BOARD OF ZONING APPEALS
Springfield, Ohio
Monday, December 16, 2019
7:00 P.M.
City Forum, City Hall

Meeting Minutes
(Summary format)

Chairperson Ms. Dori Gaier called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. James Burkhardt, Ms. Rhonda Zimmers, Mr. Mathew Ryan, and Mr. Mark Brown, Ms. Denise Williams and Ms. Dori Gaier.

MEMBERS ABSENT: None.

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator
Cheyenne Pinkerman, Community Development Specialist.

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SUBJECT: Approval November 18, 2019 meeting minutes.

Ms. Gaier asked if the Board had any corrections or additions to add to the minutes.

Hearing none, Ms. Gaier asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Gaier asked if any opposed to voice nay. Hearing none, Ms. Gaier stated the minutes stand approved.

Case #19-A-27 Request from Adriel Harris for a conditional use permit for a community center (community garden) at 1020 W Perrin Ave. in a RS-5, Low-Density, Single-Family Residence District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to establish a community garden. The applicant included a layout of how the garden plots would be organized. The applicant also plans to repair the building to use it to store gardening equipment. Staff did receive multiple letters of opposition to this from surrounding neighbors.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: *Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: *Yes.*

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: *Yes. The applicant stated the existing building would be repaired.*

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: *Yes.*

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: *It will not.*

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: *Yes.*

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers questioned if there were any similar garden near the property.

Mr. Thompson stated he did not know of any.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. Thompson stated they were not present.

Ms. Gaier asked if there was anyone else that wished to speak.

Mr. Rick Meade, 1023 W. Perrin Ave. Springfield, Ohio.

Mr. Meade explained he had lived across the street from the property for ten years and the property had never been maintained up until the permit was filed. Mr. Meade explained the various crime that seemed to fall on deaf ears. Mr. Meade stated he felt bringing people into the area would be dangerous. Mr. Meade explained there were handicapped people on the street that would be affected by the traffic brought in.

Ms. Zimmers questioned if the concerns had been brought up to the applicant.

Mr. Meade stated he never knew who owned the property. Mr. Meade explained he would like the property to be maintained before starting a community garden. Mr. Meade explained there was no water running to the property. Mr. Meade made a reference to a community garden that was not being maintained and stated he did not want that in the area. Mr. Meade explained other people in the neighborhood were against the garden but were afraid to come to the meeting due to what goes on in the neighborhood.

Ms. Williams questioned what was going on in the neighborhood.

Mr. Meade explained the various crimes going on in the neighborhood.

Ms. Gaier questioned if the community garden would help the area.

Mr. Meade stated he did not feel it would help the area, he felt the property needed to be

maintained first.

Mr. Ryan directed question to Mr. Thompson. Mr. Ryan questioned if the community garden would be exempt from the city codes.

Mr. Ryan questioned if the trees would be part of the property maintenance.

Mr. Thompson explained trees that are not going to impact the public right of way are considered a civil matter between properties owners, Mr. Thompson stated however, as part of the demolition, sometimes trees are removed that are affecting other properties.

Mr. Ryan questioned if the demolition would continue for the accessory structure if the garden is not approved,

Ms. Zimmers questioned if the property was cleaned up and the trees were removed, could the applicant reapply to have a community garden.

Mr. Thompson stated she would be able to reapply in one year with a similar request but the accessory structure would be removed.

Ms. Williams questioned if the applicant started to maintain the property because of code enforcement issuing orders.

Mr. Thompson stated the property had not been maintained and that why she received the orders. Mr. Thompson explained no building plans had been submitted and no work has been done to the structure.

Ms. Zimmers questioned if the structure was torn down, would the trees be cut back or removed.

Mr. Thompson explained that would be looked at when the demolition process starts.

Mr. Thompson explained it would not. Mr. Thompson explained the case was brought on by a code enforcement complaint about the accessory structure and would still have to follow the same property maintenance codes every other property has to follow.

Ms. Gaier asked if the board had any further questions. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Mr. Burkhardt made a motion to close the public hearing. Seconded by Ms. Williams. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-27.

MOTION: Motion by Mr. Ryan to approve Case #19-A-27 from Adriel Harris for a conditional use permit for a community center (community garden) at 1020 W Perrin Ave. in a RS-5, Low-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The property has been unkempt up until orders were issued for demo.

2. The applicant failed to attend all three meetings.
3. The property would be improved by removing structure.

YEAS: None.
NAYS: Mr. Ryan, Mr. Brown, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Mr. Gaier.

