

Karen Underwood-Kramer
 Board Member

Nancy Bushman
 Board Member

Desmond Maaytah
 Board Member

George Jonson
 Board Member

Roll Call:

1 Public Hearing

Bushman	Jonson	Maaytah	Underwood-Kramer	

Appointment of Chairperson:

Swearing in of Those Providing Testimony to the BZA:

City Staff

Old Business: None

New Business:

Agenda Item #1

2016-01: Variance Request 701 High Street

A Request by Andrew Rosenthal for three (3) zoning variances in order to construct a new Gas Station, where one currently exists, to be located at 701 High Street. The three (3) requested zoning variances are for Section 1129.28, Section 11129.431, and Section 1138.71.C of the Hamilton Zoning Ordinance are as follows:

- 1) A request to alter the street access requirements found in Section 1129.28 to allow access onto the property from a Primary Street (High Street) and Secondary Street (Seventh Street) where Alley access is available.
- 2) A request to alter the design guidelines found in Section 11129.431 to allow the construction of a new Gas Station at 701 High Street.
- 3) A request to reduce the minimum five (5) foot setback from any property line for all monument signs found in Section 1138.71.C. (Andrew Rosenthal/Certified Oil, Applicant/ Owner).

Staff: Meredith Murphy

Bushman	Jonson	Maaytah	Underwood-Kramer	



Minutes

Approval of Meeting Minutes- Written Summary and Audio Recording for the Following Date:

July 2, 2015

Bushman	Jonson	Maaytah	Underwood-Kramer	

September 3, 2015

Bushman	Jonson	Maaytah	Underwood-Kramer	

October 1, 2015

Bushman	Jonson	Maaytah	Underwood-Kramer	

November 5, 2015

Bushman	Jonson	Maaytah	Underwood-Kramer	

Miscellaneous:

Adjournment:





To: Board of Zoning Appeals

From: Meredith Murphy

Subject: **AGENDA ITEM #1**

2016-1-Variance

Request by Andrew Rosenthal on behalf of Certified Oil for three (3) zoning variances to Section 1129.28, Section 11129.431, and Section 1138.71.C of the Hamilton Zoning Ordinance in order to construct a new Gas Station to be built at 701 High Street. (Andrew Rosenthal / Certified Oil, Applicant / Owner).

Date: January 4, 2016

Dear BZA Members:

Introduction:

An application was submitted by Mr. Andrew Rosenthal on behalf of Certified Oil for three (3) zoning variances in order to construct a new Gas Station on the property located at 701 High Street (Exhibit A). The property is zoned DT-3 Downtown East High Street District (Exhibit B). DT-3 Downtown East High Street District is a form based code district and is regulated by Section 1129.00 of the Hamilton Zoning Ordinance (HZO). The pumping of gasoline accessory to convenience store is listed as permitted use in DT-3 Downtown East High Street District in Section 1129.30, however construction of a new building in any Form Based Code zoning district must comply with certain design standards listed in Section 1129.00. If an applicant cannot meet those design standards they must receive approval of a zoning variance from the Board of Zoning Appeals before they can receive a Building Permit.

The three (3) requested zoning variances are for Section 1129.28, Section 11129.431, and Section 1138.71.C of the Hamilton Zoning Ordinance are as follows:

- 1) A request to alter the street access requirements found in Section 1129.28 to allow access onto the property from a Primary Street (High Street) and Secondary Street (Seventh Street) where Alley access is available (to the rear).
- 2) A request to alter the design guidelines found in Section 11129.431 to allow the construction of a new Gas Station at 701 High Street.
- 3) A request to reduce the minimum five (5) foot setback from any property line for all monument signs found in Section 1138.71.C.

Property Details:

The property is zoned DT-3 Downtown East High Street District. The size of the property was recently expanded due to street work done by the city along the access road to the south of the property. The lot is approximately 20,300 square feet in total area. The property has a total of 120 lineal feet of lot frontage along High Street, 169 lineal feet of lot frontage along South Seventh Street, and 120 feet of lineal frontage



along the access road to the south. The properties to the north, west, and east are zoned DT-3 Downtown East High Street District. To the south is the existing rail road and I-1 Light Industrial District zoning.

According to the plan submitted as part of the zoning variance application, the intent is to redevelop the property as a 3,543 square foot convenience store and gas station with five (5) gas pumps. The existing building measures approximately 2,000 square feet with 3 gas pumps.

Use Specific Standards and Variances:

The applicant intends to remove the existing gas station, and rebuild a new 3,543 square foot convenience store and gas station with five (5) gas pumps on the property. Based on the submitted drawings, the applicant has determined that three (3) zoning variances are needed. The three (3) zoning variances are for Section 1129.28, Section 1129.431, and Section 1138.71.C and are as follows:

- 1) A request to alter the street access requirements found in Section 1129.28 to allow access onto the property from a Primary Street (High Street) and Secondary Street (Seventh Street) where Alley access is available. This access currently exists and would be a continuation of the current property access configuration.
- 2) A request to alter the design guidelines found in Section 1129.431 to allow the construction of a new Gas Station at 701 High Street.
- 3) A request to reduce the minimum five (5) foot setback from any property line for all monument signs found in Section 1138.71.C. This variance is necessary due to a section of the north west corner of the lot having been acquired by the City of Hamilton in late 2014. The new monument sign would take the place of the existing pole sign and would extend approximately three (3) feet into the minimum five (5) foot setback. Images of the proposed layout/setback are included in Exhibit C.

Zoning Variance Review

In order to grant a zoning variance, the Hamilton Zoning Ordinance requires that the BZA must find all four of the following facts and conditions below exist beyond a reasonable doubt. The applicant included the following written rationale (*in italics*) for the three (3) requested zoning variances.

1. Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying only to the property in question that do not apply generally to other properties in the same Zoning District.

It appears that this site will be the first in the DT-3 zoning district to propose alterations and improvements. The zoning requirements for the district are significantly different from the existing site layouts indicating that the zoning code wants to encourage changes in use and redevelopment. This property is not looking to change uses and to conform to the DT-3 regulations would be a dramatic change from



the adjoining properties. The requirements of the zoning code would limit access to the site to one location along the common access road behind the site, this is not feasible for use as a gas station. The zoning requirements would also require placement of the primary structure along High Street which is different than the adjoining properties along the south side of High Street. The small size of the lot and the improvements to site circulation are increasing the impervious area coverage above zoning requirements, but this coverage area is still consistent with other businesses along High Street.

2. Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and the in same vicinity.

The proposed use is consistent with the existing use while adding significant improvements to the circulation and appeal of the site. Under the zoning requirements the site would position the primary structure along High Street which is a dramatic change from the remaining properties along the south side of High Street within the district. Positioning the building along High Street would potentially detract from adjoining properties that have yet to re-develop.

3. Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

The property owner is looking to make significant improvements to the property that will include improved site traffic circulation, additional parking spaces, modern building materials and increased safety elements without modifying the existing use and intent of the site. The proposed building is set back further from High Street and should improve visibility of adjoining properties and remove an existing deteriorated vacant lot to increase the appeal of the recently constructed common access road. The proposed site layout and usage is consistent with the existing site in respect to variance from the DT-3 zoning and proposing a site that conforms to the zoning requirements would be a substantial deviation from the adjoining properties along the south side of High Street within the district.

4. Not of a General Nature: No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.



It appears that this site will be the first in the DT-3 zoning district to propose alterations and improvements. The request being proposed is the approval of a site layout consistent with typical gas stations found in other areas of the city and would only be applicable to other gas stations being developed within the DT-3 zoning district.

Recommendation:

Based on a review of the preliminary site plan and additional information submitted, there is reason to consider approving the three (3) requested variances with the following conditions:

If the BZA approves the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) Any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.
- 2) Proposed building will match the materials and information provided by the applicant (Exhibit C).
- 3) All improvements and work indicated on construction drawings/documents approved by the as part of the Variances be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Variances - (includes building, canopy, dumpster enclosure, landscaping, pavement surfaces, retaining walls and striping).
- 4) No exterior storage/sales of merchandise or materials other than the ice and propane sales as shown on the plans.
- 5) All building, wall and any other signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance with the exception of the requested sign setback variance.
- 6) Portions of the retailing wall that are visible from the public right-of-way to be colored/stained or stamped to match the color/theme of the building.
- 7) That the brick shown at the base of the canopy columns be extended to wrap the entire columns.
- 8) That the brick on the west (7th street) elevation be extended to cover the entire lower level.
- 9) All proposed landscaping match the minimum landscaping requirements in section 1111.00 of the Hamilton Zoning Ordinance.

Notification

Public Hearing Notices were mailed to the owners of seven (7) properties within 100 feet of the property in question. At the time this report was written, were no objections expressed to the proposed zoning variances.

Attachments:

- 1) **Exhibit A - Public Hearing Location Map**
- 2) **Exhibit B – Zoning Map**
- 3) **Exhibit C – Variance Application & Supporting Material**

