



BOARD OF ZONING APPEALS
-AGENDA-
Thursday, June 1, 2017 at 7:00 P.M.

Louis J.R. Goorey Worthington Municipal Building
The John P. Coleman Council Chamber
6550 North High Street
Worthington, Ohio 43085

A. Call to Order - 7:00 pm

1. Roll Call
2. Pledge of Allegiance
3. Approval of minutes of the May 4, 2017 meeting
4. Affirmation/swearing in of witnesses

B. Item of Public Hearing

1. **Temporary Use Permit** – Food Trucks – **885 High St. (Eat Now) BZA 07-17**

C. Other

D. Adjournment



May 25, 2017

To: Members of the Board of Zoning Appeals

From: Don Phillips, Chief Building Inspector

Subject: Staff Comments for the Meeting of June 1, 2017

B. Items of Public Hearing

1. Temporary Use Permit – Food Truck – 885 High St. (Healthy Choices) BZA 07-17

Findings of fact:

1. This property is in the C-3 district where restaurants are neither a permitted or conditional use. Temporary signs are not permitted in this district.
2. A restaurant is defined as: “a place located in a permanent building wherein food and beverages are sold to the general public to be primarily consumed within the building and is the principal business of the place; this meaning excludes drugstores, confectionery stores, lunch stands and gasoline service stations.”
3. Fast food restaurants are further defined as “those establishments which dispense food from counter-type operations to be consumed on or off the premises away from the counter and are recognized as fast food operations because of high turnover of customers.”
4. A Food Truck would not be a permitted or conditional use in any zoning district within the City of Worthington.
5. Temporary Use Permits were previously granted by staff to this vendor at 12 East Stafford Avenue on Thursday, April 20, 2017 and Thursday, April 27, 2017, from 4:00 p.m. to 8:00 p.m. with no temporary signage permitted.
6. The applicant is proposing operating a Food Truck on this property in the parking lot, on Thursdays, from 3:30 p.m. to 7:30 p.m. including setup and teardown time. No proposed start or end dates for this use were proposed.

7. The Board of Zoning Appeals is not authorized to grant use variances but is authorized to grant a Temporary Use Permit for up to 6 months, from June 8 to December 7. The applicant must apply for a renewal to operate from December 14, 2017 to June 14, 2018.

The following conclusions are presented:

1. Staff is concerned about food, grease, trash, and general litter in the parking lot, grass areas, the public sidewalk, and the neighboring properties not being cleaned daily. Staff received no complaints about such food, grease, trash, or general litter at the previous location. It would be reasonable a trash container be provided and be removed at the end of the shift.
2. Food trucks for a special event would seem appropriate but food trucks in general seem out of place in most parts of the City on a continuing basis.
3. Temporary Use Permits are revocable.

The following motion is appropriate:

THAT THE REQUEST BY HEALTHY CHOICES AND PROVIDENTIAL PROPERTIES LLC FOR A TEMPORARY USE PERMIT TO ALLOW THE OPERATION OF A FOOD TRUCK ON THURSDAY EVENINGS FROM JUNE 8, 2017 TO DECEMBER 14, 2017, FROM 3:30 P.M. TO 7:30 P.M., AT 885 HIGH STREET, AS PER CASE NO. BZA 07-17, DRAWINGS NO. BZA 07-17 DATED MAY 5, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING AND WITH THE FOLLOWING CONDITIONS:

1. **MAINTAIN ALL REQUIRED PERMITS AND LICENSES REQUIRED BY OTHER ORDINANCES, STATUTES, AND/OR REGULATIONS.**
2. **KEEP THE SITE, INCLUDING THE ADJACENT RIGHT OF WAY CLEAN AND SANITARY AT ALL TIMES.**
3. **NO TEMPORARY SIGNAGE PERMITTED.**

Reference

Portions of Section 1129.05

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(5) Temporary use permits. A temporary use permit may be granted where the temporary use of a structure or premises in any district where such temporary use shall be for a period of more than ninety days is proposed for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A temporary use permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a six-month period, subject to a six months' renewal and such conditions as will safeguard the public health, safety, convenience and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of this Zoning Ordinance. The Board may grant a variance in the application of the provisions of the Zoning Ordinance when it is determined that practical difficulty exists based on the following factors:

- (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;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage).
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and,
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

May 4, 2017

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: T. Reis; B. Seitz; D. Falcoski; L. Reibel; C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Approval of minutes of the April 6, 2017. Mr. Falcoski moved to approve the minutes, seconded by Mr. Seitz. All members voted “aye” and the minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing – Unfinished

