CITY OF WILMINGTON
BOARD OF ZONING APPEALS
February 06, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Howard Bowen, Scott Holmer, Holly Roush, and Carl Zaycosky
MEMBERS ABSENT: None
ALSO PRESENT: Jason and Michelle Vaughn, 930 W. Truesdell Street; Brian Shidaker, Director of Public Service; Taylor Stuckert, Clinton County Regional Planning Director; Brett Rudduck, City of Wilmington Law Director; Michelle Horner, Clerk

The meeting was called to order by Chairperson Bowen.

Pledge of Allegiance

Zaycosky nominated Howard Bowen to serve as Chairperson for 2017. Holmer seconded. All voted yea.

Bowen nominated Carl Zaycosky to serve as Vice Chairperson for 2017. Roush seconded. All voted yea.

Zaycosky made a motion to approve the December 5, 2016 meeting minutes and findings of fact with correction to the minutes noted by Roush. Holmer seconded. All voted yea. The minutes and findings of fact were approved as noted.

Agenda Item #1-

> **Jason Vaughan, applicant, has applied for a Conditional Use permit. Applicant is requesting to use an outbuilding located at 930 W. Truesdell Street for a Home Occupation activity consisting of wine manufacturing and weekend wine tasting events. Subject property is located in the R1 – Single Family Residential district.**

Zaycosky recused himself from deliberations and voting because he wanted to speak as a property owner.

Bowen explained to the applicant that because Zaycosky has recused himself, he'll need a unanimous decision for approval for the variance to be granted.

[clerk reads staff report]

Bowen swears in those wishing to speak.

Jason Vaughn steps to the podium to present his application to the Board.

"I am trying to open the first winery here in Wilmington. It is at my residence and it is R1 zoning but I think my residence is a little different than most. We have about 5 acres and we have a good amount of road frontage.

What we are hoping to do is offer the winery, working with the local farmers - using their juices to produce hard cider and probably wines, that would be country wines. We would offer tastings, that would just be on the weekends. That's the plan right now. We're offering weekend hours because we're still both working full-time jobs. Not that that would not change possibly in the future. It is in our residence, so we're not going to be having late hours. No Sunday sales.

The parking, I know that was brought up as an issue. We do have a good bit of distance from the road and we were looking into making a whole parking lot. [indicates on map location of parking to Board members] If you come up the driveway, the parking lot would be on the right side of the driveway. We would be having gravel parking. That's not in anyone's property lines. It would be all within our property and far enough away from the road. That's what we're looking to do.

We got a lot of support from the community and from the surrounding community. A lot of people were wanting this. Questions from you guys? ....I should say there isn't any intention to run this anything like a bar. It's not a bar. This is a home residence. This is going to be..if anyone has been to a winery? If you got to a winery, you spend several hours there. Tasting wine, enjoying the experience. Not loud music. It's a peaceful time with family and friends and that's what we're looking to do. We're not looking to have a bar atmosphere by any means. It's not about that. It's about allowing the farmers and local people, utilizing their hard work, to make a nice product that people can use.

The reason I'm wanting to do it in Wilmington: one, we live here. I know that it can work here. There has been a lot of interest from other areas to have this. I truly believe this is a good thing for Wilmington and this whole area."

Bowen asked if there were any proponents that would like to speak as well.

Carl Zaycosky steps to the podium to speak.

"Jason, you're a great neighbor. You really are. You're endeavor, I think, is great. I've sampled your wares in both your backyard and your wedding. He has good stuff. I really think this is going to be a successful endeavor for you. Keeping it in the community, that's great. That's something that may potentially make a destination for us.

I wouldn't be standing here if I didn't have some concerns. I have some significant concerns. Please, please just let me tell you this. This [holds up anonymous letter sent in to the board], I had nothing to do with. This hateful letter was sent and simply signed by 'the neighbors'. I just wanted to say I had nothing to do with it because Jason, I just don't work that way.

Here are my concerns, and my concerns are based on a personal experience I had about 20 years ago, when I was living in the county off Beechgrove Road and a zoning variance was allowed for an endeavor. I was against it. There were conditions and provisions that were put forth that weren't enforced, unless I brought them to the attention of the proper authorities. And even then, it didn't matter. So, my speaking here is regarding my being burnt once with something like this.

Are we looking at 30 weekends a year? Granted the weather in Ohio isn't the best in the world but I'm thinking out of the 52 weekends of the year, maybe 30 of them may be decent. I live in close proximity to Jason. If you look at the map, there's Jason's house, and if you go right up to 12 o'clock, there's my house. So, we kind of share a backyard. Special occasions. So, that's 60 weekends out of the year. Wedding receptions, Fourth of July....I don't know. That's a broad span of time and I may be selfish, but I just kind of like to be able to sit out in my backyard. That's the one concern I have.

A noise level is a concern. My wife and I partake in some of the local wineries. Brandywine. Brandywine Wineries, if you've never seen it, it's a nice place. If you go right past Young's Dairy, take the first left, it's a couple of miles down there. The guy's name is actually Brandywine. Anyway, nice place. We've been there in the afternoon, quiet, even no background music. But there on the table "bands starting at 7 o'clock". I'm appreciative of most kinds of music, but boy I just don't like it waffling in to my space.

Foot traffic. Granted, it sounds like there are going to be parking regulations. Might make it difficult with the driveway. My concern is that people may find and easier access to it and that access is in the cul-de-sac. It is right in front of my house. Now, I say this Jason with all charity, it is never an issue, but a couple of times here Jason throws a party, which he invites me to all the time and one of these days it's going to work out that Mary and I aren't doing something else, but anyway, your people are really good and there's absolutely no problem about it. But, occasionally people do kind of walk through my yard. I remember the last one you had, it was probably about 11:30 and Mary and I had gotten home about a quarter after and we were getting ready for bed and turn the lights out and what not and we hear these two people talking, right outside the window, and it was kind of funny. It was one of those things where you know, they had too much to drink and believe me, I've been in that situation to, lasted ninety seconds, and believe me, absolutely, positively, no problem....thirty weekends a year, Friday Saturday, special events, that would start to become a problem.

Jason, continue to have your parties and hopefully after this you'd still invite me to them, but that concerns me. This issue I was burned in twenty years ago, was a real eye opener to people and respect for property. Quite honestly, even though there were

people who were drinking, this facility wasn't supposed to have people drinking, but anyway, I digress. Those are my concerns.

I want to go to precedent. Is this a precedent that under our guidelines, our elected officials, our elected City Council has put forth, do we really want to tamper with it? I just did a quick little map of the neighborhood, and in regards to the setbacks and regulations and what not regarding establishment of Jason's winery, or proposed winery. My backyard qualifies. So does my neighbor, our former Board member Mark Buckley. Up the street, my good friend, Marty Mason. His new lot qualifies. I see the precedent being set, if we allow this, that Zaycosky can put his brewery up. Following all the guidelines. Mark Buckley can put his distillery in, where he wants to distill gin. All within the regulations that we would approve. Marty could put a bourbon distillery in....I think the Board needs to consider the precedent they would be setting. We were talking about a tea room. [discussion regarding location the Tea Room conditional use approval referenced in the Staff Report] My counter to that would be that A) it's non-alcoholic. B) It wasn't open in the evenings as I recall. It had been a business where she ran a photography business in that house.

You might say "Carl, you're being unreasonable here" and we'll setup these guidelines that will be enforced. Here's what happened at my other place. I ended up being the enforcer. I ended up being the one to have to have to call the person that was putting the event on "Oh, you remember that guard that was supposed to be down at the end of my lane that was supposed to direct traffic? He's never there". Multiple calls, multiple calls, he's a very successful businessman around here. There's various levels of secretaries. If I got through, I was lucky. I don't want to do that again. That's obviously not going to be the case with Jason, he's right next door there. The unruly behavior of the individuals. At what point, do I call the police and say "Now two couples have walked through my yard on this Friday evening in May"? Is that enough to bother the police with? They're enforcing, right? Or, on that Fourth of July special event. Now I'm trying to be a good guy here, but now five people have walked through my yard. By the way, by the time you get there, they're already going to be gone because they've already walked through it. I don't say this to sound sensationalistic, but it had a huge effect on me. There's one evening, I know this you would never happen here because I know you [Jason] would never put up with this, but it happened to me. I had seven people urinating in my yard as they're waiting to go back to this Halloween event. I call the police, the sheriff's department, 'it's backed up a bit, but we'll get up there', and about an hour and a half later, guess what, all the bodily functions, they're all done at this point. I know you'd [Jason] never let that happen, but none the less, that's where I'm coming from.

So, with that said, just in review, I have concerns regarding the hours, the noise, the foot traffic, and me having to enforce it. At this point in time, right now, in my existence, I have nothing like this to worry about. I can concentrate on going home and relaxing. On being a good husband, a good father, a good citizen to my community, and not have to be concerned about events, even though they might sound small and insignificant, that might disrupt the quality of like that I currently know. I'll stop talking at this time but would like to reserve the right to respond if need be."

Bowen asked for any other public comments.

Taylor Stuckert responded to the cases presented. He noted that things like noise level and unruliness are all outside the purview of zoning. Jason can have a party without a zoning change. He wants the Board to make sure they keep their review focused on the aspects of zoning.

In regards to events, he noted that this application was for a home occupation use and that regular events may blur the lines of home occupation. Mr. Vaughn's application noted that this was going to be a temporary location for business. He invited Jason to speak to that.

Jason Vaughn spoke to a couple of things. He pointed out the carry-out recently opened further down Truesdell Street with a liquor license on a lot zoned business that has houses closer to it than he does. He stated that they had looked at different sites but right now that problem was financial. He likes the home site because it's a better setting. In regards to the foot traffic, he stated that we just passed an ordinance to have sidewalks installed that would pass in front of his house. That we are encouraging foot traffic. He wants people to bike there. He stated that having a conditional use for one year would be ideal. He then re-stated that he wants to do it in Wilmington, wants it to be a park-like setting, no bar atmosphere, and that he's looking to get a start. He'd be more than willing to come back to the issue in a year and re-asses it. He also would have an open-door policy to anyone with complaints.

Holly Roush questioned if the retail and online sales [of the wine] or the event place itself was the primary business model. Vaughn stated he was doing both. Bottling and selling wine and cider to local businesses. They would definitely be selling kegs, bottles, whatever the demand is and he likes the idea of social interaction and having different events with the wine. Teaching classes, etc.

Roush then questioned the hours and how things would operate. Vaughn stated that right now, he works full-time, so it's pretty much limited to Fridays or Saturdays, weather permitting and depending what's going on in their lives. As far as bottling, that's just him and his wife, no events. That is what will be going on 80-80% percent of the time.

Scott Holmer commented on Valley Vineyards in Morrow and how they started out and then the subdivisions have grown up around it and how a temporary endeavor may have different meanings to different people.

Vaughn commented how even though his property is much larger than others in town, he would outgrow the property should business reach a level similar to Valley Vineyards and he would move.

Holmer reviewed the map of the property with Vaughn. Vaughn noted that the outbuilding would just be used for refrigeration and that the tasting room would be in

the lower level of the home. There was discussion of if there was a buffer in the rear. Vaughn stated he planted about 40 trees back there.

Taylor Stuckert commented on mix uses and how they are valued by the City but that you need to be cognizant of areas that are strictly residential. "There is a uniqueness to the term 'home occupation'. There is a difference between that and a bonafide commercial establishment where you would be welcome to re-zone the property to a commercial use and do all these expanded things. As a R-1 property, there are certain expected restrictions. And that's what I was trying to convey earlier. It's not that nobody wants to see these kinds of things succeed. We want entrepreneurs to succeed in this community, but do we have to be cognizant of that precedent Carl mentioned. The reason that we shouldn't fear Marty Mason's bourbon facility and gin distilleries is because this is a home occupation. It is with the expectation that there's restrictions and conditions applied.