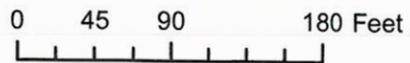


1) Exhibit A - Public Hearing Location Map

PUBLIC HEARING NOTIFICATION MAP
701 HIGH STREET

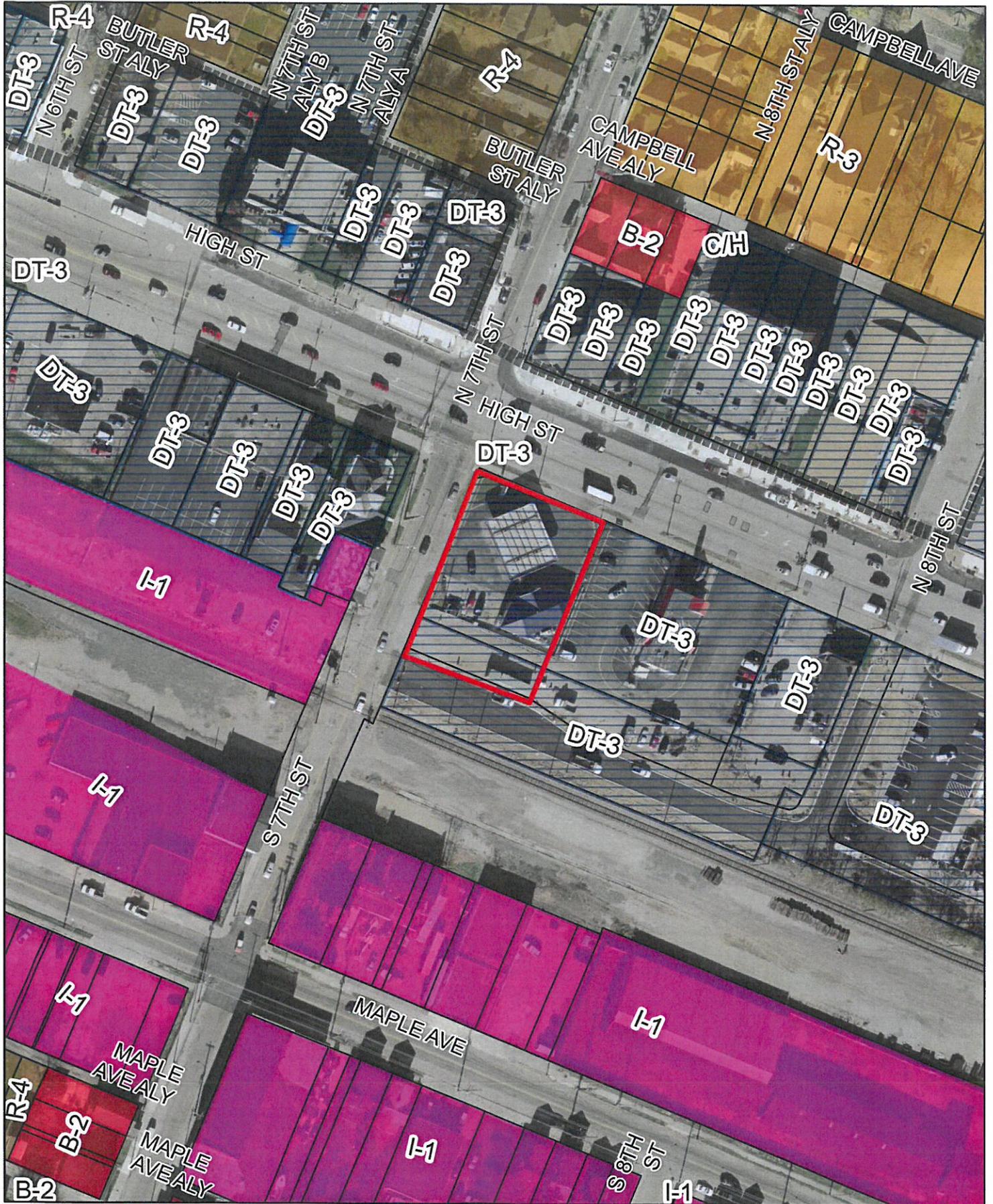


 701 HIGH STREET



2) Exhibit B - Zoning Map

PUBLIC HEARING NOTIFICATION MAP
701 HIGH STREET



701 HIGH STREET

0 45 90 180 Feet



3) Exhibit C – Variance Application & Supporting Material



Community Development
345 High Street, Suite 370
Hamilton, Ohio 45011

BOARD OF ZONING APPEALS APPLICATION

Property Address: 701 High Street

Lot No(s): New Lot# 32099, Old Lots 30442, 26594

Property Owner: Certified Oil

Owner's Mailing Address: 949 King Avenue, Columbus, OH 43212

Appellant's Name (If different than owner): _____

Appellant's Mailing Address: _____

Appellant's Email Address: _____

Previous Legal Use of Property: Gas Station

Date Previous Use Discontinued: Ongoing

Proposed New Use of Property: Gas Station

Purpose of Application (Check all that apply):

Requesting a variance for signs. Please describe the request below.

A request to the 5' sign setback from the property line is being requested. See attached drawings for location and type of signage being requested.

Requesting a variance other than a sign from the following Sections of the Hamilton Zoning Code (also fill out **Appellant's rational for requesting a Variance**)

1129.28

1129.431

Other – Skip to "Other" Section of Application Form

VARIANCES

Appellant's Rationale for requesting a Variance:

Variance-Findings of the BZA: No variance of the provisions or requirements of the Hamilton Zoning Ordinance shall be authorized by the BZA unless the BZA finds, beyond reasonable doubt, that all of the following facts and conditions exist. **Please address each condition below in the space provided.**

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

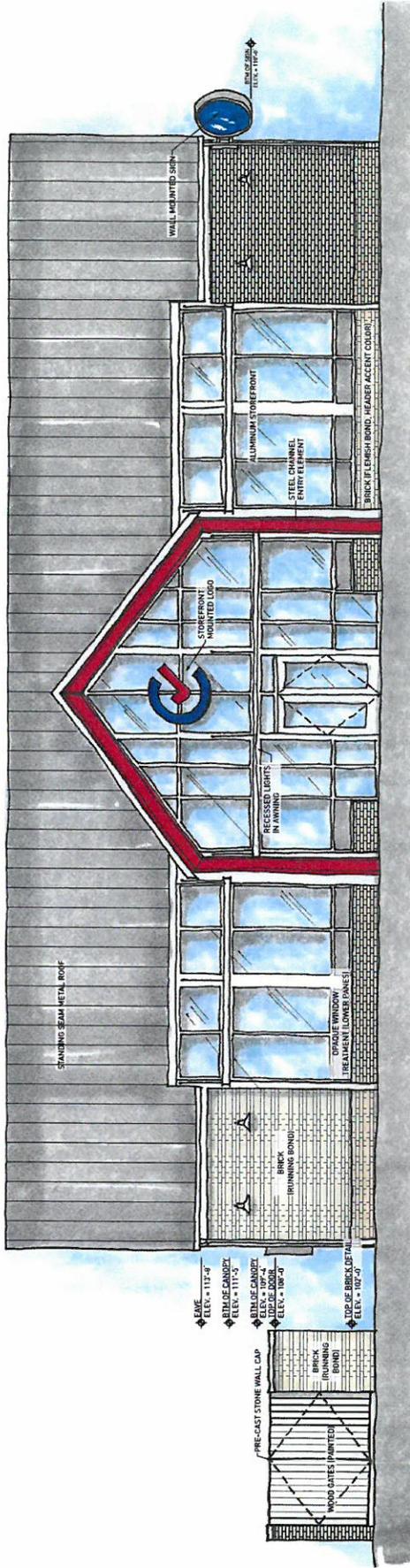
It appears that this site will be the first in the DT-3 zoning district to propose alterations and improvements. The zoning requirements for the district are significantly different from the existing site layouts indicating that the zoning code wants to encourage changes in use and redevelopment. This property is not looking to change uses and to conform to the DT-3 regulations would be a dramatic change from the adjoining properties. The requirements of the zoning code would limit access to the site to one location along the common access road behind the site, this is not feasible for use as a gas station. The zoning requirements would also require placement of the primary structure along High Street which is different than the adjoining properties along the south side of High Street. The small size of the lot and the improvements to site circulation are increasing the impervious area coverage above zoning requirements, but this coverage area is still consistent with other businesses along High Street.

Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

The proposed use is consistent with the existing use while adding significant improvements to the circulation and appeal of the site. Under the zoning requirements the site would position the primary structure along High Street which is a dramatic change from the remaining properties along the south side of High Street within the district. Positioning the building along High Street would potentially detract from adjoining properties that have yet to re-develop.

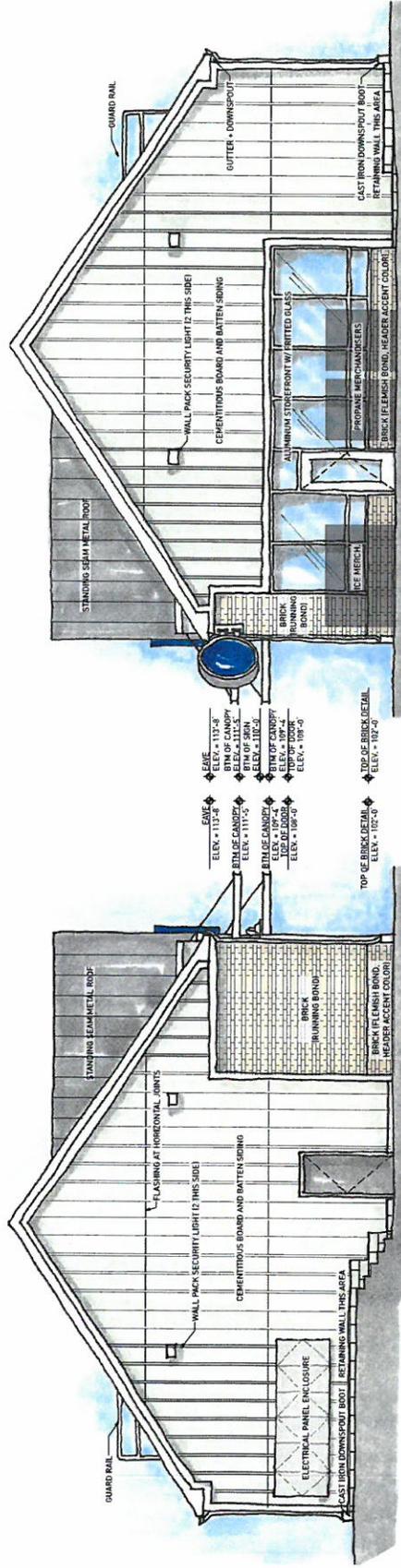
Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

The property owner is looking to make significant improvements to the property that will include improved site traffic circulation, additional parking spaces, modern building materials and increased safety elements without modifying the existing use and intent of the site. The proposed building is set back further from High Street and should improve visibility of adjoining properties and remove an existing deteriorated vacant lot to increase the appeal of the recently constructed common access road. The proposed site layout and usage is consistent with the existing site in respect to variance from the DT-3 zoning and proposing a site that conforms to the zoning requirements would be a substantial deviation from the adjoining properties along the south side of High Street within the district.



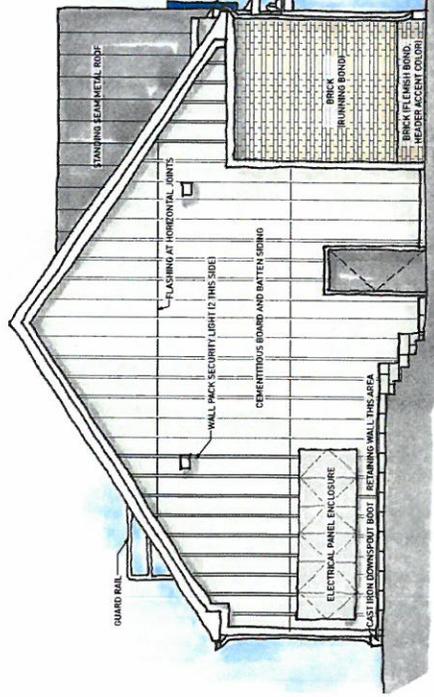
1 ELEVATION - FRONT

Scale: 1/8" = 1'-0"



2 ELEVATION - RIGHT

Scale: 1/8" = 1'-0"

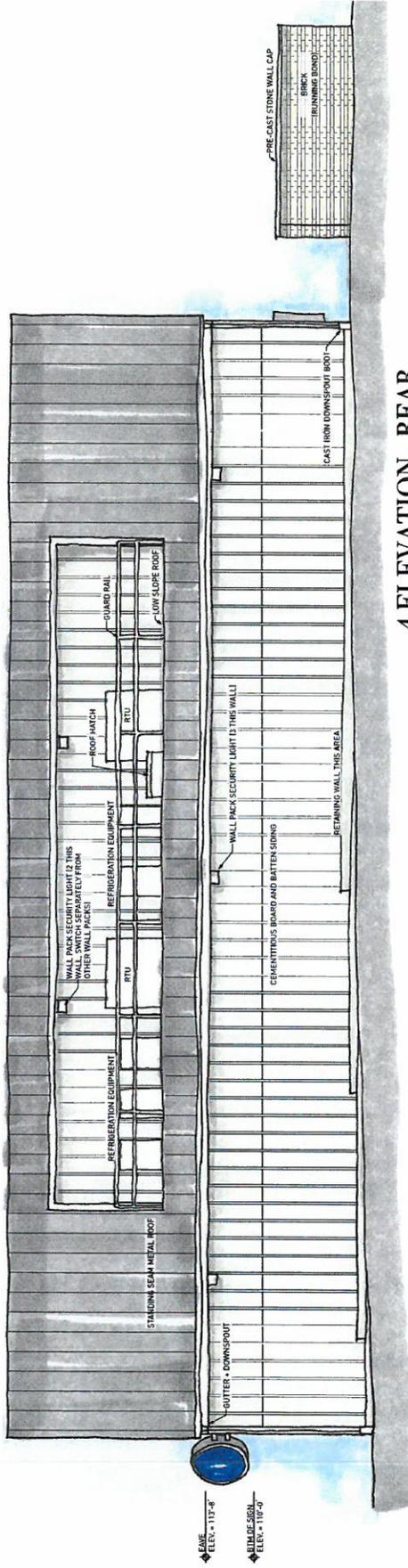


3 ELEVATION - LEFT

Scale: 1/8" = 1'-0"