Motion failed 0 to 7

Case #19-A-34 request from Daniel Hearlihy for a conditional use permit to re-establish a non-conforming retail use at 868-878 E Main St. in a RS-8, Medium-Density, Single-Family Residence District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to reestablish a non-conforming retail use. The property was last used for retail within the past five years.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: *Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: *Yes.*

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: *Yes. It is an existing commercial building.*

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: *Yes.*

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: *It will not.*

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: *Yes.*

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Mr. Ryan stated retail use was mentioned, Mr. Ryan asked what the type of retail use would be.

Mr. Thompson explained he gathered that the applicant had a lot of antiques and collectibles that would be for sale and on display.

Ms. Zimmers asked if there had been any opposition.

Mr. Thompson stated there was no opposition.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. Dan Hearlihy, 810 Riverside Dr., Springfield, OH 45503

Mr. Hearlihy gave a brief history about the property. Mr. Hearlihy explained there would be historical items that were built in Springfield.

Mr. Harris questioned the plans for the rest of the property.

Mr. Hearlihy explained they planned to fix up the exterior conditions of the property.

Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Ms. Williams made a motion to close the public hearing. Seconded by Mr. Ryan. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-34.

MOTION: Motion by Mr. Burkhardt to approve Case #19-A-34 request from Daniel Hearlihy for a conditional use permit to re-establish a non-conforming retail use at 868-878 E Main St. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It is a good use of vacant structure.
3. It will be an improvement the building.

YEAS: Mr. Ryan, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Ms. Gaier
NAYS: None
ABSTAIN. Mr. Brown

Motion Approved 7 to 0. 1 abstention.

Case #19-A-35 Request from Barbara & John Hart for a conditional use permit to re-establish a non-conforming automobile sales use at 401 W High St. in a CN-2, Neighborhood Commercial District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to reestablish a non-conforming automobile sales use. The property has been vacant for some time. The most recent use was automobile sales in 1990. Any improvements to this property will have to conform to the standards of the Unified Plan Overlay District.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: *Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: *Yes.*

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: *Yes. It is an existing commercial building.*

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: *Yes.*

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: *It will not.*

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: *Yes.*

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Williams asked if there was any opposition.

Mr. Thompson stated there was no opposition.

Ms. Zimmers questioned if the two lots would be owned by the same people.

Mr. Thompson explained the case was a different case from last month and they were different owners.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. John Hart, 4103 E National Rd., Springfield, OH 45505

Mr. Hart explained the property had sat vacant for a while and they planned to fix it up and put the property to use.

Ms. Zimmers questioned if the small building located in the back belonged to the applicant.

Mr. Hart stated that building was on the property and belonged to them.

Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Mr. Burkhardt made a motion to close the public hearing. Seconded by Ms. Williams. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-35.

MOTION: Motion by Ms. Zimmers to approve Case #19-A-35 Request from Barbara & John Hart for a conditional use permit to re-establish a non-conforming automobile sales use at 401 W High St. in a CN-2, Neighborhood Commercial District. Seconded by Mr. Burkhardt.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It is a good use of vacant lot.
3. It was previously used as a car lot.

YEAS: Mr. Ryan, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Ms. Gaier
NAYS: None

Motion Approved 7 to 0.

Case #19-A-36 request from Judy Roberts for a conditional use permit for a commercial recreational use (game room) at 1942 Mitchell Blvd. in a CC-2, Community Commercial District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to reestablish a non-conforming retail use. The property was last used for retail within the past five years.

ANALYSIS for Conditional Use:

The applicant seeks a conditional use permit to establish a game room. The tenant moved into the space not realizing a conditional use or other permits were required. The hours of operation will be from 10:00 AM to 10:00 PM Monday through Saturday and Noon to 8:00 PM on Sunday. Gift cards are the given as prizes.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: *Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: *Yes.*

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: *Yes. It is an existing commercial building.*

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: *Yes.*

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: *It will not.*

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: *Yes.*

STAFF RECOMMENDATION:
Approval of the conditional use permit.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Williams asked what a skilled adult game meant.

Mr. Thompson stated the applicant would be able to give a better explanation.

Ms. Gaier questioned how the case was brought to the board.

Mr. Thompson explained the applicant was trying to get a certificate of occupancy and when staff realized there had been no inspections. Mr. Thompson stated at that point the applicant needed to get a conditional use permit.

Ms. Gaier asked if there had been any opposition.

Mr. Thompson stated there had been no opposition.

Ms. Gaier questioned if the next steps, building inspections, would come after the board's approval.

Mr. Thompson explained the building department has went through the building and the applicant had started the certificate of occupancy process.

Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Ms. Judy Roberts, 1942 Mitchell Blvd., Springfield, OH 45503.