On the enforcement piece, I sympathize with you especially in the County, twenty years ago, I couldn't imagine the lack of enforcement, but that shouldn't be a basis for following rules, or not following rules; whether there's going to be enforcement. You expect enforcement. I would never encourage a Board on the basis that it may not get enforced, because we would not be a strong community if we did that. So, I would say, make your decision on the expectation that things are enforced. Things being, noise level. That's something that's going to be enforced whether it's a winery, a house, anything. Noise level is a code violation, it's not a zoning violation. If you're noisy in your house, if it's a residence, a business, the cops are going to get called. Unruliness, same thing.

For the Board, I would make sure you're focused on the zoning resolution itself, which is on home occupation. Which, in the zoning resolution, is something that is viewed as something that is secondary to the dwelling unit. They just have to be careful that once the activity grows to a certain size or becomes so regular, it starts to feel like a normal business and it's not a home occupation at that point. I think when they talk about home occupation, they're thinking of what you're going now. I mean, if you're brewing in your house, you're bottling, you're distributing, it's a craft, it's a hobby, it's a revenue producing craft that you're able to do in your house per the laws of the City. The second you, people start coming on the premises, then you start getting into traffic and safety, and that's where I mentioned the driveway. You have to make sure if you are going to have visitors to the house for commercial uses, a fire truck can get down the driveway. That people can get in and out safely if something were to happen. That's where to conditions come into play in terms or what they have to be thinking about and what you need to be thinking about as well. About the hours, the occupancy, those all tie back to the understanding that this is a home occupation.

If it becomes something different than that by the nature of what's going on, then the recommendation would be that you would re-zone to a commercial use or some sort of mixed use zone that would allow more flexibility in hours, less restrictions on the parking, and those kinds of things.

The reason that I had mentioned the temporary notion of it was to allow you to scale. My sense of it, was that you want to open this up, get it out in the community, try it out and take your revenue producing craft from home and kind of scale it up to a business and there's room for that in the zoning code but they just have to be careful from switching from residential to commercial use without having a re-zone conversation. That's a different conversation than tonight"

Bowen asked what the exact maximum occupant load would be. Vaughn stated 30-50. Bowen then questioned the bathroom situation and Bowen, Vaughn, and Stuckert discussed the need to provide the proper facilities for the number of people at the events. These things are addressed in the building and fire codes and not the zoning code but they will be factors overall for Vaughn.

Bowen also commented on the parking situation and Vaughn re-stated his desire for a gravel parking area.

Bowen questioned the hours. Vaughn stated probably around 7pm on Fridays until midnight. Then on Saturdays, probably around noon to midnight.

Bowen questioned the possibility of hosting weddings there. Vaughn stated there were no plans to host weddings there and Stuckert stated that wedding events would be outside the home occupation use.

Bowen questioned what the operations would entail. Clanging bottles, delivery trucks, stacks of boxes outside? Vaughn stated that he has adequate storage inside his outbuilding for materials and that he hauls his product in his personal truck. The only equipment he has is a pump, that can't be heard outside.

Bowen questioned if there were any smells. Vaughn asked Zaycosky to speak to that. Zaycosky stated that he didn't even know when he was manufacturing.

Stuckert stated that from the use standpoint, the manufacturing piece of this in the outbuilding, most fits the home occupation definition criteria.

There was discussion regarding how to address the foot traffic concerns. Vaughn stated he'd prefer to discourage traffic from the back end of the property but would be open to looking into other solutions.

Roush asked if there were any other existing examples of similar uses in the City. Taylor mentioned the Kava House and also commented on the zoning code being re-written soon. Mixed uses were discussed some more. There was question about where on the property the activities would be taking place. Vaughn stated that he intended for most activities were intended for the front of the property. He would be going back to the building, they have a back porch, but there would be no music or party atmosphere in the back. He may encourage people to walk back to see the apple trees.

Zaycosky spoke again. Alcohol was mentioned as being a factor. Taylor reiterated that the unruliness factors were not a zoning consideration. It was noted that if the approved tea room wanted to go through the processes to get a liquor license that they could continue their activity with liquor. Zaycosky stated that the neighborhood, right now is not mixed use. It is R1, and he prefers it that way.

There was more discussion about what a home occupation is. The definition was read. A winery is not specifically stated in the code, it isn't restricted either, it can be approved with conditions. Other uses have conditions for occupancy, number of receivers, etc, but this code just doesn't spell them out so the Board would need to set those conditions.

Zaycosky stated that there needed to be a set of criteria to judge the acceptableness of the activity when it came time to review it. Zaycosky didn't feel he had adequate answers to his concerns about the foot traffic, the frequency, or the disruptiveness.

Vaughn stated that things were still new and that's why he doesn't have all the answers. He will abide to any restrictions that apply.

Roush asked if there was any kind of written standard that states some guidelines about whether something is a residential use or a commercial use because it meets certain minimums. Stuckert stated that the Board would be the one to set what those limits are. When they go outside of that, then they're at a re-zoning meeting with Planning Commission and City Council.

Vaughn continued about how it was new and stated that he would be open to a shorter review time on the conditional use; 3 or 6 months.

There was discussion about the process of setting the conditions. It was stated that the Board would pick whatever conditions (or no conditions) that they would want to apply and would state all those conditions in the motion to be voted on.

A desire to go into executive session to discuss the conditions was expressed.

Holmer stated he would like to see the business be a success but also wants to be respectful of the contiguous property owners and that everyone can reach a decision accordingly.

Michelle Vaughn was sworn in. She stood and re-stated the desire for the business to operate low key, hours and occupants negotiable to whatever is acceptable for them to have a tasting room and distribute their products.

It was clarified that the reason there was a conditional use permit was because the home occupation use was outside the dwelling unit.

Michelle closed saying that they are looking for this to be a temporary location.

The Board discussed their deliberation and decided that would prefer to table the item tonight and come back for a special meeting to tailor the motion the way it should be written so that everyone is happy with it.

Stuckert stated he like the idea of having another meeting to allow a chance for more of the public to have input into the conditions. There was discussion about the Board's ability to collect information from the public and the creditability of the anonymous letter.

It was discussed that Jason would submit what his idea of acceptable conditions were and a site plan and that the Board could review that and think about what their conditions would be and come up with a motion to then vote on at the next regular meeting.

Holly Roush made a motion to table the discussion until a special meeting to be held on February 21st at 5pm. Holmer seconded the motion. All voted aye. Motion passes.

It was clarified that Jason could continue to do the home occupation use, just the home occupation activity outside the dwelling unit needed to wait.

In old business, Scott Holmer revisited the Brown Funeral Home and noted that they did install the parking bumpers in the lot, along the sidewalk.

The Rome Jewelers'/Everyday Chic Boutique sign was discussed and the Board was informed that the zoning code would be re-written this year.

Holmer made a motion to adjourn. Roush seconded. All voted yea. Motion carries. Meeting adjourned.

Chairman

Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
SPECIAL MEETING
February 21, 2017 5:00 PM

ATTENDANCE

MEMBERS PRESENT: Howard Bowen, Scott Holmer, Holly Roush, and Carl Zaycosky
MEMBERS ABSENT: None
ALSO PRESENT: Michelle Vaughn, 930 W. Truesdell Street; Brian Shidaker, Director of Public Service; Taylor Stuckert, Clinton County Regional Planning Director; Leilani Popp, 706 W. Truesdell Street; Michelle Horner, Clerk

The meeting was called to order by Chairperson Bowen.

Pledge of Allegiance

Holmer made a motion to approve the February 6, 2017 meeting minutes. Roush seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> **Continued discussion –**
> **Jason Vaughan, applicant, has applied for a Conditional Use permit. Applicant is requesting to use an outbuilding located at 930 W. Truesdell Street for a Home Occupation activity consisting of wine manufacturing and weekend wine tasting events. Subject property is located in the R1 – Single Family Residential district.**

Bowen swears in those wishing to speak.

Zaycosky recused himself from deliberations and voting.

Bowen asked if there was anything further the applicant would like to add since the last meeting.

Michelle Vaughn approached the podium. She reviewed the information packet that they submitted prior to the meeting, which included their business plan. She noted that they contacted surrounding businesses to get comparables to use for hours of operation and how many customers they should expect during the first year. She addressed the concern of setting a precedent; other residents rushing to set up home brewing businesses. She stated that the process to become a winery is long and involved. You

can't just up and open a winery; it takes work and commitment. She stated that they did not want to use the outbuilding for the business activities; they would be in the lower level of her home. All activities would be coming from the front of the house.

Bowen had a few questions. There was discussion about the parking lot. Bowen presented what a parking lot for 50 people and a business use would look like.

Taylor restated that this approval is for a home occupation use, not a commercial business activity. Providing any type of large, permanent parking area would start to blur that line between commercial and home occupation. The installation of a parking lot was discouraged.

There was item by item discussion about the number of people, hours, and when to come back and review the conditional use.

For the number of people, it was mentioned that stated limits for other uses are 3-5 and a prior granted conditional use for the tea room was 8 cars (approx. 40 people max). Michelle Vaughn estimates fifteen customers a day based on information gathered.

For the hours, Bowen asked about the peak hours of the others businesses they contacted and Vaughn stated they were from 4pm - 9pm. Bowen restated that this was only for wine tasting, no food would be provided. Vaughn affirmed. After discussion, the Board agreed on hours just slightly different from what the applicant presented.

Lastly, the Board came to an agreement about the length of time until the applicant would have to come back to review the conditional use permit. Applicant stated that the start date for the business will be March 20th.

The applicant asked about having a grand opening. Taylor Stuckert and Brian Shidaker replied that if it was a private grand opening, no sales of alcohol and no advertisement, it would be no different than having a party. The applicant needs to be mindful of blurring the lines between commercial and home occupation use though and remember that this will be up for review before the Board to determine if it can continue. It was suggested that the Board not condone a "grand opening" event by allowing a special exception for it.

Bowen asked if the compromises were acceptable to those in opposition and it was stated that they were.

Stuckert re-iterated that it would be best not to construct a new parking area to preserve the residential feel of the property. Michelle Vaughn stated they were going to do a driveway to the building in back and that their own parking already there is large enough to have a 30'x60' tent. It was decided that there probably was already adequate space for vehicles on the property (in front of the house and lining the driveway, if needed).

Scott Holmer made a motion approve the conditional use requesting to allow a home occupation activity consisting of wine making and distributing activities and wine tasting parties with the following conditions:

1. There can be no more than 5 vehicles (who belong to receivers of service from the business) at any one given time (note that the owner currently has 4 personal vehicles).

2. Hours for tasting events shall be limited to Fridays 6pm - 10pm and Saturdays 12pm - 10pm.

3. The conditional use shall expire January 8, 2018 (the regular January meeting date of the Board of Zoning Appeals). Applicant would need to make a new application for a conditional use to continue this activity beyond this date.

Holly Roush seconded. All voted aye. Motion passes.

Holmer made a motion to adjourn. Roush seconded. All voted yea. Motion carries. Meeting adjourned.

Howard Bowen/mb

Chairman

Michelle Horner

Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
SPECIAL MEETING
March 20, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Scott Holmer, Holly Roush, and Carl Zaycosky
MEMBERS ABSENT: Howard Bowen
ALSO PRESENT: Jim Shumate, CT Consultants; Lois Hock, 1091 Timber Glen Drive; Brian Gallagher, 63 Newham Street; David Raizk, CIC Wilmington; Joe Sodini, Hunters Properties; Michael Sodini, Hunters Properties; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Vice Chairperson Zaycosky.

