

BOARD OF ZONING APPEALS
JEFF GAYNOR, CHAIRMAN, REMY ARNESS
GARY LONG, JOANN McEWEN, CLAIRE MOORE

Jeff Gaynor brought the December 13, 2017 meeting to order at 7:00 p.m. Roll call was taken present were Jeff Gaynor – here, Remy Arness –here, Joann McEwen – here, Gary Long – her and Claire Moore – here. Also present was Jim DiPaola, Zoning Inspector and Carolyn Chambers Zoning Secretary.

Jeff: Before us this evening we have one item on the agenda 2017 BZA 08 for Curby Consulting Corp to open an electronic arcade gaming location at 3499 ST. Rt. 59 Ravenna. Is the applicate or representative here? Would you come forward and be sworn in please? Reminder that comments from the back of the room are not going to be in the minutes and do not get recorded. So if you have something to say, wait and be recognized. Swear in James Allen Curby Jr. I do not currently live in Ravenna.

Jeff: The nature of your request is what please?

James: To open up an electronic gaming room on St. Rt. 59. Essentially they are sort of like a slot machine but they are pre reveal. They are basically social, most the people end up going to them are usually older people 55 or older is the general people that use them. Essentially they are electronic games it is almost like an arcade game but you can win and you win money. With the ones that we are going to have in this establishment are called pre reveal so actually it says on the screen you hit it will tell you before you put any money in the machine rather or not it's going to win or lose on the next play of the game, so you can actually go through the different pay levels so if you are playing a quarter machine, if you play one quarter you can actually put it in and you don't have to, yet, you play a quarter hit the pre reveal and it will tell you yes, you're going to win or no you're not going to win. You can put fifty cents in, hit the button and it will tell you at fifty cent, it will tell you at seventy five cents so you can actually go through each level of it and when you hit the button it will tell you whether you are going to win or lose. It generally tends to end up being a more social thing where people come sit around and it's kind of like going to the casinos but it is local usually the same people are there every night playing for a couple times a week playing and they end up knowing each other. We will have food, beverages available all store bought, nothing cooked on sight, Occasionally we will do a catering if we have somebody regular that has a birthday or something like that we might set up and have something like that and bring in Guidos or someone else's food and cater to the people that are there.

Jeff: I have a huge disconnect between of what you are telling me are games and you're telling me ahead of time if you are going to win or lose. That's not a game at that point, I don't know what I would call it.

James: It's entertainment

Jeff: No, Television is entertainment.

James: Without the gambling piece in it, you are not gambling if you know whether you are going to win or lose, essentially what it boils down to is that people play them because they want to know what the next one is, is the next one going to win. So it ends up being that they are there for the same as playing video games, if you are going to sit there and play Gallego or some other video game , it's entertainment, they sit there, they play the game, they can walk away at any time. They don't even have to put money in to know whether they are going to win or lose. There are some and there was a phase at first when everybody started doing it, everybody was concerned on hey, what's going to happen here this is going to bring in the wrong people and I can tell you from my experience with them

the one in Streetsboro, there is one left in Streetsboro and it's been there since that whole thing started. I actually got on the computer one day and looked it up. The last time they had any calls to that business was in 2013 and it was because somebody kicked in the back door and went in and tried to steal something from the business. In fact we have had absolutely no issues with them at all in Streetsboro and I haven't heard of any other places having issues with them. In this type of environment I imagine if you tried to open it up in the bigger city you might have issues with them, but I've never seen or heard anybody in this area that has had issues with them. I personal spoke with Ms. Lenny, the one that owns the one over in Streetsboro and she has never had any problems with them.

Claire: What happens when you win?

James: It pays out just like it would a slot machine. If you hit the button and it says you're going to win on the next roll and you put in a dollar you bet the dollar and you win fifty bucks. It pays out just like a slot machine would.

Claire: I'm confused. If I put a quarter in this machine and it says, you're not going to win....

Jeff: It will tell you that before you put the quarter in

Claire: Then why would I put the quarter in?

