

**Brunswick Hills Township Board of Zoning Appeals
Public Hearing Meeting Minutes
Township Hall
May 1, 2024**

Call Meeting to Order

Chairman, Chris Schigel called the Brunswick Hills Township Board of Zoning Appeals Public Hearing meeting for May 1, 2024 to order at 7:00 p.m. A roll call of the board was executed.

Board Members in Attendance: Ann Barron, Cliff Kersten, Ron Wetterman, Gregg Timura
Chris Schigel

Alternate Board Members in Attendance:

Others in Attendance: Evelyn Czyz, Zoning Inspector, Trustee Trica Murphy, Zoning Liaison, Wes Humphrey, Assistant Zoning Inspector, Fire Chief Strazzo, Linda Kuenzer, Secretary.

Chair Schigel stated a quorum is present. Meeting has been properly advertised and is being taped for the record. Before any vote, a yes, simple majority vote with a quorum is in favor of the applicant. A no, simple majority vote, will deny the applicant's request. The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

APPROVAL OF MINUTES

1. No minutes to approve

Mr. Schigel stated we do have a case for tonight and asked if any if the board members need to be recused from the application on this case due to some type of relationship? Having no one, Mr. Schigel stated that as we do our case for tonight, that all comments or concerns be directed to the board. Mr. Schigel asked that they state their name and address for the record. If there is anything that you want to say, please wait and you will have a chance to be heard.

NEW BUSINESS-PUBLIC HEARING

1. TDOE, LLC 301 Marks Rd PP# 001-02A-10-033

The lawyer contacted Mr. Richter and asked for a continuance, they are not present tonight. They have asked for a 90-day continuance until Wednesday, August 7th, 2024.

Motion: Mr. Kersten motioned to grant the 90-day continuance, Mr. Schigel second the motion.

Roll Call: Mr. Timura-yes, Mr. Wetterman- abstain, Mr. Kersten- yes; Mr. Schigel- yes.

2. Bradley Hoffman 916 Pearl Rd, PP# 001-02A-25-047, Conditional Zoning Application, Zoning C-2, Conditionally permitted use in C2 zoning district, section 408-2, BE10

Before calling the applicant, Mr. Schigel stated he wanted to speak with the board and zoning inspector. When looking at the request and going through Article 8 of our code, it references the application and review process of a conditionally permitted use. Some of the things that are on there, it goes through all the things that are required for a zoning certificate, one of the things in there that it discussed: 904-4 anything on a conditional permitted use that requires a site development plan must go through the Zoning Commission first and he was not sure if this has gone through the Zoning Commission yet.

Mr. Wetterman stated that we have the Chairman of the Zoning Committee if he wants to bring her up and find out to answer the question.

Mr. Schigel swore in Mrs. Wetterman. She stated her name as Patricia Wetterman, 1085 Substation Rd, Brunswick, OH, Chairman of the Zoning Commission.

Mr. Schigel asked Mrs. Wetterman if he was reading this correctly. Mrs. Wetterman stated yes. Mr. Schigel confirmed if it needs to go through the Zoning commission before it comes through our board. Mrs. Wetterman states yes sir.

Mr. Kersten asked if it has gone through the zoning commission? Mrs. Wetterman stated she had not seen anything in the last few months on it.

Mr. Schigel stated he wanted to make sure that we take care and hear the things the right way. And however we go, we follow the right process. The way that he interpreted is that it needs to go through the Zoning Commission.

Mr. Kersten stated that per our records, it does not look like it has gone through Zoning per our Chairman of the Zoning Commission. Mr. Schigel asked the others if they have had a chance to look over 904-4 and 804-5 and read it the same way he does?

He stated that he wants to make sure we are interpreting it correctly- Zoning 904-4 just so everyone knows,

“Upon receipt of an application (s) that requires a site development plan as required by Sec. 902-2 C, the Township Zoning Inspector shall forward copies of the completed application (s) and site development plan to the Zoning Commission for review and recommendation for approval, denial or approval with specified conditions or modifications of the site development plan to the Board of Trustees”.

Application (s) which are submitted prior to the established deadline date shall be placed on the next regularly scheduled meeting at which time the Commission shall consider said site development plan.

Then 904-5 - The Zoning Commission Action. The Zoning Commission shall act upon an application for site development plan approval within forty- five (45) days of the date the site development plan is first heard by the Commission unless such time is extended with the consent of the applicant. The Zoning Commission may recommend approval, denial, or approval with specified instructions of the site development plan to the Board of Trustees. Mr. Schigel stated that it's a bit of a trail on the bi-laws, and believes that we need to go through the Zoning Commission first.

Mr. Schigel called on Mrs. Evelyn Czyn who stated no comment. Mr. Schigel swore in Mr. Wes Humphrey, Asst. Zoning Inspector.

Mr. Humphrey stated that he is reading underneath conditionally permitted use and all the different ones that are in there, it refers to Drive-in restaurants, 804-12. Number 10: Plant, Greenhouses and Garden supplies. There is no reference to any other section under that, like monuments, sales and displays, radio towers, mortuaries, congregate housing for the elderly 804-11, single family resident, it doesn't refer to that but its all group homes- 804-4. Sales, repair and storage of automobiles- 804-15. So it's not referring to any other section.