Pledge of Allegiance

Holmer made a motion to approve the February 21, 2017 meeting minutes. Roush seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> **Jim Shumate (agent for BrightFarms), applicant, has applied for a Conditional Use permit. Applicant is requesting to construct a commercial greenhouse at 780 Davids Drive. Subject property is located in the I1 – Industrial District.**

Zaycosky swears in those wishing to speak.

Clerk reads staff report.

Jim Shumate acknowledged that the staff report explained how their project met all the required code items for their conditional use request. He stated that his company, CT Consultants, was the site engineer for the project. He provided information to the Board regarding BrightFarms, the company who will own and operate the facility. He explained why they oriented the building the way they did on the lot and the structure of the greenhouse itself. He told the Board that they have run their project by the FAA, due to the proximity to the airpark, and have their certificate to show that their proposal will not have an impact on the airpark.

Zaycosky asked for anyone wishing to speak in favor of the issue.

David Raizk replied. Mr. Raizk took to the podium. He is a member of CIC Wilmington, a non-profit organization whose purpose is to help promote job creation within Wilmington. CIC is the current owner of the land that is proposed to be developed. Mr. Raizk provided information about how this investment BrightFarms is proposing would be helpful for the community currently and in the future. He also pointed out that the Planning Commission recommended approval of the conditional use.

Zacosky asked if there were any other speakers for or against; finding none, he opened the discussion to the Board. The Board was satisfied with all the information presented.

Zaycosky commented that it appeared all the requirements for the conditional use have been satisfied.

Scott Holmer made a motion approve the conditional use request to allow a commercial greenhouse as presented. Holly Roush seconded. All voted aye. Motion passes.

Agenda Item #2-

> **Joseph Sodini is requesting permission to omit the sidewalk on the south side of lot 243, Section 5, in the Timber Glen subdivision. This is a variance to Section 1125.04 (e). Subject property is located in the R1 – Single Family district.**

Zaycosky swears in those wishing to speak.

Clerk reads staff report.

Joseph Sodini gave the history of how he came to own the subdivision and where things were, with street construction and so forth, at the point that he acquired it. He stated that there were a few promises made by the administration at that time, that the arraignment was to be to the benefit of him and the City. He states that now they are potentially doing some new roads and development, but there are still some old problems; one old problem being this lot that is essentially a retention pond. He stated that it will never be sold to be developed on its own and would never get a sidewalk. He proposes combining this undeveloped lot with the lot to the north (244) to create a larger building site. He could then sell that larger lot and it would get maintained.

He pointed out a possible safety concern should the sidewalk be required of the sidewalk adjacent to a retention pond and the dangers presented to children.

He introduced Lois Hock, who lives behind the lot in question. She has not problem with their not being a sidewalk here and stated that she is speaking for a lot of the

Timber Glen residents when she says that they are okay with the variance, as long as there's a sidewalk on one of the sides of the street.

Zaycosky asked for anyone else to speak for the variance request. Brian Gallagher answered. He is a registered surveyor in the City. He pointed out that much of the subdivision was developed without sidewalks already. He feels that making Joe provide a sidewalk would set a precedent to force all the other Timber Glen residents without sidewalks to provide them as well.

Zaycosky asked if there was anyone else there to speak against the request. There was not. He then turned it over to the Board for questions and discussion.

It was clarified that the request is to omit the sidewalk completely on lot 243. He would construct the sidewalk in front of the house on the current lot 244 (which will later be merged with this lot). The sidewalk would stop where the current boundary line is between lots 243 and 244.

There was discussion regarding how the subdivision was constructed with the sidewalks as they are. Scott Holmer explained how developers are usually required to be bonded.

Zaycosky then invited Sodini to speak more on how his case fit the conditions for variance that Taylor provided in his report. Through discussion with the Board, it was determined that Sodini's lot was unique in that it would not get developed without the variance do to the terrain (retention pond) and overhead utilities located here. The lot is not sell-able as it is. The condition is not self-created, because the condition was inherited and their are safety concerns should the sidewalk be provided.

Scott Holmer made a motion to approve the request for variance to allow the omission of a sidewalk from lot 244, Section Five, of the Timber Glen (as the currently plat map shows) based on discussion and information provided relative to the criteria that apply, which are: unique physical conditions, the site is not possible to develop in strict conformance to the regulations, is not self-created, and qualifies for the least variance needed for relief. Holly Roush seconded. All voted aye. Motion passes.

Holmer made a motion to adjourn. Roush seconded. All voted yea. Motion carries. Meeting adjourned.

Carl Zaycosky

Chairman

Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
REGULAR MEETING
APRIL 03, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Scott Holmer, Holly Roush, and Carl Zaycosky
MEMBERS ABSENT: Howard Bowen
ALSO PRESENT: Deon Fender, Abbott Image Solutions; Jim Williams, Dennis & Williams Co. LPA; Bill Liermann, City Council; Carrie Fairchild, Greater Tomorrow Health; Michael Dauss, Dauss Architects; Rachel Adkins, Wilmington Auto Center; David Adkins, Wilmington Auto Center; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Vice Chairperson Zaycosky.

Pledge of Allegiance

Holmer made a motion to approve the March 20, 2017 meeting minutes. Roush seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

Michael Dauss of Dauss Architects, applicant, has requested a variance to section 1167.04 (c)(5) of the sign regulations. Applicant is requesting to erect a projecting sign with an area of 27.1 sq. ft. Subject property is located at 1607 Rombach Avenue – Burger King.

Clerk reads staff report.

Zaycosky swears in those wishing to speak.

Michael Dauss with Dauss Architects, representing Burger King comes to the podium to present their application. He identifies the sign the sign on the building, explains that since it is not up against the building, it is a projecting sign. Per the City ordinance, projecting signs are only allowed to be 16 sq. ft. The channel letters are the same color and appearance to match the canopy and is the standard Burger King theme. The sign is proposed at 1'4" x 21'10".

He notes that the proposed sign does not alter the characteristics of the district, it would not impair adequate light or air to adjacent property or increase the hazard from fire,

flood, or other dangers. He hopes that we all agree that the remodel to the Burger King store is helping the value of the adjacent property. This sign does not face the public street; it is on the side elevation and does not impair the public safety or general welfare. He asks that we grant the variance to allow them to use the standard dimensions of the Burger King prototype.

Zaycosky asks if anyone from the audience wishes to comment in favor or in opposition to the variance request?

Unknown speaker comments that they think the new building looks great. There were no other public comments.

The Board deliberates on the matter. Scott Holmer clarifies the location of the proposed sign is facing Carrie Drive and that there will be no changes to the main ground sign out front.

Zaycosky asked Dauss to explain why the sign is integral to the design.

Dauss explains how the proportions of the canopy dictate the size of the sign. The sign needs to extend fully across the canopy.

Zaycosky asks if the structure would be affected by changing the size of the sign.

Dauss answered no.

Zaycosky states that he doesn't feel there has been a hardship presented and asked Dauss what the hardship was.

Dauss replied that it wasn't as much a hardship as it is just a desire of the restaurant to stay consistent with the prototype design across the country.

Scott Holmer made a motion approve the variance request to allow the 27.1 sq. ft. projecting sign as presented. Motion died without a second.

Holly Roush made a motion to deny the variance request to allow the 27.1 sq. ft. projecting sign as presented. Seconded by Zaycosky. Roush and Zaycosky voted yea. Holmer voted nay. Motion passes. Variance request was denied.

Agenda Item #2-

> **Abbott Image Solutions, applicant, has requested a variance to section 1167.05(a) of the sign regulations. Applicant is requesting to erect a ground sign at 5' from the side property line. Subject property is located at 2107 Rombach Avenue – Greater Tomorrow Health**

Clerk reads staff report.

Zaycosky swears in those wishing to speak.

Deon Fender with Abbott Image Solutions, representing his client, Greater Tomorrow Health comes to the podium to present their variance request. He states that the client wishes to install a ground sign to replace the existing sign. The new ground sign will be in the same location as the current ground sign. There is already electric there. The permit application for the new sign was denied because the code states that the sign must be 10' from an adjacent lot line, and it is only 5' from the lot line currently. It meets all the other requirements. Moving the sign an additional 5' to meet the requirements will mean that they will lose a parking space. There are currently only 6 parking spaces in the front of the business. The parking space that would be lost is the largest space and a handicap space. There have never been any issues with the sign in its current location. They are asking for your consideration for that.

Zaycosky asks if there is anyone to speak in favor of the sign. Carrie Fairchild, owner of Greater Tomorrow Health, comes to the podium. She explains how the business came to be, the importance of the sign and restates how losing the front parking space would negatively affect her patients.

Zaycosky asks if there is anyone to speak in opposition or if there were any other comments. There were not.

Zaycosky confirms that there are 10 more spaces in the back of the business. He states his concern for setting precedent in granting this request.

Holmer discusses the history of the property. He mentions that he understands Zaycosky's reservations regarding precedence but that he prefers to look at the requests on a case by case basis and is okay with the request being presented. The new sign will comply with all other provisions.

Fender commented that he didn't believe that this would necessarily set a precedence because every case will be reviewed and looked at separately.

Holmer made a motion to approve the variance request to allow the ground sign to be placed at 5' from the adjacent property line as presented. Roush seconded. Holmer and Roush voted yea. Zaycosky voted nay. Variance request passes.

Agenda Item #3-1.1-

David & John Adkins, applicants, have requested to appeal the decision to deny a proposed ground sign. Applicants request the sign permit application be evaluated under Section 1167.06 (ground signs for groups of businesses) ilo Section 1167.05 (ground signs for individual businesses).

The proposed sign would be located at 1780 Rombach Avenue – Wilmington Auto Center.

Clerk reads staff report.

Zaycosky swears in those wishing to speak.

David Adkins, owner Wilmington Auto Center, comes to the podium to present the application. They have purchased the Chrysler, Jeep, Ram franchise from Bill Marine and are moving those products to his location. The variance request is for the existing sign at the Bill Marine location. This sign will be moved and relocated to replace the existing sign at his business, in the same location. This current sign has a variance for its location, granted in 2008. He believes the new sign will look a lot better. Compared to signs around them, the Taco Bell sign has to be 50' tall. He's not sure how long it's been there, but it's really tall. It's comparable with the Chevrolet signs next door. In fact, his current variance for the location was based on the location of the signs next door.

Hardship-wise. It is a sign that they are required to have by Chrysler. They have a signed franchise agreement. We have four individual franchise agreements (which were distributed to the Board at the beginning of his presentation). Each individual franchise operates under their own name brands. Even though it is one building, we do have 4 separate (actually 5 because we sell pre-owned cars) and that's why we request that the application be reviewed under 1165.06 instead of 1165.05.

Zaycosky asks is there is anyone to speak in favor of this request.

With Adkins still at the podium, Jim Williams asked Adkins about the state of the business. Adkins replies that they are very busy. They have just hired 4 employees since acquiring the new franchise, bringing their current payroll to about 25. Williams asked Adkins to explain further the blueprint he's given with these franchise agreements. Adkins stated that when they execute these franchise agreements they have to adhere to certain things set forth by the franchisor. One of those things, is to make the building look like a Chevrolet, Jeep, Dodge, etc. retailer. They have required upgrades to make for branding. Williams re-stated that the proposed sign is an existing sign purchased from Bill Marine and asked what would happen should the request be denied. Adkins stated if the request was denied, they would have to either have the sign cut down which would be a substantial expense and then they would also have to be weary of parking cars around it because the bottom would only be 8' off of the ground. Adkins then mentioned that he purchased the lots next door for future expansion and that with the future bank and future Mexican restaurant being constructed down the road in the next year or two, that he would need the extra height on the sign so customers could locate him. [the second option as to what would happen if the request was denied was never stated]

Zaycosky asked if there was anyone who would like to speak for or in opposition. There was not. He opened it up for Board discussion.

Roush questioned if Adkins had separate profit & loss reports with these separate franchise agreements.