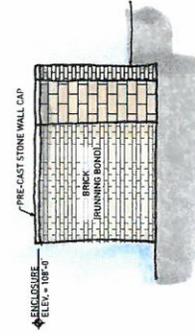
- ◆ LEAVE ELEV. = 112'-8"
- ◆ BTM OF CANOPY ELEV. = 111'-5"
- ◆ BTM OF CANOPY ELEV. = 109'-4"
- ◆ TOP OF BRICK DETAIL ELEV. = 108'-0"

- ◆ ELEV. = 112'-8"
- ◆ BTM OF CANOPY ELEV. = 111'-5"
- ◆ BTM OF CANOPY ELEV. = 110'-0"
- ◆ BTM OF CANOPY ELEV. = 109'-4"
- ◆ TOP OF BRICK DETAIL ELEV. = 108'-0"



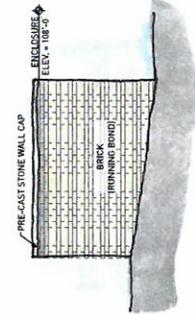
4 ELEVATION - REAR

Scale: 1/8" = 1'-0"



5 TRASH ENCLOSURE RIGHT ELEVATION

Scale: 1/8" = 1'-0"



6 TRASH ENCLOSURE LEFT ELEVATION

Scale: 1/8" = 1'-0"

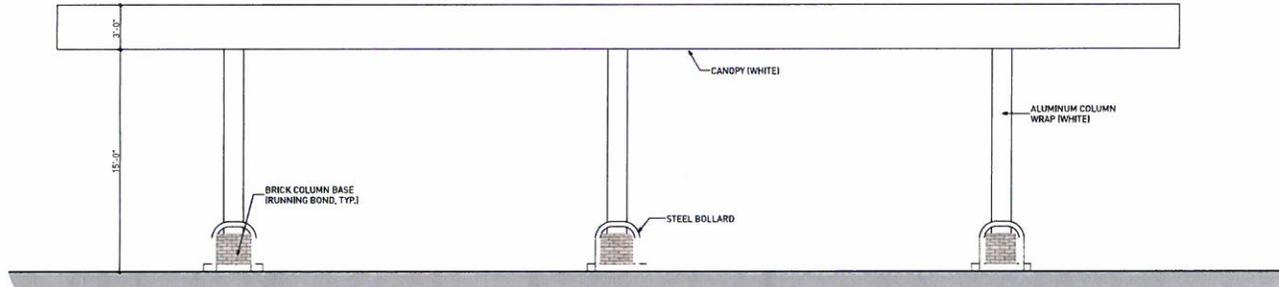


C1 CANOPY ELEVATION
Scale: 1/8" = 1'-0"

- MONUMENT SIGN**
- 24" BRICK BASE (TO MATCH STOREFRONT BRICK)
 - 72" HIGH X 72" WIDE
 - WHITE LED PRICE SIGN (24" LETTERS)
 - WHITE PAINTED ALUMINUM FACE, BLUE PAINTED ALUMINUM FRAME
 - CERTIFIED LOGO TO CUT OUT REAR ILLUMINATION



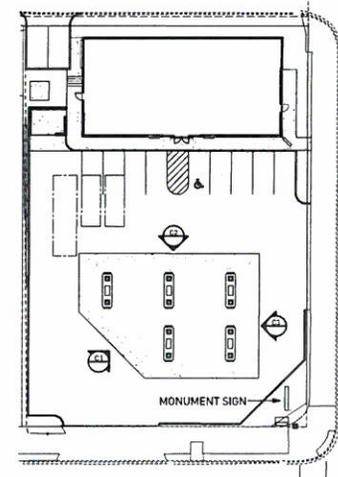
MONUMENT SIGN
NOT TO SCALE



C2 CANOPY ELEVATION
Scale: 1/8" = 1'-0"

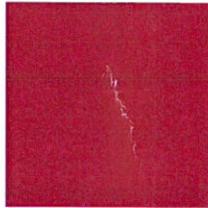


C3 CANOPY ELEVATION
Scale: 1/8" = 1'-0"



SITE LAYOUT
Scale: 1" = 50'

White Awnings



Red I-Beam Entry

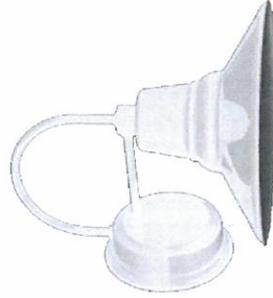


16" Board and Batten Siding

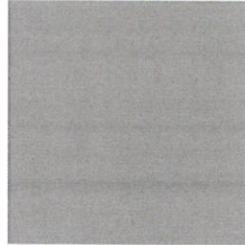
Unpainted Galvanized - Matte Silver Standing Seam Metal Roof



Exterior Sconce



Clear Anodized Storefront



SW7044 Amazing Gray Board and Batten Siding



General Shale Seawall Brick



Contrasting Header Course for Flemish Bond

**WRITTEN SUMMARY
BOARD OF ZONING APPEALS
MEETING MINUTES
Thursday, July 2, '15
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Chairperson, Ms. Karen Underwood-Kramer presiding at 1:30 p.m.

Members Present: Mr. Larry Bowling, Mr. George Jonson, Ms. Karen Underwood-Kramer, and Ms. Nancy Bushman

Members Absent: None

City Staff Present: Mr. John Creech, Ms. Meredith Murphy, Ms. Mansdorfer

Ms. Underwood gave an overview of how the meeting will work and the process. She advised that Agenda Item #2, Conditional Use and one zoning variance application by Ms. Catherine Richardson, had been tabled and would not be heard today.

SWEARING IN: Mr. Creech asked members of the audience to rise and be sworn in if they intended to speak during any of the public hearings on the agenda.

OLD BUSINESS: None

NEW BUSINESS:

AGENDA ITEM#1

PUBLIC HEARING

Staff: Mr. John Creech

2015-14- Variance Request

Request by Tari McMahan Lawson for a Front Yard Setback Variance to allow the construction of a front porch on a property zoned R-1 Single Family Residence located at 70 Mollie Drive (Tari McMahan Lawson, Applicant/Owner).

Mr. Creech:

Thank you Madam Chairman. This Variance request was submitted by Ms. Tari Lawson requesting permission to get a variance from the required 35' feet to 25 feet front yard setback. R-1 requires a thirty (30) foot front yard setback in an R-1 District, therefore approval from the BZA is required in order to allow the proposed front porch.

The existing house there is built approximately 35' right now behind the set back line. What the owners propose to do is build a 24' wide X 10' porch addition onto the front of the house. If that were approved, it requires a 10' addition onto the front of the house, so that would encroach into that front yard setback by 5', and that is the reason for the variance.

As you can see by this map that we provided, this property is zoned R-1, everything along that street is zoned R-1.

We took a look at the street and most of the homes that are built are right at the 30' or 35' setback, so this is typical of the houses in that area. This is a copy of the application submitted and signed by the Applicant:

This is just a drawing that they submitted that shows a sketch of the house. Usually we have site plans for most of the homes in the city for whatever reason. We did have this one, so we were able to provide that to the applicant to make the notations on there of the setbacks and the addition. You can see there that the porch would come out 10' from the front of the house and be 24' in width.

Just behind the tree is an area there that's been excavated to prepare for the addition to the front of the home.

This is the information for the Board to review for Variances and Exceptional Circumstances. The applicant did address some of that information in their application. In the memo, we did provide a summary of their responses to those questions. These four items above are addressed by the applicant in their application and restated below in italics (see attached Variance Application – Exhibit C).

Exceptional Circumstances: *The set back allows us to install a front porch on the property.*

Preservation of Property Rights: *We want to be able to use the property to put a front porch on.*

Absence of Detriment: *We don't believe this will interfere with property values or neighborhood looks.*

Not of General Nature: *The shape of the lot requires the variance of adding a front porch.*

A 5' porch probably wouldn't be large enough, and that's why they are asking for 10' that they could use and are, therefore, asking for that variance.

We did advertise this as a Public Hearing and sent out notices. I did receive two phone calls from neighbors that they did not object, they were in support of the variance. That's all the information that I have and I'd be happy to answer any questions.

Ms. Underwood asked that if anyone wished to speak on behalf or against the appeal to step to the podium and state their name and residential address. Hearing none, she asked for a vote to close the Public Hearing?

Mr. Jonson: So moved.

Mr. Bowling: 2nd.

Ms. Underwood: Roll call vote please.

Ms. Mansdorfer:	Bowling?	Response:	Yes
	Bushman?	Response:	Yes
	Jonson?	Response:	Yes
	Underwood:	Response:	Yes

Mr. Bowling: Madam Chairman, reference to Variance Request 2015-14, I move to grant the 10' addition, 5' encroachment and setback. (1) Exceptional circumstances: It seems to me that with the placement of the house, it doesn't allow for them to use enough of their property to do this 10' setback. Most of the houses over there that I saw have very similar porches. I think some of them were already setback. (2) Preservation of Property Rights: It allows them to use the property as they wish for their own comfort. (3) Absence of Detriment: It won't interfere with property values at all. (4) It's not of General Nature: The shape of the lot is okay, it's just where it was originally built (inaudible).

Mr. Jonson: 2nd.

Ms. Underwood: Thank you. We have a Motion and 2nd to approve this variance. Roll call vote please.

Ms. Mansdorfer:	Bowling:	Response:	Yes
	Bushman?	Response:	Yes
	Jonson?	Response:	Yes
	Underwood:	Response:	Yes

Ms. Underwood: Thank you. The Motion has passed. Mr. Creech will send the information.

Mr. Creech: The Board approved the variance. I will be sending the letter to the applicant indicating the decision of the board today. It actually becomes effective five days after today's meeting.

AGENDA ITEM#2 PUBLIC HEARING Staff: Mr. John Creech

2015-15-CU Conditional Use Review

Request by Catherine Richardson for a Conditional Use and one zoning variance to allow Automobile Sales to operate on the property zoned B-2 Community Business located at 735 S. Erie Blvd. (Catherine Richardson, Applicant/Owner).

Ms. Underwood: For the 2nd agenda item, we have received a request on behalf of the applicant to table this hearing until a future meeting scheduled for September 3, 2015. Do we have any discussion?

Mr. Bowling: Move to table the Motion.

Mr. Jonson: 2nd.

Ms. Underwood: Thank you. Any discussion? Hearing none, may we have a roll call vote?

Mr. Creech: Thank you Madam Chairman. Before that, can you ask for a communication or a show of hands of anyone that's here regarding that item?

Ms. Underwood: Is anyone in the audience here in regards to the Conditional Use review for 735 S. Erie Boulevard? No? Okay great. Then we'll go forward with our vote.

