

## **ZBA Meeting Minutes April 16, 2019**

The City of Conneaut Board of Zoning Appeals hearing was held on Tuesday, April 16, 2019 beginning at 5:30 pm., Pledge of allegiance was recited. Mr. Arcaro asked for roll call. Present were Mr. Arcaro, Mr. McKenna, Mrs. Sherman, Mrs. Gates and Mr. Naylor

**Mr. Arcaro** – Swore in Kris Hopkins, Planner CT Consultants, Melanie Shubitowski, Zoning Inspector and Janet Brown, P/Z Manager

**Mr. Arcaro** asked if the board reviewed the March 19, 2019 meeting minutes and if there were any changes or corrections that need to be made. Mrs. Gates said that Rueben's name is spelled wrong. Mr. Arcaro asked for the packets to go out earlier so that the board has time to review. Packets were sent out electronically for board to review, but most of the board cannot print them. Mrs. Brown asked if anyone has a hard time opening attachment to read the minutes and review cases. Mr. Naylor said I think there is something about ten days in advance prior to the meeting. Mrs. Brown said she will try and get them out earlier for boards review. Mr. Arcaro asked when we adjourned at 7:26 – didn't we go into executive session? Mr. Naylor and Mrs. Gates replied yes, then we came back and then we adjourned. The minutes need to reflect when we went into executive session and then returned from executive session. Mrs. Shubitowski replied it should be in here. Mr. Arcaro stated it is not. Mr. Naylor asked if Kyle was going to be at the meeting tonight. Mrs. Brown replied he will be available by phone if you need him. Mrs. Shubitowski found in the minutes where it represents the board went into executive session at 6:10 p.m. and returned from executive session at 7:25 p.m. Mrs. Brown asked if that was correct and Mr. Arcaro replied yes and so we had all this other discussion after we came out of executive session, wait that is not accurate. Ms. Shubitowski said that has to be 7:10. Mrs. Brown said Mrs. Shubitowski will review the minutes and make the corrections. Mr. Arcaro was ok with that and asked if there were any other corrections. Mr. Arcaro entertained a motion to approve March 19, 2019 minutes. Mrs. Sherman made motion to approve the March 19<sup>th</sup> minutes as corrected and Mrs. Gates second the motion. Roll was called, all approved. Motion carries.

**Mr. Arcaro** – Old Business – Mr. Rueben Schwartz dba as KGM Properties located at 618 Sandusky Street is seeking a Change in Use Permit to lease out his building to Mr. Ray Hammond providing fresh cut hardwood counter tops, table tops, bar tops, and barn beams. The building is currently used as a storage facility housing boat's, rv's etc. Change of Use will be to a Commercial Retail. Located in an R-4 Urban Residential District. Further discussion. Mrs. Brown introduced Mrs. Kris Hopkins from CT Consultants and explained Kris was at the meeting explain the differences in the Non-Conformities and the Uses and answer any questions.

**Mr. Arcaro** - I think one of the biggest questions we had was from the first night we had the conversation was whether nor not we had to require and/or worry about all the stuff that goes into him operating the business and/or Rueben having the building, correct. Mrs. Sherman - correct

**Mr. Arcaro** – Like making sure it is up to code fire wise, sprinklers, noise, dust

**Mrs. Hopkins** – So those are all things that you can rule on. First of all, it is a non-conforming use, so it's a protected use by the Ohio Revised Code as long as it is legal. Legal meaning that it existed prior to any code provisions that made it illegal, so the Ohio Revised Code allows legal non-conforming uses to continue. The zoning code allows the board of zoning appeals to consider substitutions of the non-conforming use. So as part of that substitution, because that is a privilege to grant to him (building owner) that you can then stipulate conditions. So if there is a concern about the ability of the building to be occupied in a certain way from a noise standpoint or a structural standpoint than you can require there to be an inspection, you can require there to be soundproofing, there are conditions you can place on it if you were to approve a substitution of use.

**Mrs. Gates** – So if were to have a wood working shop on one side and boats on the other, could we have him do sprinkler systems.

**Mrs. Hopkins** – Now that is a building code issue. I am not a building inspector, but that is one thing to look into is to say if the building code requires there to be a sprinkler system than you would have to install it.

**Mrs. Gates** – OK – we just had some concern in the audience from people who lived right next door and across the street that they were worrying about there houses if something happened that caused that whole building to go up in fire.

**Mr. McKenna** – I would be more worried about the boat storage than the wood working shop, just because it is full of gasoline, there has to be thousands of gallons of gas in there

**Mrs. Hopkins** – Have you talked with the Fire Chief at all

**Board members**– No

**Mrs. Gates** – I have talked with the Building Department and if there is a change of use the owner would have to submit drawings to the Building Department if he does any revisions to the building, he would then have to put a sprinkler system in. Our Chief Building Official is no longer at the county as of tomorrow, so who knows what will happen with a new official they may be stricter or more lenient.