**1. Variance – Front Yard Setback – Porch Roof – 5671 Indianola Ave. (Linda Kuder)
BZA 12-17**

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the front yard requirement is 30 feet.
2. The Indianola Avenue right-of-way is 80 feet.
3. Building Permit 21541 was issued on December 4, 2015 to replace 12 windows. On March 2, 2016, the permit was amended to replace the existing roof covering and the porch roof structure over the entry door. On March 9, 2016, a correction letter was issued advising the porch roof did not comply with the building and zoning code requirements including the front setback requirement. Not finding inspection activity on this permit, the owner and tenant were notified on March 7, 2017 the porch roof requires additional approvals.
4. A portion of the dwelling is in the front yard setback including the entire original porch roof and the new porch roof. The new porch roof is not substantially larger than the original porch roof. The requested variance is to allow the new porch roof to remain in the front yard setback.

5. Staff has not received any inquiries about the property.
6. Granting of any zoning code variances does not grant any variances from the requirements of the 2013 Residential Code of Ohio.

The following conclusions are presented:

1. The wider than the typical 50 foot right-of-way at this property encroaches an additional 15 feet into the front yard compared to other properties in the district, creating a practical difficulty. If the right-of-way were 50 feet, no variance would be required. These factors further mitigate what is not a substantial variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Michael Moody, 5671 Indianola Avenue, said he started roof repairs immediately after filing the application because the roof was leaking, and due to his travel schedule, he was unable to follow up with the variance issue beforehand.

Ms. Crane asked if there was an additional encroachment and Mr. Phillips replied a couple of inches, and there is an eighty-foot right-of-way. If there was a fifty foot right-of-way, no variance would be required.

Ms. Crane asked if there was anyone present to speak for or against this application.

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY MICHAEL SCOTT MOODY AND L & J LAND HOLDINGS LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT SETBACK TO ALLOW A PORCH ROOF TO REMAIN AT 5671 INDIANOLA AVENUE, AS PER CASE NO. BZA 12-17, DRAWINGS NO. BZA 12-17 DATED MARCH 21, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. All Board member voted “aye” and the motion was approved.

2. Variance – Front Yard Setback – Fence – 5971 Olentangy River Rd. (DJ Falcoski & Christina Corl) BZA 13-17

Mr. Falcoski said he is recusing himself from this matter concerning his residential property, left the dais, and sat in the audience.

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the front yard setback requirement is 30 feet. Fencing is not permitted between the right-of-way and the building setback line.
2. The applicant is proposing to erect 80 feet of a 4 foot tall fence with approximately 4 feet 6 inch tall posts, approximately 10 feet from the Olentangy River Road right-of-way. The requested variance is approximately 20 feet.

The following conclusions are presented:

1. The property is heavily landscaped along the right-of-way which will screen the fence from the right-of-way. This mitigates the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Ms. Crane asked why the applicant is not using their back yard for their daughter's playground. Christina Corl, 5971 Olentangy River Road, replied they like to use all of their yard. Their yard used to have a row of hedges, but the hedges have become spindly and no longer protects their yard from the road. She wants the fence for protection of her family and pets. The fence will be on the inside of the hedge row and not visible from Olentangy River Road. Between her house and the other houses along State Route 161, there are eleven other homes with front yard fences along Olentangy River Road in Worthington, and her fence would not be visible from the road.

Ms. Crane asked if there was anyone to speak for or against this application.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY DONALD JOHN FALCOSKI AND THE CHRISTINA L. CORL QUALIFIED PERSONAL RESIDENCE TRUST FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 5971 OLENTANGY RIVER ROAD, AS PER CASE NO. BZA 13-17, DRAWINGS NO. BZA 13-17 DATED MARCH 27, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Reis seconded the motion. The four Board members present voted “aye” and the motion was approved.

3. Variance – Side Yard Setback – Fence – 201 E. New England Ave. (Eric & Arenda Nolan) BZA 14-17

Ms. Crane said Mr. Falcowski has resumed his place at the dais.

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the R-10 district where the required front yard is 30 feet. Corner lots are permitted to reduce the adjacent side yard to 20 feet. Fencing is not permitted between the right-of-way and the building setback line. Fencing within 10 feet of the right-of-way cannot exceed a height of 2 feet 6 inches above the street grade.
2. The East New England Avenue and Plymouth Street rights-of-way are 66 feet. A portion of the Plymouth Street right-of-way does not have a curb and gutter and the grade rises approximately 1 foot above the street at the right-of-way line.
3. The applicant is proposing to erect a 48 inch tall, open style fence along the rear of the property and extending it to the Plymouth Street right-of-way, continue parallel to that right-of-way 39 feet, and extend it to the existing dwelling. The requested variances are 20 feet for side yard setback, and approximately 30 inches for fence height within 10 feet of the right-of-way.