Ms. Mansdorfer:	Bowling?	Response:	Yes
	Bushman?	Response:	Yes
	Jonson?	Response:	Yes
	Underwood:	Response:	Yes

Ms. Underwood: Thank you, this one will be tabled.

We will move on to Agenda Item #3. This is 2015-16. It's a Conditional Use Review for property located at 528 East Avenue. Mr. Creech will give us the report on this Appeal.

AGENDA ITEM#3

PUBLIC HEARING

Staff: Mr. John Creech

2015-16-Conditional Use Review

Request by Christopher Chapman for a Conditional Use and three zoning variances to allow Automobile Sales to operate on the property zoned B-2 Community Business located at 528 East Avenue. (Christopher Chapman/ Araceli Garcia, Applicant/ Owner).

Mr. Creech:

Thank you Madam Chairman. This item was submitted by Mr. Christopher Chapman to establish a Conditional Use (Automobile Sales operation on property that is currently zoned B-2 Business District). The address is 528 East Avenue. In order to establish that use there, they are also seeking three (3) zoning exceptions. Those would be approved by the Board.

First of all is the property is less than the minimum 20,000 sq. ft. In addition, they are asking for a variance on a minimum lot width on a thoroughfare street. The minimum is 100'. They have about 75 lineal feet on East Avenue, which is a thoroughfare street. They actually have 95' on Walnut Street, which is not actually classified as a thoroughfare street. The last variance is to reduce that 10' setback for the parking of vehicles on display down to 5'.

This is just the Public Hearing Notification Map that we mailed out to all property owners within 500' of the subject property.

This just shows the zoning in the area. East Avenue (this particular portion) is all zoned pretty much zoned B-2, I-1 or I-2 Industrial up and down the street in this area. The land uses range from Single Family, Business, Multi Family, even some Industrial shops there along portions of East Avenue. If I'm not mistaken, the property that kind of wraps around this particular property is a Residential Facility operated by Serve City. I think they actually came before the Board and got a variance to establish a residential type use on that property (because it's B-2) a number of years ago before they actually built that building.

Because that property is vacant, we took a look back just to see what the uses were there before. It was actually a Shell Gas Station. It was originally built that way and then a Carryout sometime after that. It's been vacant for some time.

The application to establish the automobile sales was received on June 10, 2015. If you look at Section 1155.10 that spells out Conditional Uses and the approval process for those, basically Conditional Uses are not held by the committee and the zoning districts where they're listed. An application has to be submitted, with supporting information, a site plan, and some other detailed information in order for the BZA to make a decision on whether to approve the Conditional Use and add appropriate conditions to it, if necessary. So it's not outright permitted, it requires review at a Public Hearing before the Board of Zoning Appeals.

As part of the Conditional Use, there's some specific information that has to be submitted for that review. That is provided to you as part of the memo there and it provides just some summary information, taking a look at that with the hours of operation, the layout of the site and how they propose to park vehicles. They even provided a summary of how they propose to use the property and then there's also a sketch of how they will be using the inside of that existing building as part of the operation if it is approved.

In Section 1155.30, there are actually 9 Conditional Use criteria that the Board reviews for approving or denying additional uses.

I won't go through all of these, but we did take a look at them. Basically, it is a Conditional Use Automobile Sales in that B-2 zoning district. The Board will have to look to make sure that the Conditional Use doesn't substantially or permanently injure any of the surrounding uses. Again that area, like I said, just looking at the mix of uses there and the zoning, I know right now there is also, right across the street from there, there's plans have been submitted, there's a vacant building there. There will be a restaurant/bar established right across the street, so it is a business area.

As part of that application, they are required to submit a site plan. I did mention that the property is less than the 20,000 sq. ft. that is required. I think the actual size of the property is approximately 6,000.00 sq ft., so it is significantly less than what would be required. Even today, because that gas station has been closed for more than 6 months, it's no longer grandfathered in. If someone came in to re-establish a gas station, which was probably the last use of this property, they would still have to come back and get a Conditional Use. Again, we would require 20,000 sq ft., so even to use it what it was built for would still require Conditional Use and an exception to that 20,000 sq. ft. minimum.

The specific criteria found in zoning code 1121.39.27, the details are the general lot size, the frontage on the street and all the specific conditions about no automobile storage, wrecked vehicles, disassembled vehicles, no storage of junk or materials like that. They've indicated that they will comply with those specific requirements. Really, they're just asking for those three exceptions:

The first is to allow an Automotive Sales use with less than 20,000 square feet. The applicant states in they feel the size/ layout of the lot are adequate for their use. The second variance is to allow an Automotive Sales use with less than 100 feet of frontage. The property has a total of 73 feet in lot frontage along East Avenue and 95 feet of lot frontage along Walnut. The third variance is to allow a five (5) foot setback where a ten (10) foot setback is required.

The blue line in this picture indicates the property boundary, and the red line indicates the 5' setback. I think there are 14 parking spaces for display of vehicles, so there would be vehicles in front of the building, as well as a driveway off of East Avenue, and we've been advised that that is where customers would park.

Mr. Creech states that notices were mailed out notices to all property owners within 500', approximately 97, and he believed that he received one phone call from an adjacent property owner, but they did not object to establishing this Conditional Use.

If the BZA approves the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

No exterior storage of junk, debris, materials, etc. of any kind etc.

The Applicant complies with the applicable points of Section 1121.39.27, with the exception of the three (3) variances: (a) 10 feet is required (asking for 5), (b) lot area less than 20,000 sq. ft. (asking 6000), and (c) 100 ft. of street frontage (asking for a reduction to 75).

That's all the information I have. Does anyone have any questions?

Ms. Underwood: Are there any questions for Mr. Creech?

Mr. Bowling: John, they have a layout of 11 cars on each side. Will an approval of this limit them to 11?

Mr. Creech: I think it's 14 spaces. I would ask the Board, if you wanted to limit them, it would be according to what they submitted. You could put a limit of 14 on it.

Ms. Underwood: Are there any additional questions?

Ms. Bushman: Is this the only car sales in this area? (inaudible)

Mr. Creech: On this section of East Avenue, this is the only one.

Ms. Underwood: Thank you, now we will open the Public Hearing. If there is anyone who wishes to speak on behalf of the appeal, please step to the podium and state your name and residential address and you will give your testimony.

Audience: Hello, I am Lucinda Green, 1106 Walnut Street. I am here because I do oppose it.

Ms. Underwood: This is opposing it?

Ms. Green: Yes.

Ms. Underwood: Right now, this, is speaking on behalf.

Ms. Green: Oh, on behalf. I'm sorry.

Ms. Underwood: Yes, behalf. I just want to give everyone the chance to do it in the correct order. Ok, there is no one speaking on behalf of this appeal at this time? (No response). Now I will say, anyone who wishes to speak against this appeal, please go ahead.

Ms. Green: Okay, so I'm Lucinda Green, 1106 Walnut. We are opposing this because this area is not even advisable because of crime and prostitution in the area. I just see that as another hangout in our area. You can see our residents are elderly, so they oppose it too.

Ms. Underwood: Thank you. Would anyone else like to speak against this appeal?

Audience: Good afternoon, my name is James Lewis. I live at 1110 Walnut Street, Hamilton, Ohio 45011. I oppose this procedure, and if I may read this: "As property owner at 1110 Walnut Street for 62 years, my wife and I have opposed this use of this property at 528 East Avenue for the use of automotive and the other vehicle sale purposes. The property owners love and take pride of their homes. On Walnut Street, there are 13 homes between East Avenue and 12th Street. In five (5) of those homes, the residents have lived there more than 30+ years. Six of those homes have had the residents live there for more than 60 + years and I have reasons for opposing this. First, it would lower our property values. Second, it would draw attention to browsing and unwanted traffic in the neighborhood, which, usually leads to thefts and property damage. Third, it would create a safety hazard for on street traffic going East/West by blocking the view. I think that's too small. In view of other properties that are laid out like that, it's quite a problem there. One of the problems that exists, that this resembles, is Hanover & Rt. 4, where they have a car lot on that island. It's like playing Russian roulette with cars trying to get out of there. Thank you, that completes mine.

Ms. Underwood: Thank you. Is there anyone else in the audience that wishes to speak against this appeal?

Audience: Greg Hoover, 661 Shultz Drive, Hamilton, 45013. I have a hand out for the committee if I may.

Ms. Underwood: Yes, please. You may give the information to Mr. Creech.

Mr. Hoover: Some of this information you've already shown. The size of the lot, the 70' X 95' lot that is under consideration is 6650 sq. ft, which is little under 1/3 of the required size. I'm here representing Serve City, a homeless shelter and food pantry. We've gone to great strides and a lot of expense to remove some blight and improve the neighborhood, as well as provide homes for people who are, have been, or are recently usually homeless and have gotten jobs, people who can afford to live in this kind of place. The 2nd page shows what it used to look like as the Crecraft Building. The gray part of the building was about to fall down. The 2nd picture is after we removed that, it shows the block building. The bottom picture is what it looks like today with landscaping, some greenery, and some parking areas, and efficiency apartments for 25. So, some of the reasons that we would not like this car lot to go there: (a) there's insufficient parking to accommodate customers for this type of commercial use (b) street parking is limited and should be available for residents of the neighborhood (c) Shekinah Place apartments about the lot in question, and we at Serve City have concerns that its parking

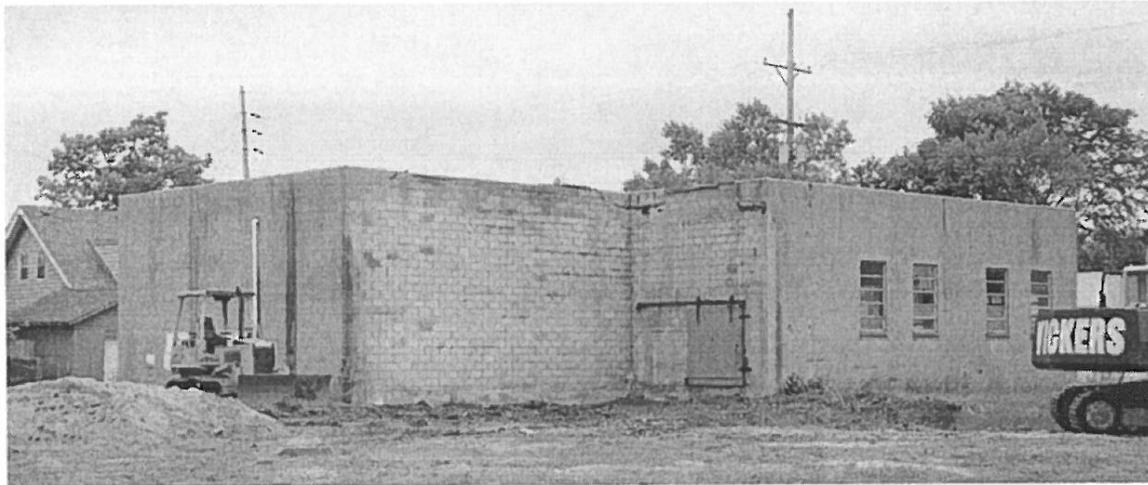
lots will be used to accommodate their customers (d) cars sitting in the set-back less than 10', and as our neighbor has said, would impair driver vision at that intersection (e) due to this business' close proximity to residences, and the city's priority to address "quality of life issues", providing a Conditional Use to allow a lot full of used cars would negatively impact the neighborhood as a whole. Serve City, the City of Hamilton, and the Federal Home Loan Bank invested significant dollars to address issues of blight, and have worked to revitalize this neighborhood. The allowance of this Use doesn't further those efforts. Thank you very much.