Adkins stated that he wasn't on the accounting side so he's not entirely sure but that he does know that those reports are submitted and that they do break out each brand. It is probably one piece of paper, but in that paper, they are split out.

Holmer stated his experience in working with car dealerships and his familiarity with the location and future development of that area.

Zaycosky states that he sees four independent brands there and that it's easy to correlate that to four independent businesses and that he believes he has established that the rules for groups of establishments should be used in this case.

Holmer made a motion to approve the appeal of the decision denying the ground sign. Roush seconded. All voted aye. The appeal is approved. Ground sign is approved as submitted in the original application for permit as it adheres to the rules for grounds signs for groups of establishments.

There was some discussion about the remaining agenda items.

The approval of the appeal nullified agenda item 3-1.2

Agenda Item #3-2.1-

David & John Adkins, applicants, have requested to appeal the decision to deny proposed wall signs. Applicants request the sign permit application be evaluated under Section 1167.04(c)(2) (wall signs for groups of businesses) ilo Section 1167.04(c)(1) (wall signs for individual businesses). The proposed signs would be located at 1780 Rombach Avenue – Wilmington Auto Center.

Brian Shidaker commented that since we have established that the business is a group of businesses that this item should be approved as it is along the same lines as the previous request but regarding the wall signs ilo of the ground sign.

Adkins presented the wall signs. He restated the franchise requirements to have each brand represented on the building.

There was discussion about the size of the signs. The total square footage of all the signs is greater than 5% of the wall area.

Roush asked if Bush had a variance for their signs. The clerk answered that they did not, but that their total was less than 5%.

There was discussion about the agenda item and it was clarified that item 3-2.1 is a request to evaluate the walls signs under the groups of businesses rules rather than the

individual establishments rules. Agenda item 3-2.2 is a variance request to allow the signage to exceed 5% of the wall area.

Holmer made a motion to approve the appeal of the decision denying the wall signs under Section 1167.04(c)(1). Roush seconded. All voted aye. The appeal is approved. The wall sign permits shall be evaluated under Section 1167.04(c)(2).

Agenda Item #3-2.2-

David & John Adkins, applicants, have requested a variance to Section 1167.04(c)(1) of the sign regulations. Applicants request to place four additional wall signs on the front building face.

Adkins restated the franchise requirements and that the franchisor provided the sign designs with no other options.

Roush asked what happens if Adkins is unable to meet the signage requirements as stated in the franchise agreement. Adkins stated that worst case scenario, they pull his franchise.

Zaycosky asked if the Wilmington Auto Center sign could be reduced. Adkins stated that they only had 2 sizes of lettering available and that they already had the smaller option selected.

Zaycosky asked about the sign vendor. Adkins stated that as a part of the franchise agreement, they could only use approved vendors. There is one approved sign vendor and they only provide the two sizes. They are required to use only the one vendor.

Rachel Adkins stated that it was true that there were only 2 sizes for the Wilmington Auto Center sign and that they do have the smaller one selected.

Roush asked for clarification on the wall sign calculation. It was determined that the building area would be divided equally to determine the allowable area of each of the signs.

Holmer made a motion to approve the placement of 5 wall signs with a total square footage of 144.51 (ilo the allowable 101.7 sq.ft.) on the front of Wilmington Auto Center, located at 1780 Rombach Avenue. Roush seconded. Holmer & Roush voted yea. Zaycosky voted nay. The variance request is approved.

Holmer made a motion to adjourn. Roush seconded. All voted yea. Motion carries. Meeting adjourned.

Chairman

6.5.17

Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
REGULAR MEETING
June 5, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Howard Bowen, Scott Holmer, Greg Law, and Carl Zaycosky
MEMBERS ABSENT: Holly Roush
ALSO PRESENT: Denise Stryker, Clinton County Homeless Shelter; Tom Matrka, Clinton County Homeless Shelter; Sandra Mongold, HealthSource of Ohio; Danny Mongold, HealthSource of Ohio; James Brossart, HealthSource of Ohio; Jessica Cooper, 479 Hannah Court; John Stanforth, Mayor; Taylor Stuckert, Clinton County Regional Planning Commission; Brett Rudduck, City Law Director; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Chairperson Bowen.

Pledge of Allegiance

Holmer made a motion to excuse absent member, Holly Roush. Law seconded. All voted yea. Motion carries.

Zaycosky made a motion to approve the April 3, 2017 meeting minutes. Holmer seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> **The Clinton County Homeless Shelter wishes to construct a parking lot at the rear of the home located at 382 W. Main Street. This is a continued discussion on a request for a variance to Section 1153.024(c) to exceed the maximum lot coverage allowed by the Planning and Zoning Code. They have also submitted new requests for variances to Sections 1165.05 (b1), 1165.05 (b2), 1165.05 (f) and 1165.05 (g) all in regards to the parking lot development requirements.**

Staff report was read. The staff report recommended approval of variances 1153.024(c) exceeding maximum lot coverage allowed, 1165.05(b)(1) access drive less than 20' wide, and 1165.05(b)(2)- access drive located less than 25' from adjacent property. Staff report recommended denial of requests for variance to Sections 1165.05(f) - 20' buffer between adjoining property and 1165.05(g) - tree requirements.

Bowen swears in those wishing to speak.

Tom Matrka reviewed the sizes of the parking area. All stalls are the minimum required dimensions to code. He clarified that there is some green space at the back and on the side of the parking lot existing. He proposed having triangular green spaces at the head of each diagonal parking space on the east side of the lot, to add some additional green space. Matrka noted that while they do not have one 20' access drive, they do have (1) 10' ingress and (1) 10' egress drive; vehicles to enter at 290 and exit at 382.

Law asked if there was any room on the south side of the lot to add buffer space.

Matrka explained that the parking plan layout was partially determined by the grade of the property and that the one spot in the rear could not be eliminated, but 1-2' of buffer could be gained. He noted that there was all back yard on the other side of the property line.

There was discussion regarding the fencing. New fencing will be installed on both the sides and rear of the lot (existing fence may remain).

Bowen presented a sketch to Matrka with possible added green space. There was discussion about the sketch.

These were questions about the drainage and the engineering. Matrka clarified that McCarty Engineers' calculations were based on the entire lot being paved and it was okay. Matrka calculated that each triangular buffer space by the parking spaces would provide approx. and additional 200 sq. ft. of green space.

Bowen asked if there was anyone to speak against the project. There was not.

The Board discussed the buffer space to be added in the triangular areas next to the parking spaces and possibly eliminating the last parking space at the rear of the lot.

The Board agreed that zero is not an acceptable buffer for the rear of the lot. Three feet on the east side with triangular areas and at least one foot on the south side. They will plant the required tree. Board feels there is no need to eliminate the parking space in the rear. Holmer commented that the water detention was adequate as is (with the parking space) according to the reports.

Zaycosky offered reasons for approving their requests: The hardship is parking area. The existing site cannot be developed to conform to the Code, but they have met the storm water requirements of the City. The driveway is existing and cannot physically be widened without detriment effect to the surrounding properties, nor do we really want it widened in this neighborhood.

There was mention that the drives should be signed properly for ingress and egress.

Zaycosky made a motion approve the variance requests to Sections 1153.024(c), to allow more than 50% lot coverage, 1165.05(b1), for the access drive to be less than 20' wide, and 1165.05(b2), for the access drive to be allowed to be located less than 25' from adjacent property.

"The testimony given indicates that such variance would enhance the already crowded parking situation in the neighborhood. The development site, which proceeded with City approval before, cannot be attained by conforming to the Code. All storm sewer run off issues have been adequately addressed by an engineering study and that it is impractical due to the layout of the adjacent lots to widen the driveway."

Holmer seconded the motion. All voted yea. Motions pass.

Law made a motion to accept the variance request to Section 1165.05(g), to allow applicant to omit required tree. Zaycosky seconded the motion. All voted nay. Motion fails, variance is denied.

Law made a motion to accept the variance request 1165.05(f), to allow less than 20' buffer strip at the east and south sides of the property as provided: applicant shall provide a 3' buffer strip on the east side, along with triangular green spaces at the head of the parking spaces on this side, and the applicant shall provide no less than 1' of buffer on the south side of the lot. Holmer seconded. All voted aye. Motion carries.

Agenda Item #2-

> **HealthSource of Ohio, applicant, is requesting a variance to Section 1165.05 (f) of the Planning and Zoning Code. Code requires a 20' buffer strip from Main St. to the proposed parking lot; applicant is requesting that the buffer be allowed to be reduced to 10'. Proposed parking lot expansion is located at 140 W. Main Street.**

Carl Zaycosky recused himself from the discussion as an adjacent property owner.

Staff report is read. Stuckert stated he could not identify any unique conditions in the application that would justify the need for the variance.

Bowen swears in those wishing to speak.

James Brossart stated there is no true hardship. He explained the history of the property and their growth. They have a tight parking situation as it is, acquiring the property next door and expanding their lot will help alleviate the parking problems. No one else on the street has a 20' buffer. All of the existing properties are at the property line or only back behind the property line by 10'-12'. He agrees with a landscape buffer of some size, but not 20' of buffer. He states that providing the 20' buffer will move his handicap parking spot further down the lot and he wants to keep them as close to the

door as possible. He states that in order to conform to the code, they will have to lose 2 spots.

Sandy Mongold, Board of Directors, HealthSource. Stated that they are growing and the office expansion will bring on another provider. Asking for any help the Board can give.

Carl Zaycosky spoke in favor of the project and commented that they are good neighbors to his office building.

Law made commentary that he did not believe it met the criteria to a degree deserving of a variance as it can be developed per the site conditions and it is not the least variance needed for relief.

Jessica Cooper, who lives behind them, offered to provide additional parking for them as a solution to the parking problem should the variance be denied.

Bowen suggested that it appeared the applicant would only lose 1 space, not 2, if the 20' buffer were provided.

Discussion was had regarding the future expansion project at this property and the possible need for an additional variance at that time. In light of the possible future need for a variance, the applicant asked for the matter to be tabled at this time.

Law made a motion to table agenda item #2. All voted aye. Motion carries.

No old business. Discussion was had on the next regular meeting date, July 3. We will probably move the meeting to be either a week prior or a week following.

Holmer made a motion to adjourn. Zaycosky seconded.

Chairman

7·10·17

Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
SPECIAL MEETING
July 10, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Howard Bowen, Scott Holmer, Holly Roush and Carl Zaycosky
MEMBERS ABSENT: Greg Law
ALSO PRESENT: David Haley, Ancient Roots LLC; Mike Frazier, Ahresty; Fadi Al-Ghawi, Ahresty; Nathan & Sarah Thirey, NT Contracting; Brett Rudduck, City Law Director; John Stanforth, Mayor; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Chairperson Bowen.

Pledge of Allegiance

Holmer made a motion to excuse absent member, Greg Law. Roush seconded. All voted yea. Motion carried.

Zaycosky made a motion to approve the June 5, 2017 meeting minutes. Holmer seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> ***Nathan & Sarah Thirey, applicants, have applied for a variance to Section 1151.026(b) of the Planning and Zoning Code. Applicants request to build a home with a front yard that will exceed the regulation. Proposed home will be located at 838 W. Main Street.***

Staff report was read. The staff report recommended approval of the variance.

Bowen swears in those wishing to speak.

Thirey presented his four reasons for the variance approval. He presented with visuals he had of the property. 1) They have a unique lot. The access to the back of the lot is truly only wide enough for a driveway. The regulations state that he would have to build his house in line with the others on Main Street. If he does that, if cuts off access to the majority of the land located in the back on the lot. 2) The setback regulation is ambiguous, in his opinion. It might mean that the setback has to match the setback, it might mean that the setback is a minimum. The regulation intent seems to be for there

to be continuity in the setback. Placing his house as he is requesting, back behind the others, will not hinder this goal because it will be out of view. 3) He didn't create this situation. The lot already existed in the unique shape. 4) If he builds in strict compliance (4) trees would need to be removed. He also states that there are future plans for a bike trail to the east of his property and if he were to build at the front of the lot, his house would be just 5' off the property line. He thinks it would be preferable that his house be farther away.