James: So people want to know what he next roll is

Claire: So, if I put the quarter in and it tells me I'm not going to win, I don't win so then

James: You hit the button again and see if it's going to win on the next roll.

Remy: Your quarter is buying a view of the next roll, you don't get the quarter back

James: Pretty much. No

Remy: The next roll either I win or lost

James: Let's be realistic with the whole thing. For all intensive purposes, it's just like playing a slot machine, but instead when you put the dollar in this time you're not winning and you might know you're not winning on this one, so instead of betting a dollar, they only bet a quarter you may go through the pre view and they go to the next one and see if maybe the next one is going to win. So maybe they only bet a quarter and it reach the machine cycle just like a regular slot machine would most of these machines are set at the industry standard is between 89 and 92% that's generally where they hit. It's the same as playing a slot machine if you were to go up to the Jack or Rocksinio or any other casinos around. That's where their set at sometimes some of the in strategic locations because the casinos can control them on the fly. These could be changed but it would actually require someone to come in sit down get in it and reprogram it and change it, but if you change it to where they are winning less, as far as entertainment you're just giving money away.

Jeff: That's what they are dong anyway even if you are paying 90%

James: It is like you said there is no smoking mirrors, for all intensive purpose it's the same as gambling. But you know when you put your money in rather you're going to win or lose.

Jeff: Then it's not gambling.

Claire: Do you have any other facilities?

James: No,

Claire: This will be the first one?

James: This will be the first one. We started to do this process in Ravenna, went through the whole thing right up to where we were going up to the second meeting the people that we were dealing with, we were under the impression speaking for the entire group that owned it, because it's a law firm that owns the building and once the rest of the people in the law firm found out that what we were going to do in there and they decided they didn't want it and we had difficulty in finding another location.

Anybody comes in if they do win, if it is more than \$600.00 there will be 1099. All the employees that will be there working, as a general rule, there will be two employees there all the time, they are going to be getting W-2, they will be paying taxes on what they earned. We have an accounting company over in Akron that we are going to work with, that is already setup that does understand the business that they're going to take care of all the accounting making sure that every time somebody wins requires a 1099 so we fill out the form so when comes tax season the township will get the money from that. We are doing our best to make sure everything is above board. I'm not looking at having any secrets, I'll answer any questions to the best of my ability.

Jeff: What is in the building now?

James: Right now that particular one is empty

Jeff: We are talking the little four or five front

James: There's a dog grooming in A and B is currently empty and C has a cellular phone service.

Jeff: What would be your expected hours of operation?

James. To begin with we will probably close down 11 or 12:00.

Gary: What time do you open?

James: Probably noonish, 11ish. That is going to be flexible, if we have people that want to come in earlier we might open up earlier. If it gets to the point where we are going to be open the night time hours we are going to have extra lighting put in I have already spoken to the owner, he is attendance tonight to make sure there is plenty of security lighting in. Change some of the lighting up front for people walking in and out of the building. We are going to put a patio out back behind the building with a privacy fence around it that way if people want to smoke or something they can go out there and smoke, we will put a light out there so it's lite behind there but it will be closed and there will be no access inside from the rear of the building it will be totally close off.

Jeff: Are there any restrictions of the ages of the people playing these games either by statue or by your own emission?

James: 18, no body under 18 will be allowed in the facility. We are going to build a Foyer inside the main door where we can control access who does and doesn't come in.

Jeff: What do you expect in the way of signage?

James: Probably one sign out towards the road and maybe something in the windows, some lights in the windows or something.

Jeff: You are aware of course that your sign out by the road would need permitting?

James: Correct

Gary: What is your seating capacity going to be?

James: We are looking to put in 30 machines. That the plan until we get in because we are going to go in and rebuild currently the bathroom doesn't meet the handicap standards so we are going to go in tear out the one bathroom and turn it into two bathrooms that meet all the standards required. Change all the electrical and put all new electrical in there run new outlets the where we need to be, until we get all that done we are hoping to get in 30 machines. I don't see more than 30 machines.