Mr. Schigel stated that in that portion it doesn't state that specifically. In 802-1 it talks about 15 (fifteen) copies of site plan conforming to the provisions of section 904, and section 904 is site development plans that needs to go through the Zoning Commission first. Mr. Humphrey stated alright.

Mr. Schigel called the applicant to the stand and swore them both in.

Henry A Hoffman, owner of 916 Pearl Rd and standing next to him is his son Bradley Hoffan, who is the owner of Hoffman Tree. Stated they are co applicants in this process. He is questioning what was just brought up as when he approached them back in January, there was a site plan and all of the stuff that cost him X number of dollars, he was given the okay of what was going on there and at that meeting he referenced the fact that he wanted to sell mulch there, stone and so forth. When they were issued that permit, they were issued it with no conditions whatsoever. Therefore he stated he is a little bit confused as to what's going on right now as it's costing them time and money. They have been put off by the process that they have been trying to follow as closely and stay within the rules. They have been constantly running into roadblocks that nobody else can reference. He stated that it's costing him time which equals money and it's getting to a frustrating situation. He stated that he's going to let Bradley speak as it's Bradley's business and there are apparently questions about what's going on at that location, and he will address any of those issues as we move forward.

Mr. Schigel apologized that he has gone around in the process and that he just interpreted the code the way that he interpreted it; and it looks like it's supposed to go through the Zoning Commission. He apologized that he wasn't told that exactly.

Mr. Henry Hoffman asked what is the certificate that was issued to him back in January is good for, anything? There were no conditions.

Mr. Schigel stated that it was for the building with the site plan attached. He stated that mulch sales were not included in that. He stated that he can read it exactly from the meeting minutes: ***“there will be no tub grinding done at the locations. They talked about bringing in mulch but they will discuss that with the Township when the time comes”*** He stated that our process is going through the Zoning Commission first.

Mr. Henry Hoffman stated that the process has some deficiencies that need to be addressed because people that come in front of you need to know otherwise it's going to cost them another month or two or however that works. Mr. Schigel stated that there is a process for that, the Zoning Inspector is supposed to make sure they have the full packet.

Mr. Bradley Hoffman stated that this goes back to February, In January they came before the commission and they got their Zoning certificate for the building; and that that time as Chief Strazzo stated they were going to come back and approach the mulch side of it. February came and he spoke with the Zoning office and the time, was told that the Zoning Board didn't put any conditions against you and by interpretation you can move forward, so they did. Forward to March 15th when he happens to come into the Zoning office to pull his sign permit. At that time he was made aware that there were some concerns within the Township of what he was doing and that he hadn't said anything to anyone but again he was going by what he was told. At that point he filled out the conditional use permit so that way we can get everything on board. On March 19th, he returned those applications, with the sign permit and the conditional use permit. He was then told he was too late to get into the April board meeting and had to wait for this one. He was not told that he had to go through a commission here before coming here. He stated that he has \$100,000 wrapped up in this property that he can't make any money back in return, especially considering that this is mulch seasoning, April and May. And if they are telling him that he can't come back here until June, he is going to have a big financial problem.

He stated he asked for a special meeting and that he was willing to pay for a special meeting but was told that wasn't an option. He was also delayed in finding the information that he did about the concerns for

the conditional use, for 9 (nine) days before he just happened to walk into the office. He stated he feels he is being punished for it and that it's a very frustrating process and no one seems to know the answers until it's too late, as it has happened here tonight.

Mr. Schigel stated that unfortunately it does have to go through the Zoning Commission and offered them a continuance in the event that they need to come back and see the board.

Mr. Bradley Hoffman asked if it would be until next month? Mr. Schigel asked when would the earliest Zoning Commission meeting he could submit for? The board stated the July meeting.

Mr. Bradley Hoffman expressed his frustration and stated that this goes back to March 9th. Corrected it to February and that he's not even able to get a condition, which in our rules, he meets.

(Minimum two acres, stated he has 2.6, minimum of 200 feet of frontage, he has 238) He stated that according to the chief, he's gone through the fire code.

He stated he's met all of that and he has a packet here of vendor licenses and everything he is going to need. But by our interpretation, I can't get anything until July.

Mr. Schigel stated that unfortunately, it has to be the Zoning Commission, the first meeting would be in June because it's not going to make it for tomorrow.

Mr. Timura stated that in the zoning certificate, it says, it is hereby certified that the above use as shown on the plats and plans submitted with the application conforms with all applicable provisions of the Brunswick Hills Township Zoning Resolution.

Mr. Schigel stated that according to our bylaws, it's required to go through the Zoning Commission first.

Mr. Bradley Hoffman stated that the property and the site plan has already been through the Zoning Commission and that the only thing he's coming before us tonight is to expand on the property as far as selling mulch and that the site plan hasn't changed. He stated that he had a civil engineer design the entire thing for this and none of that has changed. He stated that that site plan has already been approved.

Ms. Barron asked- Are you selling mulch from a structure? and Mr. Bradley Hoffman replied, No. Outdoor bins. Ms. Barron stated- You're having outdoor bins, but you just had a structure- a permit issued for a structure. Mr. Bradley Hoffman stated that that's a temporary office space. Until our large building and permanent office gets constructed.

Chief Strazzo asked if it's permitted, paid for and if it has already been approved by the county?

Mr. Bradley Hoffman stated that the county has given them their blessing.