Bowen asked for any proponents or opponents of this request. There were none.

There were no questions from staff.

Bowen stated that is was a flag lot. The house being setback will not affect the aesthetics of the block.

Zaycosky stated he believed that a variance would be appropriate because there are no infringements on Section 1139.08.

Holmer made a motion approve the variance requests to Sections 1151.026(b) to approve the front yard setback as presented (approximately 350' from the Main Street right-of-way). Roush seconded the motion. All voted yea. Motion passed.

Agenda Item #2-

> ***Ancient Roots LLC, applicant, has applied for a Conditional Use permit. Applicant is requesting to build a commercial greenhouse. Subject property is located in the I1- Industrial District, on US 68 S. Parcel ID 290260110000000.***

Staff report is read. The staff report recommends approval of the conditional use permit but applicant will need to provide a photometric plan for site plan review.

Bowen swears in those wishing to speak.

David Haley presented his application to the Board. The property in question is 8.5 acres of a 65 acre parcel off of US 68 S. He presented the preliminary site plan. His company is 1 of 76 applicants for a level 2 medical marijuana cultivation license. There is a warehouse building, offices, break rooms, vegetative room and greenhouse. He presented pictures of the greenhouse and briefly discussed the operations.

Bowen asked if anyone wanted to speak in favor or opposed to the request.

Fadi Al-Ghawi stated he just wanted to know where it was happening, whether was adjacent to or across from Ahresty. He asked about how many employees would be

there. Haley stated they would be starting with eight. Once growing space allowed is increased under the law, he would expand.

Mike Frazier stated they were more concerned if it was next to their factory. Since it is across the street, they don't have any issues. They are happy to have more business in the community.

Bowen asked if there were any comments or questions from the Board.

Zaycosky questioned where in the process we were with the issuance of these cultivation licenses. Haley replied that all applications have been submitted. Initially, they said September would be when they would be ready to award the licenses based on the scores on the applications submitted. Now they say they don't really have it all lined up yet and it could be later than September. There will be 12 licenses awarded statewide.

Al-Ghawi asked about what type of security would be provided at the building. Haley responded that it would be significant. The security plan was a required part of their application. There will be a security fence, key card only access to the property, cameras, lights, and sensors around the building.

Holmer made a motion to approve the Conditional Use permit to construct a commercial greenhouse. Roush seconded. All voted aye. Motion carried.

Old Business. Healthsource decided to withdraw their variance application.

Holmer made a motion to accept the withdrawal. Roush seconded. All voted aye. Motion carried.

Zaycosky made a motion to adjourn. Roush seconded.

11/6/17
Chairman

11/6/17
Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
REGULAR MEETING
NOVEMBER 6, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Scott Holmer, Greg Law, Holly Roush and Carl Zaycosky
MEMBERS ABSENT: Howard Bowen
ALSO PRESENT: Justin Snyder, 24 Southwind Blvd.; Brett Rudduck, City Law Director; John Stanforth, Mayor; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Vice Chairperson Zaycosky.

Pledge of Allegiance

Holmer made a motion to excuse absent member, Howard Bowen. Law seconded. All voted yea. Motion carried.

Holmer made a motion to approve the July 10, 2017 meeting minutes. Roush seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> ***Justin Snyder, applicant, has applied for a variance to Section 1151.018 (c) of the Planning and Zoning Code. Applicant requests to construct a fence within the front yard adjacent to US 68 S. Subject property address is 24 Southwind Blvd.***

Staff report was read. The staff report recommended approval of the variance and suggested that the fence line follow the previous path.

Zaycosky swears in those wishing to speak.

Snyder presented case for the variance. He stated that the fence his is requesting to erect existed when he bought the property. He tore it down because it was in disrepair and was unaware that it was not in compliance. He explained that the fence line is a little different because the previous fence didn't have perfect 90 degree corners. He wishes to have to fence to provide some secure yard space from US 68. His backyard is very small; allowing some of the front yard on US 68 to be fenced will allow the space to be usable. He has dogs and will have kids in the future. It will be a 6' tall privacy fence.

Zaycosky asked what the speed limit was on that section of US 68. It is 50 MPH.

There was some discussion regarding the diagrams of the property submitted with the application to get a clearer idea of the project.

Holmer commented that the visited the property and confirmed his understanding of the request.

Law commented that the requested fence does not deter from any marketability; rather it would promote it.

Zaycosky commented that there were just a few properties that are R1 along that section of US 68 and understood the request. He also noted that the presence of a R1 along a thoroughfare by itself should not be sufficient criteria for variance approval.

There was discussion about the speed limit; that it is a factor for safety for this property.

The dimension of the fence was discussed. It will extend into the front yard adjacent to US 68 by 34' from the front yard building setback line.

Roush made a motion approve the variance requests to Sections 1151.018 (c) to approve the construction of a fence within the front yard adjacent to US Route 68 S as proposed on the application. Holmer seconded the motion. All voted yea. Motion passed.

There was no old business.

Holmer made a motion to adjourn. Zaycosky seconded.

12/4/17
Vice Chairman

Michael Heen 12/4/17
Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
REGULAR MEETING
DECEMBER 4, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Scott Holmer, Greg Law, and Carl Zaycosky
MEMBERS ABSENT: Howard Bowen and Holly Roush
ALSO PRESENT: Ray Sarkees, 366 N. Mulberry Street; Joe Holdren, 366 N. Mulberry Street; Natalie Furnish (Hastings), 346 N. Mulberry Street; Jason & Michelle Vaughn 930 W. Truesdell Street; illegible signature, 307 Leyland Park Drive; Mark McKay, 1186 Sylvan Drive; Jonathan McKay, City Council; Paul Fear, 527 Randolph Street; Brett Rudduck, City Law Director; Taylor Stuckert, Clinton County Regional Planning Commission; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Vice Chairperson Zaycosky.

Pledge of Allegiance

Holmer made a motion to excuse absent members, Howard Bowen and Holly Roush. Law seconded. All voted yea. Motion carried.

Law made a motion to approve the November 6, 2017 meeting minutes. Holmer seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> ***Jason & Michelle Vaughn, applicants, have applied to appear before the Board of Zoning Appeals to request the extension of a conditional use permit for TinCap Cider. The permit is set to expire at the end of the year. The conditional use is located at 930 W. Truesdell Street.***

Due to there being 2 absent members and the need for Zaycosky to recuse himself from voting on this item, there is no quorum for this matter.

Members discussed holding a special meeting in two weeks. Clerk will contact other members and confirm meeting date.

Agenda Item #2-

Ray Sarkees, applicant, has requested a variance to Section 1151.046(g) of the Planning & Zoning Code. Applicant proposes to build a deck that will encroach into the required rear yard setback. Proposed deck is located at 366 N. Mulberry Street.

Staff report was read. The staff report recommended denying approval of the variance unless other compelling evidence was presented during the meeting.

Zaycosky swears in those wishing to speak.

Ray Sarkees presented case for the variance. Ray stated that he purchased this property as an investment property. He states that the backyard is not usable as it is. He states that he'd like to provide a deck so that there would be space for entertaining.

Ray presented pictures of the property and then turned the podium to his contractor, Joe Holdren.

Holdren explained the layout of the house and the deck that they would like to build. He stated that there was a screened in porch on the rear that was torn off but that the porch roof remains. The previous construction needed to be ripped out. They want to replace the screened in area with just a deck to come out far enough to support the existing porch roof.

Zaycosky asked for any public comments.

Natalie Furnish (Hastings), neighbor, inquired about the height of the deck. She wanted to know if you would be able to see over the existing fence between the properties when standing on the deck.

Response was that the replacement deck would be at the same level as the previous floor and there would be no change in height.

There was discussion about if the deck could be reconfigured at all. Holdren explained that their proposal is what is needed in order to support the porch roof.

Law stated he believe the request met the 1st three requirements for a variance but had a question with the last item; that it was the least variance needed for relief. He proposed that the deck only be in the notched out section at the rear of the house. Through discussion, it was determined that this is not possible because there is no access form the house to the deck should it be located there.

There was further discussion about the porch roof. It is temporarily supported as it is. The porch roof would extend farther than the deck to provide an overhang. Dropping the height of the deck was discussed to address Natalie's concern. With the deck at the

same level, you can see over the fence. The applicant agreed that (1) step down could be provided to reduce the visibility issue.

Holmer commented on the history of the property and how the house would not be allowed to be built on this lot as it is today.

Zaycosky commented on the four criteria needed for a variance and did not believe that criteria 1 and 4 were met because the applicant knew the condition of the property when he purchased it and that a lawn with pavers or a patio could be provided instead of the deck.

The contractor stated that it would be a difficult task to get the concrete behind the house.

Law made a motion approve the variance requests to Sections 1151.046(g) to approve the construction of the deck as presented in the application on the condition that the deck is lowered by a step as discussed. Holmer seconded the motion. Law and Holmer voted yea. Zaycosky voted nay. Motion passed.

There was no old business.

Holmer made a motion to adjourn. Law seconded.

12/18/17
Chairman

12/18/17
Clerk

CITY OF WILMINGTON
BOARD OF ZONING APPEALS
SPECIAL MEETING
DECEMBER 18, 2017 7:00 PM

ATTENDANCE

MEMBERS PRESENT: Scott Holmer, Greg Law, Holly Roush and Carl Zaycosky
MEMBERS ABSENT: Howard Bowen
ALSO PRESENT: Jack & Pat Creditt, 506 Linkhart Road; Larry Reinsmith, 972 Hickory Trail Drive; Josh Fisher, 571 Westwynd Circle; Jason & Michelle Vaughn 930 W. Truesdell Street; Mark McKay, 1186 Sylvan Drive; Jonathan McKay, City Council; John Stanforth, Mayor; Brian Shidaker, Director of Public Service; Michelle Horner, Clerk

The meeting was called to order by Vice Chairperson Zaycosky.

Pledge of Allegiance

Law made a motion to excuse absent member, Howard Bowen. Holmer seconded. All voted yea. Motion carried.

Law made a motion to approve the December 4, 2017 meeting minutes. Holmer seconded. All voted yea. The minutes were approved as presented.

Agenda Item #1-

> ***Jason & Michelle Vaughn, applicants, have applied to appear before the Board of Zoning Appeals to request the extension of a conditional use permit for TinCap Cider. The permit is set to expire at the end of the year. The conditional use is located at 930 W. Truesdell Street.***

Zaycosky recused himself from the discussion as he is an adjacent neighbor wishing to testify. At this time, Holmer took over chairperson duties.

Clerk read the staff report provided by Taylor Stuckert of the Clinton County Regional Planning Commission

Holmer swears in those wishing to speak and then opens the floor to the applicants Jason & Michelle Vaughn.

Jason Vaughn: Thanks for meeting again, special meeting and thanks for allowing the 1st conditional use. We started this as a home business and it's worked really well.

We are doing quite a usual business. It's a business that's good for Wilmington though. We're getting a lot of customers from out of town and we're building a customer base.

Any of you guys that have started a business, know that it does take time to start a business. More than six months to start a business. We do appreciate that six months and we've worked hard during that six months. We've built a good customer base and we're still continuing to build that.

