the proposed location of Mike's Car Wash and that placing this use across from Costco will work well and has a purpose.

Mr. Dobrozsi asked how far the proposed car wash is from the residential properties to the east.

Mr. Castrejon responded stating it is at least 350' from the condos and 400' from the single-family residences.

Mr. Dobrozsi asked what the decibel level of the proposed car wash would be.

Mr. Krieger responded stating with no site improvements the existing dB level is 74.6. The vacuum system runs about 24 dBs which shows the traffic produces substantially more sound than any proposed site improvements. A video was provided to support the claim.

Mr. Stater asked Mr. Castrejon to elaborate on the proposed brick veneer. Mr. Krieger responded stating the tower is typically a metal flashing of some type as customers have stated they find that more attractive but are happy to provide full depth brick around the entirety of the building.

Sonya Sharp-Stenken (7121 Larkspur Lane, Liberty Township, OH) spoke in support of the application. Her property is in the "gap area" and applauds Mr. Wheelers attention to the buffer and willingness to meet and work with adjoining property owners.

Mr. Karl Niemann (7011 Larkspur Lane, Liberty Township, OH) spoke in opposition. He is the community representative for the neighborhood with respect to the subject development. Garbage, tires, debris and basic rubbish cleanup have been met with no response from the developer. He

request that before any major modification be recommended for approval the aforementioned trash be addressed. The lack of communication leads him to believe that maybe Mr. Wheeler is not a good neighbor as he has represented himself to be. Landscaping and mounding have been placed sparsely and seemingly in particular spots where those adjoining property owners have been appeased.

Matt Brooks (8115 Cherry Laurel Drive, Liberty Township, OH) spoke in opposition, specifically to the amount of modifications made to the approved preliminary plan. He's received adjoining property owner letters in the past but wants to know why he hasn't received any for this particular application.

Mr. McIntyre responded stating the 200' is from the boundary of the subject site, not the development in its entirety.

Mr. McIntyre added that a letter in opposition from Mr. Chris Jones was received earlier in the day and was spoken into the record.

Mr. Bradshaw made a motion to **CLOSE THE PUBLIC HEARING**. Mr. Ward seconded. Upon the call of the roll, the motion passed. **PUBLIC HEARING CLOSED**.

Mr. Dunn stated that due to its proximity to the Liberty Place Memory Care and surrounding commercial uses this is an appropriate use for the subject property.

Mr. Stater asked if restaurants were permitted within the Freedom Pointe MU-PUD.

Mr. Behrmann clarified stating that fast casual restaurants and coffee shops are an allowed use.

Mr. McIntyre clarified that the application is for a major modification meaning that a Final PUD review will be required assuming this application is approved by the Board of Trustees.

Mr. Dobrozsi made mention of a dB study of some type and that this would make more comfortable with an approval at the Final PUD level.

Mr. Ward made a motion to **RECOMMEND APPROVAL** of Case ZC23-006. Mr. Stater seconded. Upon the call of the roll. Mr. Ward -- yes; Mr. Stater -- yes; Mr. Dunn -- yes; Mr. Dobrozsi -- yes; Mr. Bradshaw -- yes. The motion passed 5-0.

Mr. McIntyre presented the staff report and PowerPoint Presentation for case **ZC23-007**, Liberty Retail Management, LLC is requesting a Major Modification to the Liberty Center B-PUD and Preliminary PUD Plan.

Mr. Dobrozsi asked if this vote of recommendation is a vote on the preliminary plan.

Mr. McIntyre responded stating the application is for a major modification to a preliminary PUD plan and will be required to come before the Zoning Commission for a final PUD review if approved by the Board of Trustees.

Mr. Greg McDade (30200 Telegraph Road, Bingham Farms, MI) gave a brief overview of the proposal. He understands the prior approved building was a two-story tall medical building and is considered an entrance to Liberty Township but unfortunately the Optima Dermatology Group was not able to follow through with the development. With that said, he feels the Firebirds Wood Fired Grill is a complementary use based on the surrounding businesses and development.

Mr. Steve Starr (2459 Wilkinson Boulevard, Charlotte, NC) is the President of Starr Design and is the corporate architect for the restaurant. The color and materials compliment the elements seen

in fire i.e. reds, yellows, oranges, wood, black-charred brick, etc. A halo vortex fire feature will be placed near the southwest corner of the restaurant near Liberty Way along with see through fire pits within the enclosed patio area. All elevations meet or exceeds the 50% brick and/or stone requirement in conjunction with a fibercement board siding and thermally treated wood trim board. The HVAC rooftops units are screen by a 6' tall roof parapet as shown on the renderings which were produced from the high point of the southbound exit and Liberty Way. Two types of brick will be utilized.

Mr. Bradshaw made a motion to **CLOSE THE PUBLIC HEARING**. Mr. Ward seconded. Upon the call of the roll, the motion passed. **PUBLIC HEARING CLOSED**.

Mr. Dunn stated that he appreciated the different architectural style of the Optima Dermatology building but believes the proposed restaurant also provides that same bit of uniqueness to the site.

Mr. Dunn made a motion to **RECOMMEND APPROVAL** of Case ZC23-007. Mr. Stater seconded. Upon the call of the roll, Mr. Dunn – yes; Mr. Stater – yes; Mr. Dobrozsi – yes; Mr. Bradshaw – yes; Mr. Ward – yes. The motion passed 5-0.

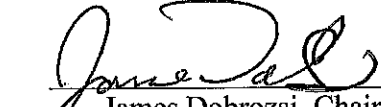
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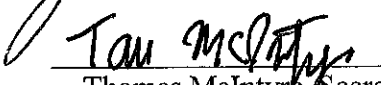
Mr. Bradshaw made a motion to **APPROVE** the February 27, 2023 meeting minutes and notices of decision as presented. Mr. Stater seconded the motion. Upon call of roll: Mr. Bradshaw – yes; Mr. Stater – yes; Mr. Dobrozsi - yes; Mr. Dunn – yes; Mr. Ward – abstain. The motion passed.

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Mr. Dobrozsi made a motion to adjourn. Upon call of the roll, the motion passed unanimously and the **ZONING COMMISSION MEETING ADJOURNED**.

Respectfully submitted,

  
James Dobrozsi, Chairman

  
Thomas McIntyre, Secretary