Chief Strazzo asked if he has an occupancy permit for it? (22:34)

Chief Strazzo stated advised the board just so they know that it does note on here, the building is to be used as a temporary sales office. So, obviously he was planning on selling mulch before the board even approved the sale of the mulch.

Mr. Schigel stated that it does need to go through the Zoning Commission first. He asked Mr. Bradley Hoffman, in order to answer Mr. Timura's question- Has this specific conditionally permitted use gone through the zoning commission? Regarding sales.

Mr. Bradley Hoffman stated again that they were unaware that they needed to go through the commission. Mr. Schigel stated he understands and that will need to go through the zoning commission.

Mr. Bradley Hoffman stated that to answer the question, the bins are outside. The structure itself is strictly for vehicle storage and equipment storage. Indoor, a giant garage and it has an office, which is separated.

A picture was shown and was pointed to where it is.

Ms. Barron also stated that it also says on that certificate, the issuance of this permit does not allow the violation of the townships own resolutions or other governing regulations.

Mrs. Murphy wanted to address the zoning certificate that Mr. Timura had brought up. It's her understanding that these are being issued by Evelyn as a receipt. She stated she tried to talk to the zoning department, that they can't issue a zoning certificate and sign it. She stated that it was never done by this board or the zoning commission, and under conditionally permitted uses in the book, under section 408 B, it specifically states conditionally permitted uses, the board of zoning appeals may grant conditional zoning certificates for uses listed here and subject to the general requirements of article eight. And then some of these have subsections 804, 60, because they're specifically pointing to a specific section, and not just the whole general article eight.

Mrs. Murphy stated that this certificate should have been a zoning receipt. Mr. Schigel stated that the best that we can do for you tonight is issue a continuance until after you go through the Zoning Commission.

Mr. Bradley Hoffman asked since we have a quorum, is there anything in our bylaws that we can vote on as a body to say, look, clearly there was some miscommunication in a gray area. Maybe we as a body can look out for a future business owner and approve something tonight or suspend the rules or something to that effect.

Mr. Schigel stated that unfortunately, there is not. and asked if they would like a 30, 60 or 90 day continuous? and stated he would do whichever one they need.

Mr. Henry Hoffman stated he would like to know I would like to know exactly what they're going to need to do, point by point as he doesn't want to come back and be told that in some some section, subsection, etc. He stated that they are trying to follow the rules and we're not telling them what the rules are.

Mr. Schigel stated that he is just letting them know that we're the board up and we're going through the book that we follow, and this is what's required. It says to go through the zoning commission and that should have been brought up prior. He apologized but there is not much he can do about it.

Mr. Bradley Hoffman confirmed if now he has to go through the Zoning Commission and Mr. Schigel stated correct, with a full packet.

Mrs. Murphy references - 802-2 in the book. It talks about the zoning inspector is to review the entire application before they submit it to the board but you're supposed to have the complete packet. It's supposed to be complete prior to the incentive to deploy.

Mrs. Czyz for C2 community and commercial district under conditionally permitted uses, item number 10, complementary house and garden supply sales having a minimum of whatever.

Mrs. Murphy stated I believe I already addressed that with page 66 under these work under it. It says that the board of zoning appeals may grant conditional zoning certificates for uses listed herein subject to the general requirements of article eight. And so 10 would be, it would fall under the general requirements of article eight. Where as opposed to section 1 would also have those specific requirements of section 804-16.

Mr. Shigel stated that to answer the question of what all you would need under section 904, under site development plans for any conditionally permitted use, A through N will have to be gone through and make sure that it's all submitted (Mr. Hoffman was given a checklist)

Mr. Bradley Hoffman stated they have already submitted this for the building, the site plan, the office, all of it.

Ms. Barron asks if there are going to be plant sales also?

Mr. Bradley Hoffman stated no. Topsoil

Mr. Schigel stated that 904-1 goes under all plant requirements. 904-2 goes under design criteria. 9043 goes under emergency services.

Mr. Bradley Hoffman asks- How much of what we've already submitted with this is still applicable today? How much of what we submitted in January, because nothing on here has changed, is still applicable for today? Nothing has changed

Mr. Schigel stated that you have to go through the zoning commission first. Chief Strazzo stated that the site plan changed from January today, because you're adding all the mulch bins in the area where you're selling the mulch.

Chief Strazzo stated- that the site plan changed from January today, because you're adding all the mulch bins in the area where you're selling the mulch. Mr. Schigel stated that you have that new building, which you provided the certificate for, that needs to be on the plan as well as part of the site plan. It even gets this detailed in here that your plan is like one for every 40 feet, which is probably better than what's required in here. But it even says in here required equal to one to 100 feet. It's very specific in here with some of the things that they're asking.

Mr. Bradley Hoffman asked- when is the next zoning commission hearing? When is the next zoning commission hearing that we're able to be entered into? The board stated June 5th.

Public Comment

Linda Hudson, 314 Pearl Road, Brunswick Hills- asked why we are putting these people off again.stated that she is concerned about the fact that they were not told and if they applied for a conditionally permitted use, why is there a hang up on the mulch itself? Now, in the conditionally permitted use, it sounds like that your zoning inspectors determined that it was a conditionally permitted use. Therefore, they issued a conditionally permitted. Now you're coming back and saying no.

She stated that something may happen between now, June, July, August, September, and the whole season is gone for this man who's invested \$100,000. It cannot possibly be in the best interest of any township to put their people off that way. Now, whatever it takes for the Board to help correct the problem, they should. She stated that maybe we can extend this permit until it is heard at another time and someone can put forth something in that manner for you to vote on so that they can go forward. But you shouldn't hold off making them wait.