We know, we have no intention to stay at this residence, or keeping TinCap, at this location. We have been looking hard for a place to move to. Trying to stay right in the Wilmington area. We've looked at numerous places. We've looked at buildings across from the Murphy Theater, farms out on Ireland Road, we looked at the Wilmington News Journal building. We've looked at another one on Sugartree Street; two of them on Sugartree Tree. We're working on, I'm working with a bank on Wednesday, I'm meeting with the bank to draw up an appraisal for another business property here in town. We are trying hard. You probably know, getting a business loan for a business, they often want to see 1 year of sales and you guys know very well that we've only been open since June. The bank says on a loan, it's hard for us to even do that. We are looking very hard.

I feel that we have been good to the community and I don't think that we've been a nuisance. I had some other things written here, but that seems to be the main things that we're concerned about.

As far as the parking, I did talk to Taylor about that and I wish he would come out and look at that. That was something that we were going to build and do just as home owners. We have a building on the side of our property, but no access to it. We made access going from the back of our yard but it is a garage and we do drive our cars back there frequently and so we had planned on doing that before TinCap; putting in a driveway. It looks very nice. It's increased the value to the land and the home. It's much nicer than a muddy drive for anyone that was wanting to purchase it and even better for the streets. We won't drag mud out into the street. I understand that he doesn't want, wants to keep the parking but that's a null point because that was an improvement to the property as a residential, not even as a business.

Law: Can you give any more specifics as to, looking at the staff report here, they want to know the good faith effort you're bringing. It sounds like you are making that effort but in terms of something specific...you met with the owners of the businesses or the City or whoever owns this, you are obviously taking care of the loan situation, so give us a time frame. You've been in operation for six months, the conditional use was for a year, but you've been in operation for six months. What kind of time frame are you thinking about?

Jason Vaughn: We were hoping for a year extension. We do not plan on being there that long. With this type of business, it's not like any other business, where you can just put a sign up and just transfer and open. With a winery or any brewery business, we are subject to having any place that we do purchase, we have to get back on the waiting list

to get our license transferred over. That can take up to a six-month period. So, we're just sitting there, we can't actually open.

Michelle Vaughn: Not to mention when we find the place, the actual renovation, getting it to pass the inspections that we need to pass to operate a winery in another location. We had to do certain modifications to our own home in order to pass certain inspections for the distribution area, so we'll have to do those same type of modifications and of course there's a bunch of other modifications we'd have to do due to it being in the city, if we bought a building in the city.

Law: Would you plan for any additional or ongoing service out of your residence once you would make the move? Would anything continue to be happening there?

Jason Vaughn: No. That's not the plan. The type of license that we have, everything has to be onsite. Manufacturing, production..

Law: So that would all be out?

Jason Vaughn: Yes. Everything would be out.

Law: So it would retain, go back to a full-fledged residential use?

Jason Vaughn: I mean we did plant apple trees. Those are staying. So, we have an orchard, but I don't think that hurts the value of the home by any means.

Law: So, you're seeking a year extension?

Jason Vaughn: A year extension is what we're looking at. Truthfully, as the business owner, I'm also the one making the wine, making the cider, home setup is not ideal. It's not ideal for me, it's not ideal even for our customer base. The only thing that it has been ideal for is to get a business startup. It's a startup place and we're happy we could do that.

Law: I would imagine that if business does, were to get bigger you are limited as to how you can grow.

Jason Vaughn: Yes. We're limited not only with just with patrons, but my tanks, my kegs, just everything. We are limited completely on size.

Michelle Vaughn: We are limited on space to even do production for distribution there, so we are definitely seeking a permanent location to get that going even further than it is now.

Law: Are you able to share some of the locations you're looking at specifically?

Jason Vaughn: Yeah, some of the ones we have looked at, Wilmington News Journal was one of them. The previous Wilmington News Journal; that's been purchased. That

was one that we weren't prepared financially yet. We have looked at the Quality Tee Shirt Place. We have looked at that and we may look at that again. The one that we are looking at right now is a city owned property. That is coming up for auction, came up for auction today. It goes off on January 23rd. It was formally known as the Rainbow Village. That's on Columbus Street. All those properties, they had pluses and minuses for sure. That's the problem with our business, is pretty unique, being a winery, you have to have, not only are we conforming to the city and the zoning, we are conforming to the federal and the state regulations. I have to be accountable for all of those. We looked at several places up town, we would love to be on Main Street but most of places there have wooden floors and those floors would not support the weight of our tanks.

Michelle Vaughn: We also looked at some properties outside of the city. Within Clinton County, within ten minutes. A couple farms on Ireland Road, Worthington Road. We looked at a horse farm, a farm across the street from the horse farm, and then we looked at the Worthington property, out behind the big horse arena.

Jason Vaughn: We've been working with local businessmen and the city. I think the City feels we're good for them and we're trying to work with them to keep us here. It's just a product that I think really marries well with Wilmington, I do. Being a farming community and wine. People want a product that's close to home and know where it's made and that's something that we can offer.

Law: Have you had phone calls, complaints, to the house?

Jason Vaughn: We had one complaint. A police officer showed up one evening and said that they needed to count cars. There was no traffic really ...the police have been there a couple times and said that he really enjoys our establishment, never gets any complaints from there. There have not been any traffic complaints. There have not been any more accidents, any more DUI's, no more anything like that. He says it's a positive thing on the community.

But that one time where we did have the complaint, a police officer did come out and count cars because we were over the limit, over the five.

Law: You were over the number?

Jason Vaughn: Yeah.

Law: So what happened? Did he leave?

Jason Vaughn: Nothing at that point. Yeah, they just counted cars and they left after that.

Law: Okay.

Mark McKay: What's the limit you're required to keep?

Jason Vaughn: Five. Even as a homeowner, holiday season right now, if I didn't have TinCap, I would probably have easily fifteen cars there for family and everything. Having two teenage boys that are driving now and friends. That was one of the reasons I purchased this property because you can't see the cars from the property, unless you are really looking and trying to slow down to look. You can't do that because we have a unique property. It sits off the road, the parking is off the road, and if you're going out that slow to check out the property, thank you.

Holmer: Thanks Jason. At this time, do we have any public comments from those who are proponents of this?

Carl Zaycosky: I'd just like to say in favor of extending this for another year. I, as some of the Board members know, I had some reservations about this at the beginning of the year. None of those have come to pass. The noise has not been an issue. The ingress and egress all takes place on Truesdell. Nothing comes through the subdivision. I think that Jason and Michelle have done a diligent effort to make the place to look nice, to look inviting. Quite honestly adding to the neighborhood. I think they've been forthright in their effort to find a place.

I can appreciate the idea of starting a business and being on site. In June of 1989, I bought my business, the building where my practice has been for the last 28 years, and it was being there for the first couple years, right above the thing, right there with it, though there does come a time to leave too. Anyway, I would just like to give a thumbs up to this and I think that a year extension is more than reasonable.

John Stanforth: On behalf of the City, I want to be very selfish. I want to keep them in our community. I think they have an outstanding product and I think they are a real asset to us. I think, I don't want to criticize the Board for giving them a year, you had to give them some time period. I think you've given them an opportunity to realize, we have a successful business here. Now what they have to decide are we going to move to the next step. Which they have decided, they are going to. So, I think six months is way too short of a time period to find out is a business going to be viable, and then are we going to move on to the next step; find someplace to move to.

I also had an experience in North Carolina. The very first man to start a microbrewery in North Carolina, first of all, he had to go get the laws changed. Microbreweries were not allowed in North Carolina at that time. One of the compromises was that he would setup in downtown North Carolina, and he did. Two years later, the floors rotted out, and his large stainless-steel vats fell down into the crawl space because wood floors and breweries or wineries don't work.

There's a lot of water and of course everything has to be spotlessly clean. So that limits what they can do in our downtown area, the historic downtown. It's got to be a building where there's a slab to do that. The one on Columbus Street would work very well for them and I think, in hindsight, probably the parking should have been a little more generous than it was. I realize again, that you got to put a number on it, but boy as successful as it has become, I think that they need a few more parking spaces too.

They're not always in violation, their customers have learned, we try to carpool when we go there, so you don't show up as an individual taking up one car spot, but I don't have any friends, so I always have to come on my own.

Sure would like the folks to stay for another year. I would say in ending, I'd make that a hard year. We've giving a variance, the first time, we'll extend it another year, but don't come back and ask for a third. It's time to move on, make this a real business.

Mark McKay: I'm a fairly close neighbor, as most of you know, to the TinCap. I'm within walking distance so I don't have to take a car space and with the new sidewalk that the city has put along Truesdell. That's really helped, I'm sure some of the folks with foot traffic along there. I became acquainted with these folks a few months ago and I don't really see anything but good.

I'm a very strong proponent of small business in Wilmington, in the downtown. If they can't be in the downtown specifically, I sure want them to be in Wilmington if possible. They're good people. They both are professionals. They both work around the community and I just think they got something we need to help them to continue. They got a very good product. I hope you'll work with them.

Jonathan McKay: Like Mark and John, I'm a huge proponent of small business. They are doing a really good thing for our community. They are bringing people from outside the community, into the community. They care a lot about Wilmington, they care a lot about Clinton County. They became a member of the Chamber of Commerce, which I am a Board member of, and that was much appreciated. They want to make Wilmington stronger and they want to be friendly to you when you walk in and that's a huge thing in a small business. We should support that as a community because they're here to support Wilmington.

It is very unique. There's very few cider companies in our state and they are getting recognition from that. That's a really neat thing. We can say "Hey, we got TinCap Cider" and as they expand and move more south or more north with their product; as their product expands, we're going to get notoriety for that and they should be given a chance.

Holmer: Any other public comments? Any public comments from opponents of this business?

Larry Reinsmith: Well, I been thinking about this a little bit, I drive by and see it all the time. It makes my mind go crazy trying to figure out how it ever happened.

[Reinsmith hands out packet to Board members]

I like the business, I think it's great. I'm for small business, that's not a problem. But, I've worked with the City for many years. I helped write some of these zoning codes and I have a real problem how this happened because we have a single-family zone there R1, which is our most strictest zone in the City, and we're allowing a business to operate.

We have problems like this around the City. People wanting to put garages in, we fight them all the time, and yet, we turn our head on this and we do it under the guise of a home occupancy. But really, if you read the home occupancy definition, it is something..they make note like if someone wants to babysit in their home, that does taxes, or sells real estate something that doesn't cause a lot of flow of traffic or that disturbs the neighborhood.

Even if you look in the parking restrictions, when you do a home occupancy, they require only one more parking place because they don't anticipate, even with a daycare, they say no more than 5 people at a time being served there. Other people, three people being serviced at a time. I know a few years ago, we had another law director, he kind of went through this, and basically, he was saying that the Board of Zoning Appeals does not have the power to basically change the use of a property. You can grant conditional uses, you can grant variances, but basically you can't change the use of a property. That really is the job of Planning Commission and City Council. When they go through those processes, there is site reviews and plan reviews, and as look at this and go through the code, there's so many infractions, it's unbelievable.

The parking, the means of egress, the drive, it calls for anything more than four cars to require a 20' wide driveway. It requires a well-lit driveway coming out on Truesdell. It requires probably 600 or 700' of safe site distance and when you come out of there and look to the left, we have only about 400' of site distance there. All of these things are in the code and I can just see someone coming out of there drunk some night and someone coming flying over that hill and it's going to be an ugly mess.

I saw Taylor one day and I said, and this is what kind of got me going, I said "Taylor, how did this happen?" and he said well, it was kind of this, kind of that, and then he went on to say "Well, there's a spot zone there". And I go "What?" And he goes "one little parcel there is zoned business". I don't think so Taylor. I been doing this a long time, so I have a copy of the zoning map in there and you can see, there is no spot zoning there.

The ordinance book also requires that BZA or Planning Commission, all of you, review the comprehensive plan and see if that kind of stuff would fit in that area and I've attached a copy of that comprehensive plan map. It shows nothing in the future for business; it's all residential and it's going to stay that way.