**Mrs. Sherman** - Using it as storage is different that the retail, so once it goes to retail the fire department had to go in and do an inspection

**Mr. Naylor** – Who is requiring the inspection

**Mrs. Brown** – State and City Codes for Commercial Properties

**Mr. Naylor** – So, we really don't have to address it then

**Mrs. Brown** – You do not, but if you want to stipulate it – you can

**Mr. Naylor** – My concern is if we stipulate it, who will enforce it

**Mrs. Brown** – Once all of this is done and the ZBA makes a decision to approve the Change in Use of the building, the Planning & Zoning Department will let the City Fire Department know to contact Mr. Schwartz and schedule an inspection.

**Mr. Naylor** – What kind of information is submitted to the Chief to allow him to make a decision

**Mrs. Sherman** – The Fire Department asks all the questions and the only reason I know this is because I have been through it before.

**Mrs. Gates** – So we can put restrictions on time usage

**Mrs. Hopkins** – Meaning hours of operation

**Mrs. Gates** – Yes

**Mrs. Hopkin/Mrs. Brown** – Yes, you can do that

**Mr. McKenna** – He did say from 8 a.m. to 5 p.m. – correct

**Board members** - Yes

**Mrs. Gates** – Then you have the trucks coming in and out late from the residential district ...

**Mrs. Hopkins**- Trucks in terms of picking up the boats?

**Mr. Naylor** – No, trucks delivering wood or taking wood out – that’s what he had mentioned

**Mrs. Hopkins** – Do you know how big these trucks are going to be and the types of logs he will be delivering

**Mrs. Sherman** – We did ask him that

**Mr. McKenna** – per code he needs a sixty-five (65) foot driveway to enter

**Mrs. Sherman** – Which is there

**Mr. McKenna** – On the front, but he said he was going to be in the back – right?

**Mrs. Sherman** – The side has a sixty-five (65) foot - I mean it is longer (inaudible)

**Board Members** – All talking (inaudible)

**Mr. Arcaro** – Asked the board if they looked at this (Condition Uses)

**Mrs. Hopkins** – One thing I would like to clarify on what you have been given based on terms of the conditional use procedure. I would like to comment on this Section 1137.07 – the Zoning Code does not stipulate how the ZBA would review and act on a substitution of use, it refers to in addition to the conditional use and the variance procedure that the ZBA has the authority to approve things related to non-conforming uses. I would use the procedures from the conditional uses as a guideline and the conditions are things that you can consider. I would be very careful in your motion to approve or not approve that your consistent in terms of talking about it as a substitution of a non-conforming use rather than calling it an approval of a conditional use, because a conditional use has to be a use that is permitted in a district. You have a lot of conditional uses identified in here (showing copy of conditional uses), but the wood working part says it’s an industrial conditional permitted use and those are not permitted or listed in the Residential District. To the extent that you would approve or disapprove you can follow the conditions and impose those conditions. Again, what you are doing is approving a substitution of a non-conforming use with another non-conforming use and you can be very specific about it as well.

**Board Members** – Asking if they received a copy and Mrs. Brown said she emailed all of them a copy. Ms. Shubitowski made copies of the condition uses for the board during the meeting for them to review. Mr. Arcaro had his copy with him.

**Mr. Arcaro** - I highlighted the conditions of what I thought we might want to consider and entertain a motion

**Mrs. Brown** – Asked the board if they would like to go into an executive session to discuss the conditional uses

**Mr. Arcaro** – Entertained a motion to go into an executive session

**Mr. McKenna** – made motion to go into executive session, Mrs. Gates second the motion

Roll was called – all approved – motion carries

**Into Executive Session Time: 5:50 p.m.**

**Mr. Arcaro** – Entertained a motion to come out of executive session

**Mrs. Gates** made motion and Mrs. Sherman second the motion

Roll was called – all approved

**Out of Executive Session Time: 6:59 p.m.**

Mr. Arcaro - After a long exhausting executive session – I will entertain a motion to table this case on more time.

**Mr. McKenna** made motion to table and Mrs. Gates second the motion

Roll was called – all approved – motion carries

**Mr. Arcaro** – Old Business tabled from last meeting: Case # 01-2019 - Mr. Daniel May of FPM OHIO LLC dba HEATED STORAGE OHIO HOLDINGS LLC of 0 Center Street, Conneaut, Ohio, parcel #12-316-00-008-00 is seeking a Conditional Use Permit (Section 1137.07 of Codified Ordinances) to use the vacant lot as a Temporary Outdoor Storage Facility (New Business) to store Boats, RV's, etc. They will install a six (6) foot Green Chain Link Fence. The fence will set back fifty (50) feet Off Center Rd and will conform to side a rear-yard setback which is two (2") inches from the property lines. Located in a B-1 Highway Service Business District.

**Mr. Arcaro** – I will entertain a motion

**Mr. Naylor** – I motion to approve but I do not have it in front of me to read it

**Mrs. Sherman** – Second the motion

Roll was called – all approved – motion carries

**Mr. Arcaro** – Is there any other business that needs to come before the board

**Mr. Arcaro** – If there is no further business – I will entertain a motion to adjourn

**Mrs. Gates** – Made motion

**Mr. Naylor** – Second the motion

Roll was called – all approved – motion carries

**Meeting adjourned: 7:00 p.m.**

  
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Patrick Arcaro, Chairman

  
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Melanie Shubitowski, Clerk