Ms. Roberts stated she was unaware that she needed to get an inspection from the building department. Ms. Roberts explained they had already opened when she went down to apply for the certificate of occupancy after her landlord stated she needed to.

Ms. Williams asked what a skilled adult game was.

Ms. Roberts explained money would be put in for a chance to win. Ms. Roberts explained there were twelve games.

Ms. Williams asked if the games were similar to casino games.

Mr. Paul Sing, Sterling Heights, MI. Works for the vendor.

Mr. Sing explained the skilled games mimic a slot machine but that are not a game of chance, they are a game of skill. Mr. Sing explained at first glance they look like a slot machine but they are not.

Ms. Zimmers asked what the age limit was.

Ms. Roberts stated the age limit was twenty one.

Ms. Zimmers questioned if there would be alcohol.

Ms. Roberts stated there would be no alcohol.

Ms. Williams asked if the winner would win cash.

Ms. Roberts explained the cash would be downloaded onto a gift card.

Mr. Ryan asked if the machines were coin operated or if there was an attendant.

Ms. Robert explained the guest use their own money for the game.

Mr. Ryan asked if there was an attendant on site.

Ms. Roberts stated there would be an attendant.

Ms. Zimmers questioned if there were any concerns about safety.

Ms. Roberts stated the doors were locked at night and there were cameras.

Mr. Burkhardt questioned the hours of operation.

Ms. Roberts stated the hours of operation were ten o'clock am to ten o'clock pm. Hours vary due to business.

Ms. Zimmers questioned if business was regulated.

Mr. Sing explained the Ohio casino commission control board was in the process of regulating it. Mr. Sing explained the machines were ok for the time being.

Mr. Burkhardt directed a question to Mr. Thompson. Mr. Burkhardt questioned if there was a problem several years ago and if the city put a moratorium on that for a period of time,

Mr. Thompson explained that was correct, about ten years ago. Mr. Thompson explained there was a proliferation of the skilled game rooms popping up around town. Mr. Thompson explained there were a few that the Board of Zoning Appeals had approved but it had been some time since a case had been brought in front of the board. Mr. Thompson explained it was up to the Ohio Gaming Commission to regulate the types of awards and prizes given to make sure they are abiding by the laws. Mr. Thompson explained from a zoning point of view it fits the definition of a game room.

Ms. Williams asked if there was an issue with a game room that was approved by the board previously.

Mr. Thomson stated that was correct, they gave out cash prizes and the police had to shut them down.

Ms. Williams stated the board didn't decide based on previous experience.

Mr. Thompson explained everything that was stated fits within the definition of what they are permitted to do there.

Ms. Zimmers questioned if there were any regulations at the state and city level.

Mr. Thompson explained there was not and stated the police department recommended approval. Mr. Thompson explained if there were any complaints, they would be forwarded to the state gaming commission.

Mr. Sing explained it was not currently against regulations to give out cash, the state recommends giving out gift cards.

Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Ms. Williams made a motion to close the public hearing. Seconded by Mr. Ryan. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-36.

MOTION: Motion by Mr. Brown to approve case #19-A-36 request from Judy Roberts for a conditional use permit for a commercial recreational use (game room) at 1942 Mitchell Blvd. in a CC-2, Community Commercial District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It fits within the definition of a game room.
3. The Ohio Casino Control Commission will regulate the lawfulness of the use.

YEAS: Mr. Ryan, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Ms. Gaier
NAYS: None

Motion Approved 7 to 0.

Case #19-A-37 request from Clark County for a variance from Chapter 1153.04(b)(15) for parking spaces located more than 50 feet from a tree at 525 E Home Rd. in a G, Green Space, Park, and School District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant is requesting a variance from Chapter 1153.04(b)(15) to not construct parking spaces within 50 feet of a tree. The applicant states trees in the parking area may pose a threat to the building and preventing operations of the dispatch center. The variance is not a result of a hardship, but instead to mitigate safety concerns the trees may pose to the building and equipment in the future.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a "practical difficulty" as defined by the courts in Ohio in established case law. The Ohio Supreme Court's decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between "use" and "area variances." Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: *Yes.*

2. Whether the variance is substantial;

Staff Comment: *Yes. The variance request is for parking spaces to be more than 50 feet from a tree.*

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: *No.*

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: *No.*

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: *Unknown.*

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: *No.*

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: *Yes. There are multiple mature trees on the property currently.*

STAFF RECOMMENDATION:

Approval for a variance for parking spaces to be more than 50 feet from a tree.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers questioned that the board required the parking to be within 50 feet of a tree.