Creecraft Glass Building Before Demolition



After Demolition of Frame Section



Finished Shekinah Apartments



Ms. Underwood: Is there anyone else in the audience that wishes to speak against this appeal?

Mr. Bowling: I move to close the Public Hearing.

Mr. Jonson: 2nd.

Ms. Underwood: Roll call vote.

Ms. Mansdorfer:	Bowling?	Response:	Yes
	Bushman?	Response:	Yes
	Jonson?	Response:	Yes
	Underwood:	Response:	Yes

Ms. Underwood: Is there any further discussion before the Board? Hearing none, do we have a Motion:

Mr. Bowling: Madam Chairman, I wasn't particularly for or against (inaudible) but after hearing from Serve City and the neighborhood, they obviously (inaudible), therefore I'd like to move that we deny the three variance requests and the Conditional Use request. Exceptional Circumstances are the size of the property (it is not sufficient), there's not parking that would work very well for the neighborhood and it probably does have an effect on the values of the properties in the area.

Mr. Jonson: 2nd

Ms. Underwood: Thank you. We have a Motion and 2nd to disallow the Conditional Use and the 3 variances requested. May we have a roll call please?

Ms. Mansdorfer:	Bowling?	Response:	Yes
	Bushman?	Response:	Yes
	Jonson?	Response:	Yes
	Underwood:	Response:	Yes

Ms. Underwood: Is there any other business to come before the board today?

Mr. Creech: No, Madam Chairman. I would just like to add that the Board did deny, has denied the request to establish the Conditional Use and the three variances, and I will be mailing a letter to the Applicant/Property owner indicating the outcome of today's meeting, and that decision becomes effective 5 days after today's date.

Ms. Underwood: Thank you. Is there any other business today?

ADJOURNED:

With nothing further to discuss, the motion to adjourn the meeting was motioned by Jonson, and seconded by Mr. Bowling. With everyone saying "AYE", the motion carries. The meeting is adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Director
Community Development/Designee

Chairperson

DRAFT

**WRITTEN SUMMARY
BOARD OF ZONING APPEALS
MEETING MINUTES
Thursday, September 3, '15
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Mr. Larry Bowling, Acting Chairperson, presiding at 1:30 p.m.

Members Present: Mr. Larry Bowling, Mr. George Jonson, Ms. Nancy Bushman, and Mr. Desmond Maaytah.

Members Absent: Ms. Karen Underwood-Kramer

City Staff Present: Mr. John Creech, Ms. Meredith Murphy, Ms. Kim Kirsch, and Mr. Steve Tooman.

SWEARING IN: Mr. Tooman swore in members of the audience who were going to speak.

Mr. Bowling gave an overview of the process of Public Hearings and how the meeting will work.

OLD BUSINESS:

TABLED AGENDA ITEM #1 PUBLIC HEARING STAFF: Mr. John Creech
2015-15-CU Conditional Use Review
Request by Catherine Richardson for a Conditional Use and two zoning variances to allow Automobile Sales to operate on the property zoned B-2 Community Business located at 735 S. Erie Boulevard (Catherine Richardson, Applicant/Owner).

Mr. Creech thanks Mr. Bowling, and states that Item #1 is actually old business and an item that was tabled from a July 2, 2015 meeting. He states that there needs to be a movement to remove it from the table. Mr. Jonson makes the Motion, with a second by Mr. Maaytah. With all “ayes”, the Motion carries.

Mr. Creech gives an overview of the request by Catherine Richardson for a Conditional Use and two zoning variances to allow to an Automobile Sales use on the property located at 735 South Erie Boulevard. He states that the property is zoned B-2, the application was submitted for the July 2 meeting, and there was a written request that the Applicant provided at that time that the item be tabled. He states that the first meeting was July 2, that since that application was tabled back in July, the applicant has actually updated their conditional use application asking for two (2) variances, and he gives the specifics of those.

Mr. Creech then gives information about the property (what it is currently zoned, the size, total lineal feet, and the fact there are vehicles (either customers or vehicles for sale or awaiting repair or detailing) parked at this business and appear to encroach in the public right-of-way (Exhibit E).

Mr. Creech then shows the Public Hearing notification map, zoning map, and map from the Butler County Engineer's office. He points out specifically the cars parked perpendicular to the road there that look like they are parked off the property in the public right-of-way.

He then gives history of this address, citing that there was actually a Conditional Use request submitted for this property for a carwash and it was approved in 2004. In that, one of the explicit conditions stated that "At no time are any of the vehicles on the lot be priced or marked in any way for sale. This approval is not for automobile sales and no auto sales are to be conducted on this property." He states that it was pretty explicit, and one of the conditions of approval.

He then goes to the current issue, where there was a zoning complaint that came in through the Health Department about automobiles being sold on the property. He states that this a routine thing, and that department gets zoning complaints of that nature all of the time. In addition, they follow up on other Conditional Uses such as this that were approved a number of years ago just to make sure that those uses are in compliance with the original approval.

He states that the complaint came in, and a notice of violation was sent out in January of 2015. The owner was instructed to correct the violation by March 15, 2015 by either returning to the approved Car Wash operation, or apply for a Conditional use approval for an Automobile Sales. The application for Conditional Use for Automobile Sales was received on June 12, 2015, scheduled for the July 2, 2015 meeting, and was tabled upon the written request of the applicant.

He shows the information that was provided by the Applicant for their Conditional Use application. He states that the Applicant will go over the information when it is their time to speak, including their rationale for the written justification for the variances, and the 9 General Standards for Conditional Use.

He shows the site plan that the Applicant provided, showing the building, 10' set-back, and property boundaries of the building, and street right-of-way. He shows a copy of the original request for conditional use from 2004, as well as photos taken of the property in June. He states it has clearly morphed into an automobile sales use with the signs and vehicles for display. He cites Section 1155.10.2, stating that "The BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed."

He then goes through the 9 Review criteria found in Section 1155.30 (C) of the Conditional Use Review Criteria – General Standards. He states that as mentioned above, there is a lack of detailed information on the site plan and application for the proposed Automobile Sales which does not address customer parking, driveway areas, traffic access, circulation, open spaces, landscaping, refuse and service areas, utilities, signage, setbacks, and right-of-way. He states that he believes there are strong and sufficient reasons for the Board to Not Approve the proposed conditional use for an Automobile/Vehicle Sales use.

Mr. Bowling asks for any questions for Mr. Creech. Ms. Bushman asks about the building size, its proportion to the lot size, and how many cars can fit on lot. Mr. Creech cites the ordinance requirements with regard to lot size, customer parking, vehicle display, and set back. Mr. Maaytah references a letter from an attorney stating that there would be a detailed site plan provided with a parking configuration and asked if that has been received. Mr. Creech says that he has not received that.

Mr. Jay Bennett, Attorney for Catherine Richardson, then spoke. He states that he just got the site plan from his architect this morning, and he passes copies of those out to the Board. Ms. Bushman asks if there will be any cars parked in the right-of-way and he says there will not. The customers will park in marked spots straight in off of Rt. 4. He stated his client's position with regard to the Conditional Use criteria. He gives the background, reason for the request of the Conditional Use and variances, why they should be granted, and how it will benefit the community. He addressed the right-of-way, parking, and set-back requirements specifically. He made reference to the Staff Reports of July (for meeting where it was tabled) and the Staff report dated September 3 with regard to recommendations and criteria, and addresses his client's stance on each item.

Ms. Bushman asked about the building use, access to the building, existing curb cut, and he responded to those.

Mr. Jonson asked about whether or not there are cars currently for sale, compliance with notice stating current conditions which are in violation, and their non-compliance to date. Mr. Bennett replies that the correspondence had previously been mostly with the tenant, but that since the owner is now involved, he feels like she will comply to ensure no more violations.

Mr. Bowling then asked if there were any more questions, and if there was anyone else who wanted to speak to the appeal. There was not. He states that the notices started being sent in January, he has gone by the property three different times since then, and the non-compliance still continues and is continuing to get worse with regard to the number of cars.

Mr. Jonson made a Motion that the application be denied based on Standards 2, 3, 5, 7, and 9, with a second by Mr. Maaytah. Mr. Bowling asked for a roll call.

Bowling?	Response:	Yes
Bushman?	Response:	Yes
Jonson?	Response:	Yes
Maaytah?	Response:	Yes.

Mr. Bowling confirms that the request is denied. Mr. Creech explains that they will receive written confirmation of the Board's decision in 5 days, and that it explains the appeal process, should they wish to do so.

**NEW BUSINESS:
AGENDA ITEM #2**

PUBLIC HEARING STAFF: Mr. John Creech

2015-17-CU Conditional Use Review

Request by Jim Alt for a Conditional Use to allow Self Service Fuel Sales and drive-through sales to operate on the property zoned B-1 Neighborhood Business located at 631 Pyramid Hill Blvd. (Jim Alt/Gill Ohio INC., Applicant/ Owner).

Mr. Creech presented this item, starting with background and states that there are no zoning variances or exceptions associated with the application. He states that the property is comprised of two lots, gives dimensions of property and specifics of same, including zoning of it and surrounding areas. He shows the notification map, and states that he has received numerous calls from the notification letters that were sent. He gives the history of the property, proposal for the current property (including set-backs), no changes to property for vehicular access, landscaping plans, and plans for the hillside behind the property, including the installation of a retaining wall. He says that there had previously been a gas station there from 1970 until when it closed in 2005. The current owners acquired the property just recently. As part of the proposed project, the existing building will be removed, and they propose to build a single story (about 2100 sq. ft.) building and operate it as a drive-thru convenient store/gas station. He gives the specifics of lot size, set back and right-of-way. The existing canopy on the property will be utilized and renovated to match the proposed building. There will be 6 on site parking spaces, and no changes on the property as far as vehicular access. The Applicant also submitted plans for landscaping, retaining wall in rear, and plans for hillside in the back.

He shows a copy of the application, the Applicant's written responses to the 9 points of Conditional Use and the Architect's rendering of the proposed Station, and surrounding area.

Summary Review of Conditional Use Standards:

Section 1155.10.2 confirms that the BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Mr. Creech then goes through the 9 criteria for Conditional Use. He says that there are not very many properties in town that are zoned B-1, and he goes through the four (4) specific uses for self-service uses (include pumping of gasoline) and a drive-thru service (Conditional, but there are no specific standards associated with it).

Recommendation:

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (Exhibit C) provides the Board with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant on the site plan and supporting material there is sufficient reason to consider Approval of the Conditional Use with Conditions.

If the BZA approves the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) Any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.
- 2) Proposed building will be single story, shingle roof, brick and stone veneer as shown on plans including matching materials on dumpster enclosure and gas pump canopy.
- 3) All improvements and work indicated on construction drawings/documents approved by the as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use - (includes building, canopy, dumpster enclosure, landscaping, pavement surfaces, retaining walls and striping).
- 4) The hours of operation of the proposed Automobile Sales be confirmed by the applicant and approved by the BZA.
- 5) No exterior storage/sales of merchandise or materials other than the ice and propane sales as shown on the plans.
- 6) That the rear tree line/hillside be protected by a construction fence prior to beginning construction to preserve existing trees on the property.
- 7) No free standing sign is proposed – however building, wall and any other signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance.
- 8) Portions of the retaining wall that are visible from the public right-of-way to be colored/stained or stamped to match the theme of the building.
- 9) The Applicant install a five (5') wide sidewalk across frontage 631 Pyramid Hill Boulevard in accordance with requirements of City of Hamilton Public Works Department.
- 10) That the name “Party” not be used in the store name or any store signage.