The following conclusions are presented:

1. The property is on a corner with additional setback requirements not typically required on other properties in the district, creating a practical difficulty. In this particular case, the dwelling is set back from East New England Avenue limiting the amount of rear yard that can be fenced, and the 66 foot rights-of-way, typically 50 feet in this district, reduced the front yard an additional 8 feet. The proposed fence is an open style fence, and these factors mitigate the substantial variance request for setback.

2. The fencing is a substantial distance from the East New England Avenue and Plymouth Street intersection, is an open style fence, and should not cause intersection sight distance issues. These factors mitigate the substantial fence height variance request.
3. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Discussion:

Phillip Fletcher Watterworth, 196 North Liberty Street, Delaware, said he was Arenda Nolan's father, and the fence is necessary for safety reasons.

Ms. Crane asked if there was anyone to speak for or against this application.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY ERIC AND ARENDA NOLAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK AND FENCE HEIGHT TO ERECT A FENCE AT 201 EAST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 14-17, DRAWINGS NO. BZA 14-17 DATED APRIL 6, 2017 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Reis seconded the motion. All Board members voted "aye" and the motion was approved.

4. Variance – Front Yard Setback – Addition – 6200 Linworth Rd. (Linworth Baptist Church) BZA 15-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the S-1 district where the required front yard is 60 feet.
2. The existing building was granted a front yard setback variance on January 7, 1999 to construct an addition.
3. The applicant is proposing to demolish a portion of the existing building and construct a 2 story, 12,862 square foot addition plus a basement, a portion of which will be 45 feet from the Linworth Road right-of-way. The requested variance is 15 feet.

The following conclusions are presented:

1. The existing site, its parking needs, and the additional 10 foot setback requirement for the S-1 district compared to commercial zoning districts, limit where an addition can be placed on the property. Only a portion of the addition will be in the setback. These factors mitigate the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Greg Eller, 7861 Walnut Street, New Albany, gave the Board members an overview of their master plan. The sanctuary built in 1999 with the initial setback serving the church well, but they are short on classrooms. Mr. Eller said they are studying the best way to add onto the building and they would like to build a more efficient corner of the church.

Ms. Crane asked if there was anyone to speak for or against this application.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY LINWORTH BAPTIST CHURCH FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT AN ADDITION AT 6200 LINWORTH ROAD, AS PER CASE NO. BZA 15-17, DRAWINGS NO. BZA 15-17 DATED APRIL 7, 2017 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Falcoski seconded the motion. All Board members voted; “aye;” and the motion was approved.

5. Variance – Sign – 7166 N. High St. (Rodney Walker/Blaze Pizza) BZA 16-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-4 district where each business is permitted 1 wall mounted sign.
2. The applicant is proposing to place a second wall mounted sign on the south elevation of the building. The requested variance is an additional wall mounted sign.

3. The second wall mounted sign must be approved by the Architectural Review Board.

The following conclusions are presented:

1. The intent of the wall sign limitation to provide for no more than a single wall mounted sign visible from street. In this particular case, the tenant space in 7166 has both a North High Street and East Wilson Bridge Road exposure. Allowing a second wall mounted sign for this tenant space seems appropriate. The total permitted sign area would not increase with this variance. All these factors mitigate the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Alex Brussow, 21 Elmwood Street Northeast, Grand Rapids, Michigan, said the company officials would like the additional wall sign for visibility.

Ms. Crane asked about sign area and Mr. Phillips replied, if approved, any business at this site would be allowed to have the additional wall sign, but the design would still need the approval of the Architectural Review Board.

Mr. Seitz asked if the same awning will still be used and Mr. Brussow replied the awnings will be recovered.

Ms. Crane asked if there was anyone to speak either for or against this application.

Motion:

Ms. Reibel moved:

THAT THE REQUEST BY RODNEY WALKER, BLAZE PIZZA, AND RENSKO PROPERTIES LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR NUMBER OF WALL MOUNTED SIGNS TO ALLOW THE PLACEMENT OF A SIGN AT 7166 NORTH HIGH STREET, AS PER CASE NO. BZA 16-17, DRAWINGS NO. BZA 16-17 DATED APRIL 7, 2017 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. All Board members voted; “aye;” and the motion was approved.