Mr. Thompson explained the zoning code requires any new parking space to be within 50 feet of a tree. Mr. Thompson explained some of the interior parking spaces would not be within 50 feet

of the tree and that's the reason for the variance.

Ms. Gaier asked if there were any further questions for Mr. Thompson.

Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. Steven Sharp, 14 E. Main St. Springfield, OH.

Mr. Sharp explained there were some design issues that were driving the request. Mr. Sharp explained the building itself needed to be able to withstand a 250 mph wind for three seconds. Mr. Sharp explained the building also needed to be able to withstand a two by four coming at the building at 100 mph. Mr. Sharp explained the building was the 911 communications building. Mr. Sharp explained they were not coming in front of the board for convenience, they were trying to remove the threat of any airborne obstacles that may come against the building and knock out communications.

Major Chris Clark, 120 N. Fountain Ave. Springfield, OH

Major Clark explained another reason they are looking for the variance was because of fall hazard. Major Clark explained when building and designing the center, they are trying to get the design as close to the Ohio Administrative Code for a public safety building. Major Clark explained with mature trees that are within a certain feet from the center, could fall and compromise the communications building. Major Clark explained they would like to keep the trees as far away from the building as possible in case of a massive storm or tornado, they would not have to worry about the building being compromised.

Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Burkhardt. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-37.

MOTION: Motion by Mr. Brown to approve case #19-A-37 request from Clark County for a variance from Chapter 1153.04(b)(15) for parking spaces located more than 50 feet from a tree at 525 E Home Rd. in a G, Green Space, Park, and School District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It is a good use of tax payer's dollars.
3. There are many mature trees on the property.

YEAS: Mr. Ryan, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Ms. Gaier
NAYS: None

Motion Approved 7 to 0.

Case #19-A-38 request from Timothy Sanders for a variance from Chapter 1152.02(f)(1) for an accessory structure over 16 feet tall at 1217 Pythian Ave. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Mr. Brown.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant is requesting a variance from Chapter 1152.02(f)(1) to permit a garage that is approximately 19 feet tall. The garage will be a detached structure in the rear yard.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a "practical difficulty" as defined by the courts in Ohio in established case law. The Ohio Supreme Court's decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between "use" and "area variances." Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

8. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: *Yes.*

9. Whether the variance is substantial;

Staff Comment: *No, it is only a 19% increase in the maximum permitted height for accessory structures.*

10. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: *No.*

11. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: *No.*

12. Whether the property owner purchased the property with the knowledge of the zoning

restrictions;

Staff Comment: *Unknown.*

13. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: *No.*

14. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: *Yes.*

STAFF RECOMMENDATION:

Approval for a variance to permit an accessory structure that is approximately 19 feet tall.

Ms. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers asked if there was an alley behind the garage.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. Timothy Sanders, 1301 Pythian. Springfield, OH

Mr. Sanders explained he was there to speak on the home owners behalf but the home owner was able to attend. Mr. Sanders explained the applicant owned his home for 34 years and had plans to build this garage for just as long.

Mr. Ricky Davis, 1217 Pythian Ave, Springfield, OH

Mr. Davis explained he would like the higher roof to use the space for storage.

Mr. Sanders explained the garage next door is 19 feet tall. Mr. Sanders explained the alley was a double alley. Mr. Sanders explained the alley was a dead end at the hill and the cross alley was across from the garage. Mr. Sanders explained the property was across the street from the new Wittenberg building, the Steemer.

Mr. Davis explained the inspiration for his garage came from a neighbor's garage but was smaller.

Mr. Ryan directed a question to Mr. Thompson, were there any objections.

Mr. Thompson stated there were no objections. 8

Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

MOTION: Mr. Ryan made a motion to close the public hearing. Seconded by Mr. Burkhardt. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-38.

MOTION: Motion by Ms. Zimmers to approve case #19-A-38 request from Timothy Sanders for a variance from Chapter 1152.02(f)(1) for an accessory structure over 16 feet tall at 1217 Pythian Ave. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. Similar cases were approved in the past.
3. It fits the character of the neighborhood.

YEAS: Mr. Ryan, Mr. Burkhardt, Mr. Harris, Ms. Zimmers, Ms. Williams and Ms. Gaier
NAYS: None

Motion Approved 7 to 0.

Board Comments: Welcome Mr. Charles Harris to the board.

Staff Comments: January the board would be voting for chair and vice chair for 2020.

Subject: Adjournment

Mr. Ryan made a motion to adjourn the meeting. Seconded by Ms. Zimmers.

Ms. Gaier adjourned the meeting at 8:03 pm.

Ms. Denise Williams, Vice-Chairperson