It covers the parking lot itself, what's required for the parking lot, the spacings. It talks about required lighting for that parking lot. Right now, you can see the light in exhibit B. They have a light that shines out, to the street, and if you look over at it, it'll blind you. So, you're coming down that street when it's totally dark, light shines in your face and you're blinded momentarily. I think I closed out saying, if someone gets smashed out there, they've going to do some checking and they are going to ask how you justify doing this. Especially without all those improvements being made if you're going to allow this business in there. I just want my comments, Michelle, I want my comments entered into the record. That's all I got to say.

Patti Creditt: I have a home, my mom's home, that backs their property, or fronts it, whatever, it joins it and honestly, I don't know a lot about the zoning and what's going on. I'm here because I just want to state that I do notice the bright lights. I've noticed a lot of cars. The other thing that concerns me, I was contacted when they first wanted to do this business and I didn't come to the meeting because it was explained to me that it would be in there little detached, I don't what you call it, but in the detached garage, they would have wine tasting or whatever, inside that building. Well, as we all know, we live out by Robert's Arena, so we drive 730 every day. That business, that little part in the detached, has extended. I mean they have tables and lights. They're two or three car garage, whatever it is, that's under the house, has all kinds of activity there. Obviously because their business has grown, which is great...

Jason Vaughn: That's not because the business has grown. That's where it was originally.

Creditt: Okay, well my understanding was that it was supposed to be done in a little detached garage and that's where it would be but, it's everywhere on the property now. When you go by there and they're busy, it's everywhere. They have tables and lights, so that concerns me. Only because that's not the intended use was, I thought. I thought it was supposed to be smaller and that they were going to look for other properties. I think it's great. I mean I'm not, you all know me, I'm not into drinking so I don't support a drinking business but that's neither here nor there. That's their choice in a business and that's okay.

I just wonder, the City places, I think there are so many City places that they could put their business that would be beneficial to the City and I'm wondering in the construction of it, couldn't they pour concrete instead of the wood floor? Could there be some sort of support? I don't know, I'm not a construction person. My husband is, I'm not but I feel like right now, for them, it's easy, it's cheaper to stay where they are. But, I look around and I see a lot of empty buildings and I just wonder why the process of moving their business couldn't be accelerated even if it was temporary; 5-10 years, then they do something else. I do feel like they turned that nice, residential property, into kind of an eyesore. That's pretty much all I have to say, thank you.

Josh Fisher: I was a tenant in Pat and Jack's property over the last four years. When this business came in, I had called Patti and asked her a little bit of detail on it. I called the church to see if they were notified and they were. Some of the arguments over the business was the noise and I can tell you from where I lived it was very noisy at times, not all the time but most of the time on Saturday night, when it's nice out. You can no longer sit on your back porch with it being quiet. That's why I chose the place that I chose when I got in touch with Jack and Pat looking for a property. So, I was a renter and we could no longer sit on our patio, with our kids. Our kids came into the house one day "Mommy, Daddy what's going on out there?". Not fighting, or nothing like that, just the overall noise carrying right through the woods. So, there was some noise issues there.

I did a few times call the City and I asked a few people who to complain to, who to address my attention to. I asked Mr. Shidaker at one point. He directed me to Bret Rudduck, which never returned my call. I don't know who I'm supposed to call. I did call the police that one night. That was me because I knew after I'd talked to her, that she had told us how many cars were allowed there. My concern was the noise. Like I said, I liked to sit on my back patio. I've since moved. I'm not going to listen to it. Which is sad. I had to uproot my family because I was in a quiet spot and now I have to move. So, I ask you guys to take a hard look at the noise for whoever lives in that area. It's not intended for a business.

You got North South Street Wine Cellar up here. They didn't start their business in a home. They started right where they're at. So, take a look at that if you will too. A business can start somewhere, it just might be a little tough like it is on everybody.

Also, I called the City a few times and nobody could seem to say who was supposed to check up on them when they had too many cars. Nobody knew. So, if you are to grant their conditional use, even me being gone, I'm just concerned. Who do the City put in charge of this? So, Saturday night at eleven o'clock and there's thirty cars sitting in their drive. I know I've drove by and seen twenty cars, several times and nothing is done about it. So, I'm asking you guys somewhere, put out a statement or something saying, here's who you call if you have a complaint because nobody knew. Nobody took care of nothing, just let them go. That's my opinion. What I seen as a neighbor and I drive through there quite a bit. Not saying you guys got a bad business. You guys got a great business but it's not a business where it's at. It shouldn't be there. Thank you.

Reinsmith: I got a couple more comments. To follow up on what Josh, the code also states that even under B1 & B1a zoning, all the business and the noise, is to stay within the confines of the structure so, you're not supposed to have anything outside the business going on.

Secondly, the code also says that you're not supposed to back out of that driveway onto the street and we've come up on two different ladies doing that. That's pretty dangerous with that hill like that.

Thirdly, they do get a little tipsy coming out of there. About three weekends ago, it was about ten o'clock, we had a knock at the door and there was some girl there. She was probably about thirty years old, she pretty well drunk. She goes "are you so n so?..." and we go, "no". My wife knew where these people lived so she goes "no, they live on up the street" and she had to hold her hand and walk her up the street to the house. She was kinda laughing, kinda crying. You know how they get, but, so they do get a little tipsy.

Jason Vaughn: Well, she was at TinCap?

Reinsmith: Yeah, she said she was. She had walked through the houses. You know Joe Holliday?

Michelle Vaughn: They came to our establishment tipsy.

[Some indiscernable chatter]

Jason Vaughn: What I'd like to say against that, luckily for you guys, us having a business there, you have a lot more say-so. Because me, as a homeowner, I can still have as many cars there. I can still be louder and I can do it Monday through Friday, Saturday and Sunday. You have more control over us being a business then a homeowner.

Reinsmith: That's true but, it's the law. You probably impact the neighborhood a lot more than, I know there was a lady that tried to put a little shop in down on South South Street and you guys turned her down and she would have hardly had any impact on that neighborhood. Corner of South and Doan, that little house there. She wanted to have a little gift shop there and she was turned down by you so.

Jason Vaughn: Our clientele, that's not the business that we're in. We're not there to serve people drinks to get people drunk. That's exactly what we're not about. You've probably not been to many wineries or many breweries, obviously not in this town, but outside town....that's not..that's a bar. We're not a bar. Don't even want to be associated with a bar.

Reinsmith: What are you?

Jason Vaughn: We are a winery. A cidery.

Reinsmith: Well, you know, I was kind of trying to figure out what you were and, I mean you have a bar, and you have glasses, and you serve up on a bar

Jason Vaughn: No, that's a tasting room.

Reinsmith: No, I've seen your bar.

Michelle Vaughn: More like a winery. A licensed winery.

Reinsmith: I know, but you have a bar in that house.

Jason Vaughn: No we're not. That's whole different licensing.

Reinsmith: But it's in there.

Michelle Vaughn: Well you have to have a place to serve. You don't want people to stand up.

Reinsmith: It's a bar!

Law: Well it's a physical structure, but how many people have bars in their houses? All over the City.

Jason Vaughn: You can't control {inaudible}. I mean technically, a kitchen counter can be..

Reinsmith: Do you have a food service license?

Jason Vaughn: No, we are not a food service industry.

Reinsmith: Okay, but you have glassware.

Jason Vaughn: Yes.

Reinsmith: How do you sanitize it? And who governs that?

Jason Vaughn: You're welcome to check out...

Reinsmith: No, no, no I'm just asking the question.

Jason Vaughn: We're governed by the State of Ohio.

Reinsmith: Yeah, but I've had four bars and every one of them required a three compartment sink and ...

Jason Vaughn: We have that.

Reinsmith: And the Health Department inspects it.

Jason Vaughn: Yes, sir.

Law: So that's the Health Department's responsibility to inspect it, not him.

Reinsmith: I'm just asking.

Law: I know, but it's the Health Department's job to do that.

[multiple speakers, inaudible]

Reinsmith: The thing is, is that if they were to go through that step, then they would have to get that done before they could get their Certificate of Occupancy. Have you went through that, and got that?

Jason Vaughn: Of course, we're licensed by the State of Ohio.

Reinsmith: No, no. I'm talking about the Building Department.

Law: If I may ask, were these questions asked a year ago?

Reinsmith: I didn't know anything about it.

Law: It is a public meeting so, were these questions asked a year ago?

Reinsmith: I'm asking them now, Greg.

Law: But where were you a year ago?

Reinsmith: Who the hell knows?

Fisher: Yeah, we didn't know.

Law: These same questions should have been asked a year ago. Should they not?

Holmer: Let me...

Reinsmith: No.

Law: Why not?

Reinsmith: I might not have been in this county a year ago, Greg.

Holmer: So, Jason

Reinsmith: I mean, what kind of question is that?

Holmer: Okay.

Law: What kind of question is what?

Reinsmith: Why didn't you ask it a year ago?

Law: Why didn't you ask it a year ago?

Reinsmith: Why didn't you ask that question a year ago?

Law: I wasn't on this Board.

Reinsmith: You were on the Board.

Law: No, I wasn't. I came on this Board four months ago.

Holmer: So, at this time, Jason and Michelle, any other comments with respect to the comments that have been made both for and against?

Jason Vaughn: I have to talk about the eyesore. I do not feel that our property is an eyesore. I wouldn't think that anyone else would say that. I think that we've done improvements ever since I bought that property. I've definitely improved that property since I've been there and will continue to do that. Definitely have increased that property value since day one when I moved in there.

Michelle Vaughn: The outbuilding situation behind our home, that was a misunderstanding in the paperwork. That was the intent to have it out there and that was addressed at the first meeting, so.

Jason Vaughn: We are not trying to stay here. We're trying to move forward. We're not trying to upset the neighbors. I know that you guys don't even live in that property next to us [in reference to the Creditts]. You rent that out. We're not trying to upset people. I know that the noise level, noise can travel. We are not being a nuisance. No more than the tractor pulls. I can hear..

Fisher: That's your opinion. I've got one thing to say, if I can add real quick. I don't want to argue. But if I lived up on my property and had a live band there, where I live, I'm sure I would get complaints. So, out of respect for my fellow neighbors, I just don't do it. I'm a partier. I'm a party animal. I'm a tell you that right now. I had the perfect place when I was renting, to have live music and I thought about it but out of respect for my neighbors, I will not do it. Would not do it. And that's what it's about, it's about respect. That's what you guys need to look at hard.

Holly Roush: So when we originally granted the variance, one of the conditions was a ten pm cut off time. So, were the noise complaints, and other things happening past ten pm?

Jason Vaughn: We did have live music there one time and that was shut down before ten.

Michelle Vaughn: It was shut down at nine.

Jason Vaughn: Because of that, we're trying...

Michelle Vaughn: The answer is no, we've not had anything outside of our hours of operation.

Jason Vaughn: The music I have, I have something I bought at Big Lots, a little outdoor speaker. It's not one of those big ones by any means. It's one of those little ones that I put out. As far as someone backing out of our property, I'm sure that wasn't during our opening hours.

Reinsmith: Yeah it was. It was really crazy. We couldn't believe she was doing it.

Law: If you look at the minutes of this Board, of which I was not a member of, on Feb. 6 of 2017, Taylor Stuckert made it pretty clear to this Board that noise was out of our

jurisdiction. The noise level is not to be a basis of our concern. I agree with you in terms of respect. I just want to keep it very clear...

Fisher: That brings me back to...I'll bring it up one more time. Whose authority is it? The parking, the noise. Who do you go to?

Law: I'm going to have to divert. What's the City, whatever recommendation this Board comes up with, whose responsibility is it to enforce it?

Brian Shidaker: I don't want to speak as the Law Director, but noise is Police and parking is Code Enforcement. That'd be Mark Wiswell.

Reinsmith: But Brian, we've talked to Mark about that and when do we have the problems? It's on a Friday night or Saturday night.