Mr. Bowling then asked if there were any questions for Mr. Creech.

Ms. Bushman asked about the lighting. Mr. Creech stated that the retaining wall will block car lights from shining up into the residence at all. Mr. Maaytah and Mr. Creech discussed B-1 vs. B-2 zoning requirements, and lot size.

Mr. Bowling asked if anyone in the audience wished to speak.

Mr. Jim Alt, representative for Applicant and Owner, gave his name and address. He brought a revised colored rendering of the building (with a new name – not including the name of “Party”) and handed it out. He reiterated the answers from the Applicant to the Criteria and Standards for the Condition Use. One of the things that is going to change is that the number of pumps is going from 6 to 4. He states that the nature of the appeal is for the number of pumps and the drive up aspect of the business. He goes over the site plan, and states that the drive thru part of the business will be completely concealed by the back of the business. He says that the business will be family owned and operated. He says that it’s intended to be a neighborhood convenience store. He gives a little background as to why the location was chosen by the Applicant, and the

scope of services and merchandise that the store will have. He says that the drive up window will be completely covered, as will most of the lot. There will be no electronic communication, and that everything will be face to face, (so that will not bother the neighbors). He states that the Applicant has worked with Construction Services, and found them very easy to work with. He states that the building has sat vacant for 4 years, after being in business for 44 years. They have checked and found no violations from the Health Department. He says that the building is very residential in character with regard to the roofing aspects. He states that all utilities that they need are there, and the location is very convenient for cars coming southbound, and there is (or will be) a dedicated left turn lane for northbound cars to turn in. He says that he feels that the business will be a benefit to the overall neighborhood. With regard to the retaining wall, a Civil Engineer is working with them and utilized the existing hillside for the wall. They have a signage package that they are prepared to bring forward if the business receives approval. He addresses their plans for lighting on the property. He says that the market will be very current in their services and merchandise, with the sales of gasoline being more of a minor draw. He says that they bought the property for \$7,000.00, and the Gill family plans to put over \$500,000.00 into it. He summarizes their reasoning for asking for the Conditional Use, and verifies that all permits, insurances, and testing has been approved. He asked for any questions.

Ms. Bushman asked where the workers will park if there are only 6 spots. He said that the worker's vehicle will take 1 space. Mr. Creech stated that the requirement is 1 space for every 500 square feet of lot, so they are more than compliant. There were no further questions for Mr. Alt. Mr. Bowling asked for any other members of the audience who wished to speak.

One of the owners of 601 Pyramid Hill then spoke. He said he is glad they are coming, but he wonders if it will keep his business plans for something similar from being approved. Mr. Bowling stated that the approval of this item would not prevent anything else from being approved. Mr. Creech advised him that they would have to go through the same process, and it would be up to the Board to approve it or not.

Mr. Bowling asked for more questions, and there were none. Mr. Bowling thanked Mr. Alt for his thorough job on the Conditional Use criteria.

Mr. Jonson made a Motion to approve the Conditional Use. Mr. Bushman seconded the Motion. Mr. Bowling asked for a roll call.

Bowling?	Response:	Yes
Bushman?	Response:	Yes
Jonson?	Response:	Yes
Maaytah?	Response:	Yes.

Mr. Bowling confirms that the request is approved. Mr. Creech explains that the decision becomes effective 5 days after the approval, and they will receive written confirmation of same within 5 days.

Request by Mahmoud Abusway for a Conditional Use and one zoning variance to allow Automobile Sales to operate on the property zoned B-2 Community Business located at 922 East Avenue. (Mahmoud Abusway /Ahmaf Abusway, Applicant/ Owner).

Mr. Creech states that an application was submitted by Mr. Mahmoud Abusway, on behalf of the property owner Mr. Ahmad Abusway, to establish an Automobile Sales use on the property located at 922 East Avenue (Exhibit A). The property is zoned B-2 Community Business zoning district (Exhibit B). Per guidelines of BZA, notices of the Public Hearing were mailed to everyone within 500 feet of the business. He states that the variance request was done because the lot size doesn't meet the minimum lot size requirement of 20,000 sq ft.

He went through details of zoning, lot size (approximately 16,000 sq. ft total area between two lots), size of building on existing property, and total lineal frontage on East Avenue. He reviews the property and setback of the building. He says this it's a "boxy modern office building". He went through the zoning off properties in close proximity to 922 East. He reviewed the notification map, zoning map, and map showing the subject property.

Mr. Creech goes on to state that according to property records, the property was acquired by the current owner in 2009. He states that according to City records, it looks like the current owner submitted an application for an Automobile Sales Use in 2013, and was advised that it was a Conditional Use. No further action was taken by them after that time. He goes on to say that based on the aerial photos, it looks like they went ahead and established the use without getting Conditional Use approval sometime after 2013. This property came to the attention of the City when a nearby citizen, who was trying to get a Conditional Use for a similar business, was advised of the Conditional Use procedure and advised the city that 922 East had a Conditional Use and they had never gotten notice of them getting approval for it.

Mr. Creech then cites Section 1155.10.2, which confirms that the BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. He goes through the 9 Criteria that apply to said Section, and states that one in particular, dealing with lot size, applies to this application. He says that there is a lack of detailed information for this application, specifically with regard to the site plan.

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (C) provides the Board with the basic facts and circumstances of the proposed Conditional Use. As mentioned above, there is a lack of detailed information on the site plan and application for the proposed Automobile Sales which does not address customer parking, driveway areas, traffic access, circulation, open spaces, landscaping, refuse and service areas, utilities, signage, and setbacks. After consideration of the Conditional Use Review Criteria – General Standards #2, #3, #4, #5, #6, #7, and #9 above) there is a concern that the proposed conditional use:

- 1) Will substantially or permanently injure the appropriate use of neighboring property and will not serve the public convenience and welfare, and

- 2) Will not be harmonious with the existing or intended character of the general vicinity, and that such use will change the essential character of the same area, and
- 3) Will not be adequately served by essential public facilities and services, and
- 4) Will not have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets, and
- 5) Will not comply with all applicable development standards, except as specifically altered by the BZA in the approved Conditional Use, and
- 6) Will be hazardous to or have a negative impact on existing or future neighboring uses, and
- 7) Will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Therefore there are strong and sufficient reasons to Not Approve the proposed conditional use for an Automobile/Vehicle Sales use.

Notification

Public Hearing Notices were mailed to the owners of eighty nine (89) properties within 500 feet of the property in question. Mr. Creech states that staff has received a few calls with questions regarding the request, but no objections were expressed to the proposed conditional use for 922 East Avenue.

Mr. Bowling asks if the Board has any questions, and there are none. Mr. Bowling then asks if there is anyone in the audience that wishes to speak on behalf of this item.

Mahmoud Abusway, 25 Easton Manor Drive, Monroe, Ohio, speaks. He is one of the Applicants. He gave the background of his inquiry and application for vendor's license and zoning appeal. He gives his impression of the neighborhood and the subject property with regard to activity. He says that they have cleaned the property up and it looks much better than it had. He says that it's a family owned business, they have lived in Butler County for more than 20 years and would love to keep the business here. He believes they have had a positive impact on the neighborhood, and they have employed some of the neighborhood residents in different jobs for that location. He doesn't believe the business is a nuisance to the area, and believes that it gives back to the community in a positive way. He acknowledges that the lot is not of required size, and gives his rationale and responses to most of the criteria requirements. He asks for questions or concerns.

Mr. Bowling asks how many cars he is proposing to be on the lot. Mr. Abusway replies that he plans on 10 cars at the most, and they would be parked up next to the grass. Ms. Bushman asks if he applied for the Conditional Use, and what happened with that. He replies that he was simply making an inquiry in 2013, and that he was bounced back and forth between departments at the City and couldn't get a definite answer of what was needed. In response to an inquiry from Mr. Maaytah as to when he purchased the property, he states that has never actually purchased the property. The actual owner of the property is in the audience. He states that he believes the lot is comprised of 2 lots, and gives the specifics of those. Mr. Bowling asks if anyone else would like to speak.

Ahmaf Abusway then speaks. He says that he is Mahmoud's dad, and he is the owner of the building at 922 East Avenue, and the car lot. He says that he lives in West Chester, Ohio, and he purchased the building for investment. He goes through the history of the sale of the property, the condition of the neighborhood when he bought the property, the work that he's done to the property and the building, and why he feels he's done a good thing for the community. He goes through the steps that his son has taken to try to comply with the City. Mr. Bowling asks for question or comments from the Board. Mr. Maaytah says that he drove by the business the day before, and gives his findings. There is some discussion with Mr. Abusway about tanks on the property. Mr. Bowling says that the issue the Board has, in his opinion, is that this is the 2nd request for a car lot in several blocks, and they don't want it become that like Rt. 4. He understands that the Applicants have put a lot of time and money into the business, and it's a difficult situation.

Mr. Jonson made a Motion that the application be denied based on General Standards #2, #3, #4, #5, #6, #7, and #9, with a second by Mr. Maaytah.

Mr. Bowling asks Mr. Creech what the options are for the business owners if the application is denied. Mr. Creech replies that they cannot operate a car lot at this address. If they want to operate the same business and they found a different location, they would have to apply for a Conditional Use there. Mr. Maaytah says that one of his main concerns is the lot size with regard to the 20,000 sq. ft variance and the issue that if that requirement isn't held to, there are going to be numerous small car lots all over the City. He does recognize, however, that the Applicants have done an excellent job of cleaning up the lot and their effort and hopes that they can find some other business type of use that will comply.

With no other questions or comments, Mr. Bowling asks for roll call.

Bowling?	Response:	Yes
Bushman?	Response:	No
Jonson?	Response:	Yes
Maaytah?	Response:	Yes

Mr. Bowling states that the Motion passes, and the application is denied. Mr. Tooman verifies that the vote was 3-1 in favor of denying the Motion. Mr. Creech then gives the Applicants the procedure for the 5 day notification of the denial. Mr. Bowling explains the appeal process to the Applicants. There is then a brief question and answer session between the Applicants and members of the Board. They were referred to Economic Development for some of the information they were seeking.

Mr. Jonson made a Motion that the minutes of the meeting for March, April, & June be approved, with a second by Ms. Bushman. All in favor, the Motion carries.

ADJOURNED:

With nothing further to discuss, the motion to adjourn the meeting was adjourned.
Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Director
Community Development/Designee

Chairperson

DRAFT

**WRITTEN SUMMARY
BOARD OF ZONING APPEALS
MEETING MINUTES
Thursday, October 1, '15
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Ms. Karen-Underwood, Chairperson, presiding at 1:30 p.m.

Members Present: Mr. Larry Bowling, Ms. Karen Underwood-Kramer, Ms. Nancy Bushman, and Mr. Desmond Maaytah.

Members Absent: Mr. George Jonson

City Staff Present: Mr. John Creech, Ms. Meredith Murphy, Ms. Kim Kirsch.

SWEARING IN: Mr. Creech asked members of the audience to rise and be sworn in if they intended to speak during any of the public hearings on the agenda.