D. Other

There was no other business to discuss.

E. Adjournment

Mr. Reis moved to adjourn, seconded by Mr. Seitz, and the meeting adjourned at 7:32 p.m.



City of Worthington BOARD OF ZONING APPEALS APPLICATION

Meets: First Thursday of Every Month

Case #	BZA 07-17
Date Received	5-5-17
Fee	\$50
Meeting Date	6-1-17
Filing Deadline	Rept 6-30-17

- Property Location: 885 High St, Worthington, OH 43085
- Present/Proposed Use: Office Space. Propose a weekly food truck.
- Zoning District: _____
- Applicant: EatNow (Healthy Choices)
 Address: 893 High St, Worthington, OH 43085
 Phone Number(s): 614-371-2595
- Property Owner: Robert Deuberry
 Address: 885 High St Worthington, OH 43085
 Phone Number(s): _____
- Action Requested (ie. type of variance): _____
- Project Details: EatNow will host a weekly rotating food truck on this property. The food truck will provide menu options to community members via online ordering and walk-up ordering.
 - Description: _____
 - Expected Completion Date: Ongoing
 - Approximate Cost: _____

PLEASE READ THE FOLLOWING STATEMENT AND SIGN YOUR NAME:

The information contained in this application and in all attachments is true and correct to the best of my knowledge. I further acknowledge that I have familiarized myself with all applicable sections of the Worthington Codified Ordinances and will comply with all applicable regulations.

Applicant (Signature)

Date

Property Owner (Signature)

Date



Abutting Property Owners List for
885 High St.

Cardinal Family Eye Care		885 High St., Ste 101	Worthington, OH 43085
Kristin L. Oaks D.O.		885 High St., Ste 106	Worthington, OH 43085
Bruce Hash		891 High St.	Worthington, OH 43085
Herbert & Mary Vaughan		6959 Shetland St.	Worthington, OH 43085
Nationwide	Gwynn Vaughan	888 High St.	Worthington, OH 43085
Carol & Co. LLC		882 High St.	Worthington, OH 43085
Cam Taylor Realtors		882 High St.	Worthington, OH 43085
Worthington Wholistic Health Center		881 High St.	Worthington, OH 43085
Timothy & Christine Bowen		860 Oxford St.	Worthington, OH 43085
Gregory & Amy Jane Sumner		870 Oxford St.	Worthington, OH 43085
Donald Drabant		872 Oxford St.	Worthington, OH 43085

1. Write a Supporting Statement describing the project and addressing the certain factors.

Eat Now plans on utilizing space in the parking lot of 885 High St. for a weekly food truck that will be there on Thursday evening during the dinner hours. The owner has contacted the tenants and all have agreed to the use of the parking lot Thursday's 3:30 - 7:30 P.M.. The early time is when the food trucks will be setting up. It will operate/provide food 4:15-7:00 P.M. and will take no longer than 7:30 P.M. to tear-down. The food trucks will rotate weekly to provide a different flavor each week. Trucks will provide refuse collection on-site. There will be no signage other than what is on the actual truck.

The location is fully occupied and the food trucks will serve the tenants via promotions and foot traffic. Old Worthington Association conducted a food truck survey in 2015/16 that identified that a variety of food trucks will enhance Old Worthington. The location of the food truck will not block any government services or deliveries from reaching the building and its occupants. This is a temporary situation for a few hours a week at the location and is not intended to be a permanent build. The owner and tenants understand why the variance is needed for the food trucks to park there and serve food to the community. A variance is currently the only mechanism Worthington offers for a food truck to operate in the city. We are here to provide a service and support a local community organization.

2. Include a Site Plan drawn to scale. The site plan must show all lot lines with dimensions and building footprints (including sheds, garages and additions) with the size, shape, orientation and dimensions clearly depicted. — We were thinking of two possible locations in the front of the parking lot or in the back area. I have the satellite shot, showing the locations possible. 30-foot is the longest food truck we have in rotation. With the truck facing High Street, it will only take up three to four parking spaces.



Street view

CITY OF WORTHINGTON
BZA 07-17
DRAWING NO.
DATE 5-5-17

3. Not applicable
4. A Floor Plan and/or Landscape Plan may be required if determined by staff to be a necessary part of your request. OK-let me know.
5. For residential applicants, please discuss your plans with neighbors if possible before the meeting. All property owners and renters adjacent to and across from your property will be notified of the public hearing. Not applicable.

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885. High St.



100-000239-00 10/26/2010