Mr. Schigel stated he would like to put up for a continuance for the 916 Pearl Road for 90 days for this board. He stated that we're going to vote on it for 90 days with the ability to come in earlier than that as soon as it goes through zoning.

Motion: Mr. Kersten moved to giving a motion that we grant Mr. Hoffman at 916 Pearl Road, a 90-day continuance. Mr. Wetterman second the motion.

Roll Call: Ms. Barron-yes; Mr. Timura-yes, Mr. Wetterman-yes; Mr. Kersten-yes; Mr. Schigel-yes.

Mr. Bradley Hoffman asked if there is any possibility of us getting on the commission hearing for tomorrow? Mr. Schigel stated that he thinks it has to be publicly out there for 30 days, correct?

The board discussed it but they were not sure.

Mr. Bradley Hoffman was told that someone will contact him tomorrow (Evelyn will contact him tomorrow)

Ms. Barron stated- Do we have the correct information? This is a site plan for all of the construction that you intend to do? All of the development of this parcel of land for your business? This is an accurate site plan?

Mr. Bradley Hoffman stated with the exception that Chief Strazzo noted, the mulch bins are not on that, but I believe they're on a copy I gave Evelyn for this meeting.

He added that It's got his sign location on it.

Mr. Bradley Hoffman was told by the board that if anything is to be added zoning would need a copy of it.

Ms. Barron requested that any additions should be made to the copies for the Zoning Commission

3. 4990 White Stone Circle. Parcel ID 001-02A-15-245.

Jared Gill was sworn in. He stated his name as Jared Gill residing at 4990 White Stone Circle.

Mr. Gill- I'm just asking for a height variance for a little hobbyist garage in the backyard to put a second-story loft for storage. Mr. Schigel asked What are all the lofts going to be utilized for? Mr. Gill responded that it's just utilized for storage

Mr. Gill stated that he would like his first floor to be 12 foot in height so he can use it for car lift as 3 foot is not a lot to walk in and store stuff.

Mr. Kersten asked how deep the woods were behind the house. Mr. Gill stated 60-80 feet.

Mr. Schigel asked Chief Strazzo- Chief Strazzo, looking at this, does your emergency services have the capability to take care of everything that would be needed for the property in case there was a fire? Chief Strazzo stated yes and asked- you mentioned that you were going to put an auto lift in. Stated that we do have concerns regarding an automobile repair business being in a residential community or area of the township and the dangerous deck opposed to the neighborhood residences. Chief Strazzo- So I guess the number one question is just a business or is this truly a hobby?

Mr. Gil stated that he's not a mechanic by any means and does not intend to run a business out of his garage.

Mr. Timura stated it didn't look like it was going to be obstructive to anybody where he had it placed and the way his yard is set up. But he did have a couple concerns. One was you had mentioned that the loft

would be restored, but yet in the draft here it shows as though there's going to be like a little porch or a balcony off of it.

Mr. Gill stated just for aesthetics, because building a 24 foot tall structure with a huge roof on it is not really aesthetically pleasing. Mr. Schigel followed up confirming- So there's not a porch, it's just going to be like a railing next to a window? Mr. Gill confirmed- Yes.

Mr. Timura stated-The other thing is you had mentioned that you would be working on vehicles or other things like that hobby related stuff. There's no driveway. So one, how are you planning on doing that? And two, question for Evelyn possibly, does a driveway need to be in? Does that need to be approved ahead of time? Anything like that?

Mrs. Czyz stated that they do not have to put in a driveway to the accessory building.

Mr. Gill stated that there is not going to be like continual traffic coming in and out of here.

Mr. Schigel stated for fire safety is that still alright? Chief Strazzo stated it's only 47 feet from the back of regular residential house, which is one hose length and its within.

Mr. Timura asked if there are plans to put utilities in it, water, electric, etc. Mr. Gill responded that it would be electric only.

Mrs. Czyz stated that if he's going to put electricity there, he's going to need a permit from the Medina County Building Department. And if it exceeds 200 square feet, they will require him to put some kind of a flat surface as opposed to just putting wood on the ground. So he'll have to have a cement slab.

Mr. Schigel calls for an audience that would like to speak on the case

Mr. Schigel swore in Mr. Kenney

Richard Kenney, 490 Victoria Lake Circle, Brunswick Hills. Stated- I don't have an issue with the height but the issue I have is that it's situated on the open space, or what was open space at one time.

And a parcel, a piece, was sold to James Mays because his pool was over the property line. He couldn't sell his house. So he was able to acquire a section of the open space, which is on revision 4 of their plot. Mr. Schigel asked- Is that property adjacent to it? Mr. Kenney replied- It is now part of Jared's parcel.

Mr. Kenney stated that they rolled it into part 64A. But it still shows it on the plot where the open space was.

Replot number 4. On the replot number 1 -it says, blocks F1, F2, and F3 are to remain as open space, non-buildable land. The next note says the parcels would be non-buildable except with an independent parcel in the future without planning commission approval, so I would imagine that's what happened to it. But that stated it was open space. We had a meeting here in 2004, a special meeting about the parcels when they were going to be sold.