Gary: Your entrance way, is that the only entrance, exit?

James: There is a back door that will go out onto the patio, but yes that is the only way in and out as of right now

Gary: Have you had any discussions with the Township Fire Department?

James: I have not. We would talk with them and comply with any requirements they would have on capacity on any recommendation anything they want changed. The easy solution to that is on that back

door where the back patio is we can put a latch on it where it's only accessible from the inside so you can get out, but nobody can come in. Someone would have to let someone in from the inside.

Gary: I'm concerned about the size of that facility, having that many people in there plus two or three employees. If you have a fire in there, you need to get that cleared with Mark.

James: Whatever they say we will work within the requirements with the Fire Chief, Fire Inspector in there whoever he has doing that, we'll get them in there figure out exactly what they want the seating capacity. It was previously a church so I'm not sure what they had in there at that time, if they are more or less, even with 30 machines in there it would be a rare occasion that you would see all the machines full. If you have fifteen people playing on the machines, I would be ecstatic with fifteen people in there.

Claire: What about security?

James: If it becomes necessary I have absolutely no problem hiring the Sheriff's department to have someone down there when we are open for business or dark hours or whatever is needed.

Claire: As it stands now, you don't have that?

James: As it stands now, no, as a general rule most of the people that tend to go to these places are generally the same people that get on the bus that go to the other casinos. If you've ever been on one of those busses, most of the people are generally over 50.

Clarrie: It wouldn't be them I would be worried about it would be the hooligans that would be waiting for them to come outside.

James: Like I said we would have plenty of lighting out there. If it even looks like it's going to be a problem I have absolutely no problem hiring security to have somebody there. I know most of the people in the Sheriff's department.

Jeff: How many square feet are involved in this unit?

James: Ask Jerry Boso how many feet? About 12 hundred. I want to say 42 feet deep and probably 20 to 25 across.

Jeff: Jim, am I reading this correct under recreational and social facility's it says 3 parking spaces for every 1,000 sq. feet of floor area. Am I in the right range there? So it doesn't look like parking would be a problem.

James: There is plenty spaces in front of it along side of it and then by the cash advance location.

Gary: I have a problem with people being on the premises and they are not in the gaming room. Sheriff Doak provides a person for security, that is fine, but that is usually after the fact. We have enough issues in Portage County with narcotics, alcoholism and in my mind this could be a gathering place.

James: I can assure you there is no alcohol, no drugs. As a general rule and I can't stress it enough, most of the people that goes to these locations are 50 and over and that was the original worry when these originally came out that it was going to become a haven for alcohol and drugs. No alcohol on the premises at all. Not happening and nothing like that would even be tolerated, but I don't even see it ever becoming a problem. Personally, from what I've.....

Gary: I'm not concerned with the people that is going in to play the machines. Not concerned about that at all. Talking about the gathering on the outside of the building. That's what concerns me.

James: I don't see why anybody would gather out there that is not already gathering out there. I don't see how this would draw that in. Don't see the connection there.

Gary: That's all I have.

Jeff: Anyone else on the Board?

Claire: You seem to be very knowledgeable about all of this.

James: I'm a beginner, I've gone to several of them and looked to see what they had going on. Mr. Lemkem back there, he's the programmer, he's the one that is writing the programs. I have met and talked to some people that do this. Like I said Miss Lindy owns the one in Streetsboro I've talked to her. A lot of it is leg work, going out and talking to people and going in seeing what they are doing, I've been in five or six of them just going and seeing what they are doing and how they are doing it. As I say that a lot of the ones that I go into aren't running a legal business. I've actually gone into some that have regular full-fledged slot machine sitting on the floor and then you have other ones that run which they used to follow the game of skill they are still running some of those machines. Most of those are up towards Canton, Akron the bigger areas. Some of those are still running the game of skill rules they'll tell you they are paying out in gift cards. I'm sure it is only because they don't know who I am when I'm standing there asking and talking to them. I'm sure if you're a regular customer they are paid in cash. Like I said I have nothing to hide. I'm not trying to, we are trying to run a totally legitimate business here. I won't lose my job or my reputation by doing something shady. It's not going to happen, so if I need to hire somebody to sit out there and be security, I have no problem doing that.