Mrs. Underwood-Kramer gave an overview of the process of Public Hearings and how the meeting will work.

OLD BUSINESS: None

AGENDA ITEM #1 PUBLIC HEARING STAFF: Ms. Meredith Murphy
2015-19-CU Conditional Use Review

Request by Misty Duff for a Conditional Use to construct a single family residential dwelling on a property zoned I-1 Limited Industrial located at 251 North B Street. (Misty Duff, Applicant/ Owner).

Ms. Murphy: Today we're going to be talking about a Conditional Use request for a residential dwelling zoned in an I-1 Limited Industrial location. The address is 251 North B Street. The application was submitted by Misty Duff. Section 1123.37 requires Conditional Use approval for the establishment of a single family residential use in an I-1 district, and that's why they're here today. If the Board recalls, a couple of months ago we had a similar case for a residential apartment in an Industrial area.

As I said, the property is zoned I-1. The property is comprised of two (2) lots and I'll show a map of that in just a second. It has 70 lineal feet of lot frontage along North B Street, and the two lots are approximately 7,879 square feet. These are the two properties outlined in blue on North B Street. The zoning in that area along North B Street is I-1 and I-2, and then to the northwest is an R-4 residential area.

The lot was previously a single family home that was built in 1904 and had 3 bedrooms. In April of 2014, we have a record of a demolition permit

by Maud Hughes Properties Incorporated. After it was cleared, the lot's been vacant. The current owners acquired the property last month.

The Applicant submitted information, which I can let them go over, and then some of their rationale for the process. As I said, the property is currently vacant, the project is a proposed single family dwelling with 2,000 sq. ft. of finished living space. The proposed house would occupy approximately the same size and location of the previously demolished house that was on the site.

We have the application, and then we have some images that were included in your packets of renderings for the proposed house.

This one shows an aerial view of the plan. Another rendering. Section 1155.10.2 confirms that the BZA has no obligation to approve a Conditional Use. It assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

We have the 9 standards which I'm sure the Board is familiar with, but I'll briefly go over those:

1. That it be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
2. The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity.
4. The proposed Conditional Use shall be adequately served by essential public services.
5. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.
6. The proposed Conditional Use will comply with all applicable development standards, except as specifically altered by the BZA in the approved Conditional Use.
7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.

9. The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

So after reviewing the 9 conditions and the information submitted by the applicant, staff says that there is sufficient reason to consider approval, and then we have three recommended conditions associated with the request:

1. That any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee. That is the process that a normal building application would go through. It gets routed to all of the different departments and reviewed for compliance.
2. All improvements and work indicated on construction drawings/documents approved by the Board as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use.
3. That efforts be made to preserve existing trees on the rear (hillside) of the property.

I'd be happy to answer any questions, or the Applicants are here.

Ms. Underwood: Does anyone have any questions? (no response). Hearing none, we will open the Public Hearing. Is there anyone that wishes to speak on behalf of this appeal? Please step the podium and microphone.

Audience: My name is Misty Duff. My address is 340 Chase Avenue, Hamilton, Ohio. You guys have the plans and the idea. Basically, it's for a single family structure. This is not to be a rental, this actually to be a market home, available for sale. It's kind of something different in our area. We're also, the materials that we're using, we're focusing on, the house probably won't have LEEDS certifications, I don't think we're going to go as far as to seek that, but it is designed to LEEDS standards, so it is actually a very environmentally friendly house. We didn't put in our appeal that we plan to protect the trees, but that is part of this. There are some old magnolia trees and some other things that we've seen that there's no reason to disturb. I think that's it. Do you have any questions for us?

Mr. Bowling: The panels that you want to put up, will it have the look of brick?

Ms. Duff: It's actually, the panel itself you won't see. Think of it like the framing and plywood of your house, basically. It's the actual structure and then you put the finishes over top of that structure. The panel is never visible, it's just the actual building material that we used to build the structure. It will have, I think the plan is that it will be a stone front and then vinyl on the sides.

Ms. Bushman: The steps alongside the garage that lead up to the patio (or whatever it is), does that have a railing on the side? It doesn't show on this.

Ms. Duff: It will, yes. It will be built to the building standards that are required for that. I don't think it shows on that landing because there's a significant amount of steps to get up there, there's even a landing in between and I think there's a minimum for that, it has to be like 36" or something like that.

Ms. Underwood: Thank you. Any additional questions? Hearing none, is there anyone else in the audience that wishes to speak on behalf of this appeal?? No one, thank you. Is there anyone that wishes to speak against this appeal, please step to the podium and state your name and residential address. (No response).

Mr. Bowling: I make a Motion to close the Public Hearing.

Mr. Maaytah: 2nd.

Ms. Underwood: Thank you. We have a Motion and second to close the Public Hearing. Roll Call please.

Mr. Creech: Bowling? Response: Yes
 Bushman? Response: Yes
 Maaytah? Response: Yes
 Underwood: Response: Yes

Ms. Underwood: Thank you. Is there any further discussion? Do we have someone who would like to make a Motion?

Mr. Bowling: Madam Chairman, I would move that we grant the Conditional Use for the single family residential dwelling on a property zoned I-1 Limited Industrial located at 251 North B Street. They've given enough facts and circumstances to allow it, and have satisfied the Conditional Use criteria, adding the three conditions that were mentioned from the Administrator's report.

Ms. Underwood: Thank you, do we have a second?

Ms. Bushman: Second.

Ms. Underwood: Is there any further discussion? Hearing none, do we have a Roll Call vote?

Mr. Creech:	Bowling?	Response:	Yes
	Bushman?	Response:	Yes
	Maaytah?	Response:	Yes
	Underwood:	Response:	Yes

Ms. Underwood: Thank you. Mr. Creech, do you have information for the Applicant?

Mr. Creech: Yes. The request for the Conditional Use was approved by the Board. Actual decisions by the Board become effective 5 days after today's meeting. I will mail a letter to your address indicating the decision of the Board today.

ADJOURNED:

With nothing further to discuss, the motion to adjourn the meeting was motioned by Mr. Bowling, and seconded by Mr. Maaytah. With everyone saying "AYE", the motion carries. The meeting is adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Director
Community Development/Designee

Chairperson

**WRITTEN SUMMARY
BOARD OF ZONING APPEALS
MEETING MINUTES
Thursday, November 5, '15
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Mr. Larry Bowling, Acting Chairperson, presiding at 1:30 p.m. Mr. Bowling advised the audience that since one member wasn't present, the vote has to be 3 to 1 for an item to pass. If any of them wished to continue their item to the next meeting, they needed to let Mr. Creech know.

Members Present: Mr. Larry Bowling, Ms. Nancy Bushman, Mr. Jonson, and Mr. Desmond Maaytah. Mr. Tooman was present for the Law Department.

Members Absent: Ms. Underwood-Kramer

City Staff Present: Mr. John Creech, Ms. Meredith Murphy, Ms. Kim Kirsch.

SWEARING IN: Mr. Tooman asked members of the audience to rise and be sworn in if they intended to speak during any of the public hearings on the agenda.

Mr. Bowling gave an overview of the process of Public Hearings and how the meeting will work.

OLD BUSINESS: None

AGENDA ITEM #1 PUBLIC HEARING STAFF: Ms. Meredith Murphy

2015-20-CU Conditional Use Review

Request by Carl Eskins for a Conditional Use and two Variance requests to allow an Automobile Service and Minor Repair facility to operate on the property zoned B-2 Community Business located at 300 Millville Avenue. (Carl Eskins and Crystal Roberts/Lamon and Betty Hubbs, Applicant/ Owner).

Ms. Murphy goes over the request, stating that an application was submitted by Mr. Carl Eskins to establish an Automobile Service and Minor Repair facility use on the property located at 300 Millville Avenue. (Exhibit A). The property is zoned B-2 Community Business zoning district (Exhibit B). B-2 Community Business zoning district is regulated by Section 1121.00 of the Hamilton Zoning Ordinance, (HZO). An Automobile Service and Minor Repair facility use requires Conditional Use approval by the BZA (1121.39). There are two zoning variances are associated with this request. The two requested Variances are to allow an Automobile Service and Minor Repair on a property with less than the minimum 20,000 sq. ft. of required Lot Area and a reduction of the required ten (10) foot minimum setback from any property line for parking of vehicles.

Property Details

The property is zoned B-2 Community Business District. The property is comprised of four (4) lots. The lots are approximately 14,200 square feet in total area. The property has a total of 200 lineal feet of lot frontage along Millville Avenue. She shows the location map with the property outlined in red.

The properties to the north are zoned I-1 Light Industrial. The properties to the west are zoned R-2 Single Family Residence, to the south is R-2 Single Family Residence and to the east is B-2 Community Business district.

Background

The lot was previously used as a garden store and prior to that an Automobile Service Center, and a Sunoco Gas Station. In 1985 the property received approval for a Conditional Use to operate an Automobile Service Center. The Minutes for that meeting indicate that the previous approved use on the property was a Sunoco Gas Station. Most recently the property was used as a garden store. The garden store was discontinued in April of 2014, which is the reason they need a new approval (the previous business ceased operation).

The applicant submitted the following information in their application (Exhibit C).
"Automobile Repair, Hours of Operation are posted 9 A.M. - 6 P.M. Monday thru Friday."

Proposed Project

The applicant submitted a site plan (Exhibit C) that indicates the parking area will be blacktopped, have approximately 16 parking spaces, a customer parking area, and ornamental grass will be planted along the parking lot nearest to the railroad (the south western property line). They also indicate that they plan on adding pavement to the south eastern corner of the property behind the building. There are no other site improvements associated with this request.

Summary Review of Conditional Use Standards

Section 1155.10.2 confirms that the BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

She briefly reviewed the nine (9) criteria for Section 1155.30 that the BZA looks at in determining whether or not to approve a request.

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.**
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.**

- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.**
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.**
- (5) The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.**
- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered by the BZA in the approved Conditional Use.**
- (7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.**
- (8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.**
- (9) The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The requested conditional use for Automotive Service and Minor Repair has a number of conditions associated with it, as listed in 1121.39.26. The applicant has requested a variance to two of the conditions.

- **Minimum lot area 20,000 square feet.**
- **Automobiles awaiting repair, shall be located on a paved surface and shall be setback a minimum of ten (10) feet from any property line**

Recommendation

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (Exhibit C) provides the Board with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant on the site plan and supporting material relating to the previous use and approval on the property there is sufficient reason to consider Approval of the Conditional Use with Conditions.

If the BZA approves the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) **Any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.**
- 2) **The hours of operation of the proposed use be 9 A.M. - 6 P.M. Monday thru Friday.**
- 3) **Vehicles awaiting repair parked in front of the building be limited to the areas indicated on the site plan and not in the designated customer parking area.**
- 4) **That all associated conditions from 1121.39.26, with the exception of the two requested variances be met to remain in compliance with the conditional use approval.**

Mr. Bowling asked Ms. Murphy if the intent was just to service vehicles on the lot and not sell them and she replied that the Applicant only indicated that they were going to service and not to sell. Mr. Bowling then asked if anyone in the audience wished to speak on behalf of the appeal.

Ms. Betty Hubbs spoke and stated that Ms. Eskins has been at the location for a year and a half and has provided a much needed service to the area. She says that he has been a man of his word, has kept the lot mowed and maintained, pays his rent in a timely manner, and she believes that it is a benefit to the community for him to be there.