And I'm just going to read one part of it that I consider applicable. ***“The prosecutor's office has determined that the land must remain open space and will be subject to the restrictions on open space in the Brunswick Hills Township zoning resolution”***. That was with the residents discussing the parcels before they were sold at auction. A year later they told us again that they were going to be at the auditors auction and one of the instructions was, we have been advised by the prosecutor's office that the land must remain open space and cannot be developed by any purchaser. So that was my concern- that I would not want to see anything built on the open space- That's just my opinion.

Ms. Barron asked -Is that something that's on the deed, sir? Mr. Kenney stated no, that's the plot.

Mr. Schigel asked- who called the meetings where you said it was a community group? Mr. Kenney stated It was the residents and they were called to the meeting to be told what's happening to your open space- We're going to auction it off.

Mr. Schigel asked-Who called the meeting? Is it a township?

Mr. Kenney stated the trustee did, Kathleen Scheutzow on November 8th, 2004. And the following year they sent the other statement about that parcel to us when it was going to be auctioned. So every time it was going up for auction, these kind of claims were made by the prosecutor's office.

But I just wanted to point out I think it would be better to continue the zoning that existed so that the open space remained open and accessible to all of the residents. That's the whole idea of having open space.

Mr. Schigel stated- But the problem is now that part is not open space, it's in his property now, correct?

Mr. Kenney stated correct. We included it in the parcel. Which is probably done for a reason, that I still think it's open space. That's another argument I realized that's not what the variance was asking. But when I saw the site plan I thought I would come and meet.

Ms. Barron stated that sometimes they'll put a restriction like that on the deed so that the person buying the land knows.

Mr. Kenney stated that they didn't write that into the deed. They did not write that into the parcel. A description of the parcel which is very common in these parcels. Okay. It's not written in for a reason because they want to be able to someday say well, it's not here. You know, we can write it in so they can do what they want. Its not, I have that here too. It's not got any deed-restrictions or this parcel contains open space. That's why I'm referring to the plot. It says it's not buildable property. Well, it's supposed to remain open space.

Mr. Schigel stated to Mr. Kenney I will tell you depending on how the board votes tonight, you do have the ability within 30 days to file with Medina County Courts. If you disagree with our decision. So you will have that ability.

Mary Kenney was sworn in-

She stated her name as Mary Kenney, 490 Victoria Lake Circle, Brunswick Hills.

Mrs. Kenney stated- So our property here is facing in between the green space and it's left between.- so he's our backyard neighbor. I don't have a problem with that. I'm concerned because no one would take care of the ditches that are draining all of the runoff. I've been doing it. I bought the property because the township wouldn't do it. So I'm digging these ditches and keeping them maintained. Is his structure going to bother the drainage and reroute the drainage? Because it is very wet back there. So I'm not sure what his yard looks like on the other side, but he put a whole wall of dirt up to make a barrier.

And I don't know if that's making some of the drainage puddle up even more because our backyard is starting to get very wet, on the green space. It doesn't get the opportunity to build a whole new ditch so that area would drain. So you need to look a little further into this, but it really shouldn't, If his isn't green space anymore, we own the green space on the other side. Shouldn't be green space where we can't build on it. Why is one different from the other? We both own it just because we didn't attach it to the property that we own. We kept it separate parcels.

What makes the difference? We were told by the zoning that we weren't allowed to build anything on this property. I've had this property for 13 years and we've gone by these rules. So for 13 years I could have done other things with it, but there's too many... You've got to make rules that cover everything. Just don't make a little rule here and a little rule there..It's got to work.

Mr. Schigel stated, they would have to go through Medina County Sanitary Water to make sure runoff and everything would be proper?

Mr. Humphrey stated that any complaints about the runoff, You go through storm water management.

Mr. Schigel stated- So they would have to go through storm water management upon building and get approved.

Mr.Humphrey stated that if you have a problem, you call them. Now if you're going to change, Is it six inches or there's something... If you change the level of the ground, you can only change it so much.

Mr. Humphrey stated that the only time to stormwater management might be involved is if it does flood there and somebody calls them.

Mrs Kenney asked is that the way it would work? Or if it's in an easement, storm water easement? The whole green space is running water coming from the directions back there. We got it on Substation, we got it off of Pamela, we have it back behind our house. It goes through Grafton, that whole area is a flood zone.

Mr. Schigel stated that there is easement surrounding the property, but not where he would like to build his garage.

Mr. Timura- Before, during construction, would he have to have somebody come out and kind of assess that issue? Mr. Humphrey stated that if it's not on the plot, then all we do is take measurements, they're supposed to stake it out if we do the other, the measurements from the boundary lines in the size.

Mr. Wetterman stated that if no landfills are being brought in, then I would see no need for a storm water to get involved.

Mr. Gill came back up and stated that the county will make me turn it on site plan that shows drainage, where water's going, roof shed, everything. So there shouldn't be any, they're not going to allow any questions later on for things to come up.

Ms. Barron asked- So were you aware of the fact that that was designated as open space when you purchased the property at all? Mr. Gill stated- I don't believe that there are any deed restrictions that listed that on the property. Ms. Barron-and there was no mention from a surveyor or anybody else in the record of.. Mr. Gill stated: The surveyor that did the site plan before you did the plot, at the county level, Lewis Land, so they're the ones who actually replanted the property at the county.

Ms. Barron stated-Right, once it replanted it probably got lost, but I don't know.

Mr. Wetterman asked what year the property was purchased? Mr. Gill stated- I believe 2017.