Joanne: This is not going to be your job?

James: No, mam, I will hire people and I will be in and out a couple time a week, checking on things, making sure things are going. Once it's up and running, as needed I will be there. I live literally, I'm in Streetsboro but I can throw a football into Franklin Township. I come down Ravenna Road and Brady Lake, Twin Lakes basically on the south end of Diagonal is where I live. 3 miles, 4 miles maybe so I will be there for whatever needs to be there, but as part of this being my full time job, no.

Jeff: Ok, that's good for now. I'd like you to step back so that other folks, please remember that you are still sworn in. Who else wishes to speak? Ok, Swears in Mike Lemkem, I live in Strongsville.

Mike: I'm the game designer, that's what I do I design software for a living. Prenatal screening for baby's diagnostic software. The only reason I go into that is the FDA approved the requirements are very stringent so I'm use to developing very robust software. There are few things I want to mention about the game and if you have any other question about the game I'd be happy to answer them. One of the things you ask I think is why. I spent a lot of time looking at the connection between the lights and the sound and all that and the interaction with the people. We try to make it enjoyable so the sounds you hear are actually pleasing, it is actually the animation of things, and they're enjoyable. There is really cute things, so we go to a lot of trouble to do that so that it's much less about the gambling I don't want it to be gambling, because that's illegal. I don't want illegal software, because I'm I on line for developing software just to make it a nice enjoyable time, because it really is a social place people come together as he mentioned it is often the same people that come in and you will hear people talking between each other and I have spent a good amount of time in different rooms that have this software watching people play and just see the interaction between them. That's why someone would actually do it. Some other notes, the pay back on our machines is set to almost 93%. It's better than you're going to get at most the other casinos are typically set at 91, 88% something like that. It's actually right at the top of where there for the end machines right by the doorway or something. It's right in line with those. The reason for that is, we want it to be enjoyable, we want someone to come in throw \$20.00 in a machine and five minutes later go, I've done that plenty of times at the Rocksino, I don't like going because of that.

Jeff: A few minutes ago we were speaking of putting in a quarter so see if you might win a dollar the next time around and now you are talking about putting a twenty dollar bill in. You could bet portions of that as your wish to?

Mike: They only take bills, they don't take coins.

Jeff: What does the machine look like?

Mike: It's a wooden terminal, it has a touch screen on it and you can sit at it and there are buttons on it. The machines don't actually pay cash out themselves, you have to go to an attendant and the attendant would pay you out. We want you to sit there and enjoy it, but it's at 93%, it's still going to make a business sense, that's why we chose that number, it pays back well enough and often enough in small wins so that it is entertaining, but the business can be profitable and pay taxes and the Township can benefit from it and that's the whole big story behind how we pick that percentage.

Jeff: You have gone to great lengths for this not to be gambling by whatever the legal definition of that may be why does the State limit the age to 18 then?

Mike: Actually, that is a great question. I haven't read that portion of it, I don't know if that is in there, I'm sure... Actually I can't give an answer it's still perceived as an adult activity even though the skills and the mental things that you are doing when you play this game are absolutely the very same thing you are doing in a Dave and Busters with the games that are in Dave and Busters. The Ohio Casino Commission Control was established a while ago to oversee the casinos when they were put in place and recently, last year, they started this common sense initiative and I have a link on my web site. The Common Sense Initiative, one of the items in it I think it was June of last year, they had a filing for it and it's whole purpose was to clean up the gray area around skill games and pre reveal and all of those things because, it has always been kind of gray and open to a lot of interpretation and there is a lot of people in the state and even people that are out of state that are stake holders in this initiative, I'm actually listed on there as a stake holder, because they want every detail what really can happen. What can be allowed and what can't be allowed. The reason I bring that up is that I monitor that and I'm a stake holder so that if the law would change and Columbus comes out in January with the next version of it and they say it needs to be this and all these pre reveal it needs to be skill, whatever. I can react to whatever their replacement is to make the games legal in that environment.