Shidaker: And they have thirty days to correct it.

Reinsmith: Mark's not working on a Friday or Saturday night.

Shidaker: He has looked at it on Friday and Saturday nights.

Reinsmith: And he seen the cars?

Shidaker: But the thing is, they have thirty days to correct that as far as code. You see what I'm saying? It's always going to be corrected. It would be a never-ending.

Reinsmith: So, it's going to be nuisance then? That's what you're saying.

Law: Is there any kind of established...is there a one, two, three? I mean is there a number of violations, I mean?

Shidaker: Thirty days to correct. When you have a zoning violation, there's thirty days to correct.

Jason Vaughn: As far as the parking, we donated the land to the City for sidewalks. That was part of our ...

Creditt: As I did.

Jason Vaughn: That was something we did.

Reinsmith: Why didn't you get a new fence?

Jason Vaughn: We didn't.

Reinsmith: I know, why didn't you?

Jason Vaughn: I'm not that type of guy. I'm not trying to get something out of somebody.

[multiple speakers; inaudible]

Holmer: Do we have anymore testimony?

Jonathon McKay: I would say this. John Buckley would be proud of this property and he would like what's going on in his old home.

Creditt: That's an opinion.

Holmer: Any other comments? We on Board of Zoning have heard from the applicants, their plans. We've heard from supporters and those voicing concerns, opposition. Any other comments questions from the Board? Can I get a motion to act on the request? The request again, is to request extension of one year. They have asked for consideration to increase the parking number, which is currently at five. We've got the recommendation, on hand, from the Clinton County Regional Planning Commission i.e. Taylor Stuckert relative to this, so.

Law: I have a question before we would entertain any kind of a motion. You can answer it, or you can answer it. If we were to grant or look at an extension, can we stipulate that there is an update within six months? Six months from now, if we were to grant you twelve months, I want to know in six months, where they are at. I don't know if we want to make it contingent on the full twelve months, but I would like a response from Jason and Michelle, in six months, here's where we're at. I'm wondering if, can we put that into a motion if we were to look at that and how do both of you feel about that?

Stanforth: That's really a question for the Law Director.

Shidaker: It is but that's kind of what, and Michelle might be able to answer this, but that's kind of what they have setup now, right? They were supposed to have a review in January, correct?

Michelle Horner: Yeah.

Shidaker: So what you're saying is kind of what the Board did last time. Where they granted it with a mandatory review in January. That's what they did last time, so I don't see why you couldn't have a review in six months. but our Law Director is, where is he?

Stanforth: I don't know, I didn't see him. Anybody see him?

Holly Roush: I had a question. Is there anything you could do to help mitigate the parking? Numbered spots, or something like that?

Jason Vaughn: We're willing to do that. As far as lighting, we did put a spotlight up. It actually, we hung it on top of my building now. And we did that, I mean, if we didn't

do that, you wouldn't even know or be able to tell how many cars were there but I'm more concerned about safety.

Reinsmith: Well you know, the way you had that light, it shined out to the street. It had to blind people as they drove in and the code says that you really can't face it towards the residential district or to the street. It really needs to be up, illuminating down.

Jason Vaughn: Not taking you just for your word, but I will definitely look into to doing that because safety is the reason why we put that up. I want people to be safe.

Roush: Just a way, because you can't control an individual patron from driving in and parking over what you have setup as your five parking spots. I don't think there's anything visual there to signify the capacity to incoming public. Of course, you don't want off-street parking or things like that, so I just didn't know if you'd considered that as a mitigating tactic for the parking issue, to help with the car capacity.

Michelle Vaughn: We could do something like numbering the parking spaces or somehow visually, put up signs that says we're limited. Because we do have people that walk from the neighborhood.

Law: I got to tell you my concern with that is, and I know exactly what you are talking about, but when you look at the staff's comments, that really does begin to blur the lines. Now we're saying parking spots and that's, now you're looking at a level of permanency that we're just not going to.

Fisher: That brings me to one more comment. I would complain numerous times where I live, but I could not find who to complain to. That's the one thing. You would have had many more complaints if I could have found out how to...

Law: If the neighbors were having party and being too loud, who would you call to?

Fisher: The police. Let me tell you something, the police officer that came to my house, she said "I don't know what to do". I said if you would just go down and count cars, and go from there. That was a stipulation they violated many, many times. Many times. Just right there. Then there was another, another deal that happened. It was some type of beauty make-up deal that happened on a Wednesday night. They weren't supposed to have anything on Wednesday night. That happened down there. Mark went and took pictures that night. I know for a fact. They weren't supposed to be open.

Michelle Vaughn: That was not open to the public.

Fisher: You can't have a private party at a liquor establishment. You can't do it. You can't do it. You can not give away alcohol. You can not give away alcohol; you can not sell it, if you are not open. That's a violation.

Creditt: Can I ask a question? So, what I'm understanding is that there are five cars allowed for outside patrons. Is that correct?

Jason Vaughn: Yes.

Creditt: So when that sixth car pulls in and the seventh car, and anyone that's driven by knows that there's been more than that there, what do, how do you all handle that? What do you say? Do you say "You can't be here because you're my sixth or seventh car? You have to go away". No, I'm sure you don't. It's a business, you want to make money. How do you handle that from your perspective?

Jason Vaughn: We encourage people, well the sidewalks were one thing. We encourage anyone who can, to walk. Carpool.

Creditt: But where do they park if they walked? Like in the neighborhood where my house is? Or the neighborhood on Sylvan and..

Jason Vaughn: I have plenty of parking, but I mean..

Michelle Vaughn: They're walking from the neighborhoods.

Creditt: But then you're saying that the people coming to your establishments and just coming from the neighborhoods. I'm saying, you're out of town people. You know? You get two or three cars from, I don't know where they come from, Cincinnati, Dayton, wherever and they don't know the area and you're already at capacity. What do you as establishment owners, what do you say to them when you look out in your driveway and you see there's too many cars? How do you handle that?

Jason Vaughn: Like I said, the local people, people are encouraged, people coming from there we don't have signs up limited parking. We don't have that.

Fisher: I think what she's asking you is, what do you do when you have more than you are supposed to? When there's five cars there and the sixth one pulls in, what do you do?

Jason Vaughn: We're inside, so we don't know what that car is...We're not asking people..

Creditt: So you ignore it, pretty much?

Jason Vaughn: No, ma'am. We're inside, we can't see. I don't know what you drove here, just like I don't know if you guys carpooled?

Creditt: Okay, but if you had five cars, let's say you had four people in each car, which would probably be a stretch because most people don't have four people coming in five cars, so you have more than twenty people in your establishment, you kind of can assume, that there's more than five cars out there. So, would you take the time to go out

and look and say oh my goodness, we're over here, or we're past our sign, whatever, we need to park people somewhere else. I mean, how do you? Do you have any plan in place to fix that?

Michelle Vaughn: That's why we asked for more cars. We didn't anticipate that we would be as successful as we are right there. We didn't know that that many people would come. That's why we're asking.

Creditt: Now that you are, I'm worried that you're going to be sinking money into the place that you're at, at home, instead of sinking it into a place that you can remodel and fix up for your permanent business.

Jason Vaughn: We're at capacity just for manufacturing. Other than doing home improvements just for us to have a nicer home, as a homeowner. I would not put any money into the business side of that establishment. As a businessman, I just wouldn't make sense.

Creditt: But the bottom line to my first question, you don't have a plan in place to fix the...

Jason Vaughn: Well we're asking for more parking.

Creditt: But other than that? If they don't grant that, you don't have...?

Jason Vaughn: I can say this, this is a good part about that. We did have like even a bus tour that wanted to come by. Could you imagine? These were ladies, senior citizens, wanted to come by from out of town to TinCap and they wanted us to be on the winery tour. It was seventy of them and we told them 'no'. We could not have them because of the parking situation. Maybe we could have made something work out, but no, we did not have that. So that, to you, that's another way we handle that. We turned away a lot of business because we're trying to be very respectful.

Holmer: Any other comments? Okay, I'll bring it back to the Committee.

Greg Law made a motion for a twelve month extension of the conditional use granted last year with a complete, specific, detailed review to this Board within six months. Also, the expansion of parking of five additional spaces for a total of ten.

Law: However, I want for the concern of the citizens, I ask for the City to take a strong, diligent look at the enforcement of that and to follow up with that.

Holmer: We have a motion? Comments?

Roush: With the increase to ten, in fairness to, did you have, you asked for an increase, but you didn't say a number?

Jason Vaughn: Twenty would have been what I would be asking for. Twenty, the reason I say twenty. Like you said, there have been twenty cars there. And I've been out there looking at night. You cannot notice it unless you are slowing down and going out to take pictures. You don't notice that. Our property is a large property for in town and it holds that well and you don't notice that parking area because it's off the side of the property. It's back, it's hidden between two rows of apple trees and another row of woods.

Creditt: I'm not sure that the fact that you don't notice it, is the point. Just because you don't notice it, doesn't mean it's okay to be there. It's like hiding something under a rug. You don't see it but it's still under the rug.

Jason Vaughn: Well I don't think that there's a legal number or cars that you can have at a residence.

Fisher: It's a residency not a business?

Jason Vaughn: Right?

Fisher: You're not a business?

Jason Vaughn: That's what I'm saying, you have more control over me because...

Fisher: [inaudible] South Street Wine Cellar started right where they're at. They're still there. That's what I'm saying. There's lots of businesses start right where they're at and be successful.

Jason Vaughn: And there's lots of them that fail. Can you name one winery?

Holmer: I've got a motion on the floor.

[Discussion of the motion]

Law withdrew his current motion and made a motion for a twelve month extension of the conditional use granted last year with a complete, specific, detailed review to this Board within six months. Roush seconded the motion. All voted yay. Motion passed.

Holmer: The next item would be to address the parking aspect. We heard their desire would be to move it to twenty.

Roush: And that's a growth phase piece that I know that you're anxious to get to. Part of growth would be to find your new location. You have a distributorship, so you're selling through a distributorship, so you're pursing those avenues of your business. With those types of concerns, what how does that position you if you didn't have an increase to the parking?

Jason Vaughn: I think that, the parking is key. With that limited amount of parking and how to enforce it as well, without making it look like a business, that's going to be difficult. I definitely will not allow people parking in the front yard, where the house is, where people can see it.

Reinsmith: The problem you get into is, and in the code, it specifies that, you have to have room for those cars to move around. They can't just get stacked in there and can't get out. They got to be able to back out and have room to move around and leave the property. You've got a limited area on that site over there that you're working with. You're still going to need an aisle down there so people on both sides have plenty of room for a car to back out and move back, you know what I'm saying? That's where it gets critical too.

Michelle Vaughn: And our intent for the driveway we have now, so when they go this way, they can go this way, and back out so they wouldn't be backing out into the street.

Reinsmith: What is your occupant load for that house?

Jason Vaughn: We had the fire department in and they did not put a number on that. We came to the zoning board. We came to all the avenues to do this ...

Michelle Vaughn: Mark Wiswell came out and checked out the property and he didn't give us a precise number.

Reinsmith: Really, the building official sets that number based on square footages, you know.

Stanforth: We already know parking is an issue for them. If we do not give them the additional spaces, we're going to make it very difficult for my code enforcement officer. They're going to be in violation every single weekend and he's going to have to go out there counting cars. This is only going to go on for a year, then it all goes away.

Law made a motion to double the parking, increasing from five to ten spots. There was no second.

Roush made a motion to postpone the determination on the increasing the parking until the applicant can come back with schematics and/or photos showing a layout with dimensions showing the parking. Law seconded. All voted yay. Motion passes.

There was no old business.

Law made a motion to adjourn. Roush seconded.

1/8/18
Chairman

1/8/18
Clerk