Ms. Schigel asked if anyone else had any questions for Jared. Being none, he asked if anyone else with public comment on this case? Being none, he moved on to the Duncan Factors.

Mrs. Linda Kuenzer read of the Duncan Factors:

REVIEW OF THE DUNCAN FACTORS

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.**
Mr. Wetterman-yes; Ms. Barron-yes; Mr. Timura-yes; Mr. Kersten-yes; Mr. Schigel-yes.
- B. Whether the variance is substantial.** Mr. Timura-no; Ms. Barron-no; Mr. Kersten-yes; Mr. Wetterman-yes; Mr. Schigel- no
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Mr. Timura-no; Ms. Barron-no, Mr. Wetterman-abstain, Mr. Kersten-no, Mr. Schigel-no
- D. Whether the variance will adversely affect the delivery of governmental services.**
Ms. Barron- no; Mr. Timura-no, Mr. Wetterman- no, Mr. Kersten-no, Mr. Schigel-no
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Wetterman- no based on the fact that we don't know if there is any restriction, Ms. Barron-no; Mr. Kersten-no ; Mr. Timura-no; Mr. Schigel-no
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Mr. Timura- yes; Mr. Wetterman-yes; Ms. Barron-yes; Mr. Kersten- yes, Mr. Schigel-yes
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Mr. Wetterman-abstain, Ms. Barron- yes, Mr. Timura-yes, Mr. Kersten- yes, Mr. Schigel- yes.
- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Timura- until we heard until the possibly green space discrepancies- no, Ms. Barron- no; Mr. Wetterman- no; Mr. Kersten- no, Mr. Schigel- no

Mr. Schigel stated that any person adversely affected by a decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful. They have 30 days from the date the decision letter was signed to appeal.

MOTION TO APPROVE THE HEIGHT VARIANCE– PP#001-02A-15-245

Motion: Mr. Timura made the motion to approve the application for a nine (9) foot height variance for PP#001-02A-15-245 Mr. Kersten seconds the motion.

Roll call: Mr. Wetterman-abstain; Ms. Barron-yes; Mr. Timura- yes; Mr. Kersten- yes; Mr. Schigel-yes.

Mr. Schigel stated that the motion is approved and that the decision letter will be sent out after we sign it in 30 days.

Mr. Kersten cautioned that until you receive the decision letter to not turn any dirt. Even after that, 30 days after the decision letter because somebody can go to the Medina Municipal Court, 30 days after the decision letter is signed. He stated so you don't start your construction and somebody goes to court, and the judge says you can't do that, you're going to be stuck.

Mr. Schigel asked if there was any public comment or any further business to come forward.

PUBLIC COMMENT:

Mr. Robert Cebula was sworn in. He stated his name as Robert Sebula, 961 Spring Hill Court, stated he's a member of the Parish Finance Council at St. Ambrose.

He stated he is representing St. Ambrose, He stated: We wanted to express some of our concerns with regard to the facility that you discussed in the first part of the meeting. And there are a couple of concerns.

One of them has to do with the fact that the business is directly across the street from the day school, which has about 505 students in it. Our concern is that the truck traffic may interfere with buses. That's one concern. And the second concern is, we certainly don't intend to get in the way of the business, but we want to be certain that the streetscape and landscaping would be appropriate. We spend a lot of time making sure that the St. Ambrose property is well taken care of.

He stated we would believe that you all would want that to be consistent up and down Pearl Road. On behalf of Father Bob and the approximately 19,000 members of St. Ambrose, I was asked to come and express some of our thoughts.

Mr. Wetterman invited Mr. Cebula to appear at the Zoning Commission meeting and express his concerns there.

Mr. Schigel swore in Mr. Ronald J. Makobich residing at 111 Front St, Berea, OH 44017 as well as Jim Rosatti, 922 Pearl Road, Brunswick, OH 44212. He stated he owns Rosatti's Frozen Custard, directly adjacent to the Hoffman property, stated: I have nothing against the good businesses and I know that he's working on improving the property. My concern is we were formerly Honey Hut, same owners. We converted to Rosatti's just this spring, starting to make sure we have our customer accounts and they're doing very well.

Our concern is the dust, fugitive dust from the mulch and its proximity to where our seating is right in front of the building, as well as our serving windows are actually directly in line with where that mulch facility will be.

Mr. Makobich stated that the prevailing winds in this area and on this site, from the National Weather Bureau or from the Northwest, that will, as Mr. Rosatti indicated, impact their property with the mulch, and there's what is known as fugitive dust. We took the opportunity to contact the local office of the EPA to chat with them about this and what the requirements are and that's relatively prescriptive. There's an aesthetic opportunity here, and Rosatti's Frozen Custard, formerly Honey Hut, would request as part of the conditional grant, the conditional use to have an appropriate fence and work with the applicant to mitigate some of the dust, some of the odor.

The serving line is to the north and it would hopefully mitigate some of the dust onto the building. With the removal of the vegetation on the property, there has been a notice, a marked increase in rodents coming on to the property at night for after hours dinner.