Mr. Carl Eskins, the owner, then spoke. He said that many of his customers live in the area and are appreciative of the fact that his prices seem to be lower, and they are able to drop their cars off and walk home. He believes that he does good quality work and gets the cars back to their owners as soon as possible. He lets the car owners make payments if they need to, and pick the cars up when their bill has been paid. He lives on Boyle Road, has been an automotive mechanic since 1990, and believes that he is a good businessman. He would like to stay where he is and continue to serve the local community and will do whatever is necessary. Mr. Bowling asked if cars on his lot are all being serviced. Mr. Eskins said that the 1977 Chevy Pickup on the lot is his and needs to go back to his house. There is one other vehicle on the lot that has been abandoned, and he is going to take it to Cohens once he gets the title. Mr. Jonson reiterated to him that he cannot sell used cars, and Mr. Eskins states that he is aware of that and will adhere to those guidelines.

Jim Friedrich spoke and stated that he lives on the west side of Hamilton, has utilized the services provided by Mr. Eskins, and believes that his services are just as good as any other repair shop. He thinks it is an asset to the City and to the neighborhood.

Elizabeth Jackson, 227 Millville, said that Mr. Eskins is doing things legally, and the man at 235 Millville is not. She says that a man who lives at 235 Millville Avenue is repairing cars and selling them at auction. Mr. Bowling requested that she give the information to Mr. Creech, and he can forward it to the Health Inspector.

Ms. Hubbs spoke again, and wanted to clarify that the Deed states that the lot is actually 14,497 sq. feet.

With nothing further from the Board or audience, Mr. Jonson makes a Motion to close the Public Hearing, with a 2nd by Ms. Bushman. Mr. Jonson then makes a Motion to approve the application subject to the conditions as read, and the two variances requested, with a 2nd by Ms. Bushman. With all “ayes”, the Motion passes.

AGENDA ITEM #2 PUBLIC HEARING STAFF: Ms. Meredith Murphy

2015-21-CU Conditional Use Review

Request by Nana Kwame Agyekum for a Conditional Use and three Variance requests to allow an Major Automobile Repair facility to operate on the property zoned I-1 Light Industrial located at 1150 Hooven Avenue. (Nana Kwame Agyekum /Shane Kelley, Applicant/ Owner).

Ms. Murphy states an application was submitted by Mr. Nana Kwame Agyekum to establish a Major Automobile Repair facility use on the property located at 1150 Hooven Avenue (Exhibit A). The property is zoned I-1 Light Industrial zoning district (Exhibit B). I-1 Light Industrial District is regulated by Section 1123.00 of the Hamilton Zoning Ordinance, (HZO). A Major Automobile Repair facility requires Conditional Use approval by the BZA (1123.38.1).

A Major Automobile Repair facility is defined as: Major Auto Repair: shall mean any business, building structure, or land used for the major repair of a motorized vehicle, whether licensed to circulate on streets or non-licensed for off-street use, which gross vehicle weight (GVW) is ten thousand (10,000) pounds or more, and regardless of weight, repairs including the remanufacturing of engines, the rebuilding of transmissions, body-work, frame straightening and paint, or similar repairs.

Property Details

The property is zoned I-1 Light Industrial District. The property is comprised of one (1) lot. The lot is approximately 10,018 square feet in total area. The property is located on a corner and has a total frontage of 186 lineal feet of lot frontage along Hooven Avenue and Zimmerman Avenue. The properties to the north, south and east are zoned I-1 Light Industrial. The properties to the west are zoned R-2 Single Family Residence.

Background

Staff records indicate that the property was previously a pavement business. In 1981 the property received approval for a variance to combine the existing two parcels into one on the property to allow for the construction of a storage building at 1150 Hooven Avenue.

Proposed Project

The applicant submitted the following information in their application (Exhibit C).
“Property assigned was originally to be used for Auto Body Shop. Consequently the property is being used for Auto Body Shop. The Shop Repairs salvage cars and wrecked or accident cars. I request variance if any to original proposed lot use. To accommodate the business needs on repairing and fixing salvage and accident cars. Appellant car business is to repair and fix salvage and accidents cars which come to my shop for work. Without salvage and accidents, appellant doesn’t have any business. Therefore, appellant request this change on the condition. The lot prescribed is an outfit for body shop. It had been used as a body shop as such and therefore conformed to the use of this facility.”

She also shows pictures submitted by the Applicant, as well as a copy of the Lease Agreement.

Summary Review of Conditional Use Standards

Section 1155.10.2 confirms that the BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

She then reiterated the 9 General Standard Criteria for Conditional Use, and gives the three variances requested:

Major Auto Repair: (OR 2014-8-72)

As Defined in Section 1108.00 and must comply with the following conditions:

- Minimum lot area 20,000 square feet
- Minimum lot width 100 feet
- Facilities that are located on a corner lot shall have a minimum of 100 feet frontage on each street.

Recommendation

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (Exhibit C) provides the Board with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant is sufficient reason to consider denial of the Conditional Use and three Variances because the lot is only ½ as large as the minimum lot required for such use which could lead to vehicles awaiting repair being parking outside the fence along Hooven Avenue or Symmes Avenues.

However, if the BZA considers the approval of the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) Any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.**
- 2) The hours of operation of the proposed use be 10 A.M. – 7 P.M. Daily.**
- 3) The fence/enclosure be maintained to block the sight of vehicles awaiting repair parked within the enclosed area.**
- 4) That all associated conditions from 1123.38.1, with the exception of the three requested variances be met to remain in compliance with the conditional use approval.**

Notification

Public Hearing Notices were mailed to the owners of One hundred and four (104) properties within 500 feet of 1150 Hooven Avenue. At the time of the meeting, four phone calls had been received. Two were requesting confirmation of hours of operation for the business, and two were concerned with parking issues.

Mr. Bowling asked for questions from the Board. Ms. Bushman asked if the business was going to be operational 7 days a week, and Ms. Murphy stated that she believed it was. Ms. Bushman inquired about the placement of cars within the enclosed area of the property. It was suggested that she speak with the Applicant about that inquiry. Mr. Bowling then asked if any members of the audience wished to speak on behalf of the appeal.

Mr. Thomas Reasch, 1101 Minor Avenue spoke, and stated that he lives behind the property in question. He said that he's not opposed to the request, as long as the applicant follows the rules and puts up a fence. He said that the applicant has been making improvements. His concern is the closeness of the building to the corner of the street. He

did have another question, but it was about another property not related and Mr. Creech said that it has been referred to the Health Department.

Mrs. Agyekum spoke and said that her husband is hard working, and willing to do anything to comply with the rules to keep his business at that location. Mr. Jonson asked her what her husband is using the property for at this time, and she replied that he works on salvaged cars for customers. They buy salvaged cars and he fixes them up. Mr. Jonson stated that it looked like a junk yard, and she stated that is not the case, and her husband is willing to get rid of the cars if that is the issue.

Mr. Creech asked her to explain the process to the Board. She said that if a car is damaged in an auto accident, he does that work also. He buys his parts new and used and puts them on cars and then his customers buy the salvaged cars from him.

Mr. Agyekum then spoke. He explained the nature of his business. He said it's not a junk yard. Mr. Bowling asked if the customers that are buying the cars have the title and he replied that they do. Mr. Bowling said that he believes that if the Board is even going to consider approving the request, he would have the put a fence up and get rid of the junk cars in a certain time period.

Ms. Bushman asked if he would be able to keep all cars inside (off the street) and he said that he would. She verified his working days and he said it's normally Monday-Friday, Saturday for something exceptional, and never on Sunday. Mr. Maaytah asked how long a car is normally on the lot and he said it can be from a week to a month.

Mr. Bowling asked for anyone else that wanted to speak on behalf of the appeal and there were none. He asked for anyone that wanted to speak against the appeal, and Mr. Troy Gibson, 1026 Hooven Avenue, spoke. He said that the residents in his neighborhood strongly object to the business being in the area for the following reasons: (1) It's a junk yard filled with old junk cars and (2) safety concern for traffic reasons – sharp curve with room enough for only one car to make turn at Zimmerman. He says that the lane is not big enough for two trucks at one time. He also made reference to the property at 1011 Weller Avenue, as well as lot at old Kmart. He mentions these other properties just as examples of what the citizens of Lindenwald have had to put up with by “people doing what they want”. He asks the Board to deny the request in an effort to preserve the quality of Lindenwald. Mr. Bowling assured him that Mr. Creech would pass on the information to the right person. Mr. Gibson then turned in a signed petition to Mr. Creech.

With no one else from the audience wishing to speak, Mr. Jonson made a Motion to close the Public Hearing with a 2nd by Ms. Bushman. With all “ayes”, the hearing was closed. Mr. Maaytah asked if there was a site plan. Mr. Bowling said that if the building were put there today, it would have to be built back more from the street.

Mr. Jonson moved to deny the application due to lot size, he doesn't believe it complies with applicable standards, and the proposed Conditional Use will cause traffic hazards, with a 2nd by Mr. Maaytah. With “ayes” from all, the Motion passes and the request is denied. Mr.

Ms. Murphy then goes over the information submitted by the Applicant describing his use and the situation (12 items). She shows a picture of the application, and the Applicant's rationale in requesting the appeal.

Summary Review of Conditional Use Standards

Section 1155.10.2 confirms that the BZA has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the BZA that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Recommendation

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (Exhibit C) provides the Board with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant (Exhibit C) there is sufficient reason to consider Approval of the Conditional Use with Conditions.

If the BZA approves the request for a Conditional Use, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 5) **Any construction drawings/documents for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.**
- 6) **The hours of operation of the proposed use be confirmed as 7 A.M. – 7 P.M. daily.**
- 7) **That all associated conditions from 1123.38.1, with the exception of the one requested variances be met to remain in compliance with the conditional use approval:**
 - **Facilities that are located on a corner lot shall have a minimum of 100 feet frontage on each street**

Notification

Public Hearing Notices were mailed to the owners of One hundred and fourteen (114) properties within 500 feet of the property in question. No calls were received, and no objections expressed to the proposed conditional use for 239 Edgewood Avenue.

With no questions from the Board, Mr. Bowling asked if anyone in the audience wished to speak.

Mr. Johnny Barnes said that he had nothing to add, but was available for any questions. Mr. Bowling asked if all of his work was done inside and the answer was "yes", and nothing is done on the outside and the answer was "no sir".

With no one else from the audience wishing to speak, Mr. Jonson made a Motion to close the Public Hearing with a 2nd by Ms. Bushman. With all “ayes”, the hearing was closed. Mr. Jonson made a Motion that the request be approved subject to the conditions given, with a 2nd by Mr. Maaytah. With all “ayes”, the Motion passes and the request is granted. Mr. Creech advised that he would be sending a letter of verification of the Board’s decision.

Miscellaneous

Policies and Procedures

Ms. Murphy thanked the Board for coming to the BZA session in Forest Park, and advised that the Staff will be reviewing policies and procedures in order to assure compliance with all recent changes.

Mr. Creech also mentioned appeals of interpretation, and gave the Board notice that there may be an item coming before them on the next agenda that is a piece of property that has been used for a something in a non-conforming use. He gave a broad overview of the situation.

ADJOURNED:

With nothing further to discuss, the motion to adjourn the meeting was made by Mr. Jonson.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Director
Community Development/Designee

Chairperson