Jeff: Just curious about the 18 age restriction. Again any other questions?

Claire: Well, is it that board that oversees this or is it the State?

Mike: It is State funded, its state employees that are actually.....

Claire: That's who would oversee it and smooth out keep it on the up and up

Mike: What you would have to do to have any machines running in the State of Ohio is they are telling me now the first quarter of 2018 they will have the final wording and everything they will have it all locked down. In order to have a room open any software that is in the State would need to be certified by an independent test lab or by that commission, you can go to either place that follows the guidelines that they send out for the testing.

Claire: How often do they come in?

Mike: That I don't know. Actually I don't think there is a... we're going to come in and audit at any time, they did not state that. It just says if you are going to have the running of the software you have to have approved software in there.

Joann: So once it's approved what stops you from changing it?

Mike: The testing, the way it works, I have to supply the testing lab with a version of all the codes and everything that makes the game and a terminal that they can test it in and then what they do they actually take that package that I give them and reduce it to a number basically and it gets a call patch then if there was an issue they can take the software off this terminal which is in here in this room in Ravenna and compare that to the software that the testing lab has, get the key off of that and make

sure that those two set of numbers are the same. That's how they know, if I would change something in the code, he would be done.

Jeff: That sounds like that is it for now, if you would step back for now and see if anybody else that wishes to speak.

Claire: I would like to talk to Chris Meduri

Jeff: Ok, I will request that Mr. Meduri come forward please. Swears in Chris Mefuri, Portage County Prosecutors office.

Claire: What will be the Townships liability if something happens?

Chris: First off this is a use variance you have to go through your use variance standards see if those are satisfied. If those aren't satisfied you cannot grant this, because that would be a rezoning. You have to work through those use variance.

Jeff: 18 is the state law for somebody to play something like this, age of 18?

Chris: If you do feel that they satisfy the use variance standards then I think when you get in this conditions then I think you need to certification from the State agencies that all those machines are not games of chance and although the law applies to that and that goes more towards a possible criminal aspect. Your initial threshold here is whether or not a use for that should be granted. Use variances should be very rare and unless you can use those standards like unnecessary hardship and what have you and it should be denied. A better course of action oftentimes is a rezoning. If this is in the best interest of the township and since your book doesn't actually expressly provide for it then in the alternative of having you having to basically make that decision it would be better going through the Zoning Commission, Regional Planning and then the Trustees to determine whether or not that should be adopted into the Township Conditional Use. So your job is pretty much straight forward and somewhat easy if these standards aren't met then that answers your question.

Jeff: Anything else for Mr. Meduri? Thank you. We need to look up Chapter 6 section 5 to make sure it doesn't violate any of those conditions. You sir are the building owner? Is that accurate? Is there anything else you would care to add? Sorry to be taking the time, but we do need to look up these things. I don't see any major problems there. This unit will be rented is that right?

Chris: Chapter six is, what chapter are you looking at?

Jeff: That is prohibited or objectable or dangerous uses.

Chris: That's good, but what about chapter 4 (unauditable, reading chapter 4 about a variance being used for special conditions and unnecessary hardship)

Jeff: This is 402 section B and down below, yes I have that here. It says two things that could be appapo property owner, but you are not the property owner you are the lessee but you did not lease the property with knowledge of Zoning restrictions with use of the property and that section E is the hardship is self-created which you can somewhat say that it is in this case. You could put your business elsewhere perhaps.

Chris: What would be the unnecessary hardship here?

Gary: Chris, I think you need to come back up here so we can get this on the record.