Mr. Makobich stated- there's a safety concern on the property and what we would ask there is for consideration that the fencing or sign placement be considered in the context of ingress and egress from both sites and that should be coordinated in our humble opinion through law enforcement. One of the other and probably the last items is a variance, was granted for the side yard setback on the building which is shown to be 120 X 60 or 80 feet. The side yard setback now is 19 feet, 6 inches and looking at the site plan that was submitted, that's fine that's permitted to be done. However, under the Ohio building code table 601 - when you have encroachment of less than 50 feet, I believe on the side yard you have to have a fire barrier on the adjacent wall to the property line. Fire chief I would look to you for that and that's in the Ohio fire code also. And the setback granting of the side yard variance basically can limit in the future development of the property because again the same setback is applicable. The building size and again we go to the number of employees, I cite to the Ohio basic building code 2017 edition for this use in occupancy as storage is an occupant load of 1 per 300 square feet.

That said we have an occupant load of about 226, question is there toilet facilities on it. That's for this board and others to look at. I'm just pointing out what we observed in our research and again we have contacted a number of the governmental agencies beyond the township here to look into some of the implications of what has been proposed. If there are questions we'll be happy to answer them to the best of our ability.

Mr. Schigel asked- Do you by chance know when that variance was granted just wondering. Mr. Makobich stated that we couldn't get a copy or access to the variance. Mr. Schigel stated that Fortunately prior proper variances are there and they're with the property now. Mr. Schigel responded that this is for a new building. No variance for the new building on the side yard setback from 50 feet or 30 feet or whatever it might be in that table 601 in the Ohio building code. So we would ask for a formal response to that. Our last comments revolve around the recording of our comments at the meeting tonight. Will they be available in meeting minutes within 30 days as previously said or is there a tape of it that we can obtain?

Mr. Schigel stated that It's usually reported, usually she has it done within 30 days, stated that they have to be approved and then they go on the website.

Mr. Makobich stated that again our presentation this evening isn't to be an adversary to the proposed development. It's to be..put things out front so they can be addressed when we come back here again.

Mr. Humphrey stated the one question that he asked- the property next to, its commercial and the setback is you can build almost right up to, you get strip malls that are all different parcels, same thing and they connect. So when adjacent to and even in our book, there's 50 foot when adjacent to a residential district and all the other building stuff that would be the building department through the county.

Mr. Schigel asked- Any other public comment?

Mr. Bradley Hoffman stated- There will be enough bathroom facilities for the paid employees I have. In regards to what St. Ambrose representative had to address. A lot of things you know we've been delayed and delayed and delayed some more.

I can promise everybody on this board including the 19,000 parishioners at St. Ambrose that the property will look pristine. Truck traffic getting out. Drive anywhere up and down the railroad.

It's not great anywhere. We will have increased traffic. There's no doubt about it. But just like we can't hardly get into our shop when Rosati's is open at 5 p.m. It's just part of Pearl Rd. Some of the reasons St. Ambrose looks so good is the fact that Hoffman Tree Service has done quite a bit of work at that property for Father Bob, so we take pride in what we do. We're not looking to put a stain into the township. We're

looking to really have a business that people want to come to. We don't want to leave the township and It's been in my family for a very long time. Stated, its delayed but it's going to be a nice facility when it's done.

Mr. Schigel asked for anyone else that would like to come on up.

Mr. Schigel swore in John Rocca, 894 Pearl Road, Brunswick Hills Mr. Rocca stated- I just wanted to say on my behalf as a neighbor that with these gentlemen over here that I've had no problem. And, I'm going back to the Grandfathers and everything else. I never had a problem with any traffic of course when I moved out here it was only 22,000 people down there now there is 40,000 including the Hills. Pearl Road should have been our main corridor and past tense, I was a consulate in Brunswick and we tried to make that our main thorough way and I also did work with the Hills to try to get some kind of JEDD for where we could work together. Didn't happen but there were two or three of us that were grouping to try to work together. These gentlemen have worked way past their goal to make things happen and we understand that we all want to communicate. Those things happen so make the best of it and they're fabulous neighbors. Thank you.

Mr. Schigel asked- Any last minute public comment?

Mrs. Kenney stated- I am allowing him to build on the green space. When that development was put in we were told that it's mandatory they had 30 percent green space, that's taken away of green space, you're not going to be in compliance with the green space required anymore.

Mr. Schigel stated- All that we approved tonight was just a variance for the roof, so I want to make sure we have that understood. If he was building something that was less than 15 feet we wouldn't even be here today and he would be building within compliance.

Mrs. Kenney stated but it still has to stay off the green space?

Mr. Schigel stated that I'm not aware of that because when he bought his property it was all included. That's why I said you do have the opportunity to go to the Medina County Courts to argue. Mrs. Kenney- So his deed says nothing about anything, he bought it as an auction. We bought ours as an auction, every time we talk to zoning you can't put anything on the green space.

Mr. Schigel stated, with his testimony that he gave us...Mrs. Kenney stated, well then I can buy too. Mr. Schigel replied, I understand. That's why you do have the chance to go to Medina County Courts.

Mrs. Kenney stated that there was a big meeting with both developments that everybody had come to and everyone knew that the green space was there, so I find it hard to believe that it's it wasn't knowledge, but it's still you you set up a development with rules and regulations and now because you don't want to follow them everything's going to go sort of disarray. Our deed doesn't say that there's any requirements either, our deed is blank with it for the six acres that I have gotten but every time I talk to them you can't put anything on that green space.

Ms. Schigel stated, that's why you have the ability to go to Medina County Courts. All we did was approve the height, so you do have the opportunity to go to Medina County Courts and plead your case.

Mr. Kersten asked, these meetings you're referring to, were they HOA meetings?

Mrs. Kenney We had an HOA one and we were trying to put it together so that everybody could make a decision and then turned into a fight fest, because you're trying to get it to put a homeowner's association in and everybody didn't want that, that's why they moved there.

Mr. Kersten stated that we do not recognize HOAs. No matter what the HOA says you can't have, has no concern.

Mrs. Kenney We don't have one in that full of development. It was all messed up in the beginning when we first moved in. Nobody knew anything. They gave back the land, they didn't finish the project. but we knew that the green space was always going to be green space, and that no one could build on it.

Mr. Wetterman is the green space acknowledged on the deed? Your deed.

Mrs. Kenney stated, no there's nothing. It was just a land purchase. They didn't put anything on it. Not a restricted deed, It's just a generic description.

Mr. Wetterman stated we have nothing to go by. We have no proof that there is a green space there? As the chairman said, if we're overlooking something you know we've all done you know about a month's worth of research on this project. We didn't find anything.

Mrs. Kenney stated- I got a whole book

Mr. Wetterman stated that It wasn't presented beforehand. So you have the opportunity to take that evidence to Medina Courts, and if you're right I strongly suggest you do that.

Mr. Schigel asked if there is any other public comment?

Mr. Henry Hoffman stated that he wants to address what Mr. Rosatti and his partner/legal council at St. Ambrose. He stated that we have a construction project going on there, all of the landscaping and beautification that we've got planned can't be done until all that is finished. I'd just like to appease these people in some way by saying that you know there's going to be landscaping. There's going to be landscaping or fencing put up along the south perimeter of the property to mitigate maybe some of the problems from any of the dust that's created. And I'm not expecting to have a whole lot of "dust" We don't have a whole lot of dust. Mulch doesn't blow around and create a big dust cloud. If there would be any dust, it's probably going to be created by vehicle traffic coming in and out. That can be mitigated. I had to put in a quarter acre pond. And if it's necessary, I'll spray that, I'll spray that down two or three times a day to alleviate that. We're not trying to create an issue there. We're trying to create a business and, and it's going to require some patience based on exactly what has happened here tonight. With us being delayed again. With the neighbors. And I would hope that they're going to understand that that process will take place, but it's going to take some time.

Ms. Barron stated sometimes people, if they're going to put in fencing or landscaping, they will show that on the plat, so you're giving whoever's looking at your plans, the proper perspective.

Mr.Hoffman stated, we're self funding this project. There were things that were not included in the original plan. We were more concerned about getting the basics down and all a little nice and all that would come along. He stated, we're not trying to not have everything laid out, it's a process for us. We're not big developers. We don't understand a whole lot of the process that you have to go through.

We're taking this one step at a time. I'm a little bit upset that Mr. Rosatti and his friend didn't approach us and present some of those to us before he ever came here to talk to you folks, because we're very open minded about this. We understand that that could be an issue. And you know, I've tried to keep that area over there as well taken care of as we can, as this process has gone on. I never had any complaints from Mr. Rosatti about the fact that he let his customers, when he was Honey Hut, come over and run around and play ball in the backfield when there was one available there. Nothing was ever said about that type

of thing. So I am a little upset with the fact that he didn't approach me personally. But again, we're going to take care of those problems. It's just a matter of having some patience and we're going to, we're going to get it done folks. It's just a matter of allowing us to do it.

Ms. Barron stated, as a suggestion, before you meet with the Zoning Commission tomorrow, maybe write down what those intentions are that you intend to do to mitigate any possible problem with the neighbors and fit that to writing, but that is part of your plan, for the zoning commission to see and us to see when it comes back before us. Timeline, how high is that fence, what kind of shrubs, etc. So that's what I would like to see. I don't get to speak with the rest of the board, but that would help me make a much more informed decision.

Mr. Schigel asked if there was any more public comment? Being none he moved forward. The decision letter from the last meeting was signed.

**MOTION TO APPROVE THE DECISION LETTER -Gary Bewley 360 Pearl Rd
PP# 001-02A-13-231**

Motion to approve the decision letter as given by the secretary.

Motion: Mr. Kersten moved to giving a motion, Mr. Wetterman second the motion

Roll Call: Barron-yes; Mr. Timura-abstain, Mr. Wetterman-yes; Mr. Kersten-yes; Mr. Schigel-yes.

ADDITIONAL BUSINESS:

Nothing was submitted for next month

Zoning training that was approved at the Trustee Meeting-
Thursday, May 23rd, Zoning Law and Ethics. Tuesday, August 20th, Site plan review. Thursday, October 24th, current trends in zoning.

Mrs. Murphy stated that the Township is updating the Comprehensive Plan, any members of the Board or any Brunswick Hills Township residents that are interested. We are looking for volunteers. The commitment is one evening a month for a year to update it. The last time the township did this was about 2005.

It was also announced that The Zoning Board of Appeals does need two alternate members, anybody in the audience that would be interested.

ANNOUNCEMENT OF NEXT MEETING DATE: Wednesday, June 5th, 2024 at 7pm

MOTION TO ADJOURN

Mr. Kersten moved to adjourn the meeting. Mr. Schigel seconds. Roll Call: All in favor aye to adjourn.

Meeting officially adjourned at 8:50 p.m.

Respectfully Submitted,
Linda Kuenzer, Zoning Secretary