Chris: My key question is does the Zoning Code allow viable uses for that district and if there is a viable use for that land that the Zoning Code allows then that means the variance has to be denied. Usually a variance is granted when there is no other viable use of that property except for the use being requested and usually there has to be some unique characteristics to that property that says unless you give me a variance there is no actual use for the Zoning Code allows for that property, but in that districts the Ravenna Township Zoning Code has a numerous.....

Jeff: Once again the self-created aspect of the business could be located any number of places that would perhaps not require a variance or usage.

James: May I ask, what is the Zoning if this Commercial Residential. What exactly makes this business require a variance?

Chris: If you look at all these listed committed uses your type of purposed use is not listed there, likewise for the conditional.....

James: What would you classify it as?

Chris: If a use for purposed is not specifically listed at the permitted or specially or listed as being conditionally permitted then it's being prohibited. So unless the Zoning Commission and the Trustees would amend the book to allow this type of use, technically this is a use that is not allowed by the Zoning Code. Essentially, you are asking the BZA to rezone that district which is not going to roll.

Jeff: He did have a valid question there. What do you call this business?

Chris: That's a good questions and I know we have talked in the past and to me you don't allow video arcades in this district. If you do at that a video arcade, which to be honest I don't view that as a video arcade. It is really close here and whether or not the State would certify those machines that is between you and the State.

James: So far the State has made no ruling on the machines, because they don't have.....

Chris: Going back to the Zoning Code. The Zoning Code doesn't exactly address that particular use. If you want to have a pin ball arcade, which I know now a days you're not going to have, but that would not be allowed under this district without a Zoning Amendment. We view this as old fashion video arcade or pin ball that still would not be allowed under the Zoning Code. So you are in a tough spot, you might want to apply for a Zoning amendment to the Zoning Commission to see if the Zoning Commission would recommend that to the Trustees. Then if the Trustees would adopt it subject to a referendum, which means someone could get a petition after the ballot, which we have been seeing that happen a lot with the medical marijuana in Rootstown with a referendum and that is just how the Zoning process works. To me you are asking this Board to do something if they follow the book they have a difficult time granting it, just because the nature of this Board they don't realize the Zoning Code that is up to a different Zoning Board and that's up to the Trustees.

Jeff: Thank you. We are going to take a five minutes recess. We are back in session. The Board is agreement, of course, with many of the points brought up by Mr. Meduri, hardship is somewhat self-created and the fact that if we were to grant this request it would largely or more technically be a matter of rezoning and this Board is not able to do that sort of thing. So based on that and some of the other things Mr. Meduri brought up the Chair is ready for a motion pertaining to this.

Remy: I move we deny the request, Variance request 2017 BZA 08 to open an electronic arcade gaming based on the matters that were discussed here that it is basically outside of our scope at this time to provide this variance.

Gary: I second

R/C: Claire Moore – yes, Gary Long – yes, Joann McEwen – yes, Remy Arness – yes, Jeff Gaynor- yes.

Jeff: Your request has been denied, there is an appeal period during which you might make a legal question about this decision, but that is what we have for tonight. We are finished with the business relating to the Curby Corp. you may stay, we have some other business to take care of from the Board, or you may leave, whatever is your desire. Merry Christmas

Jeff: Next on the agenda is to approve the minutes from the October 11 2017 meeting as presented to us, do I hear a motion in that respect?

Joann: I so move

Remy: Second

R/C: Remy Arness – yes, Jeff Gaynor – yes, Gary Long – yes, Joann McEwen – yes, Claire Moore – yes,
Minutes approved

Jeff: We need to journalize the results of this also. Do I hear a motion to journalize the result of
tonight's decision?

Remy: I so move we journalize the decision of tonight's.....

Joann: I second

R/C: Gary Long – yes, Claire Moore – yes, Remy Arness – yes, Joann McEwen – yes, Jeff Gaynor – yes

Jeff: Anything else the Board needs to talk about?

Remy: I move we adjourn

Meeting adjourned at 7:55

Respectfully submitted by

Carolyn Chambers
Ravenna Township
Zoning Secretary

CC: Trustees (3)
BZA Board (5)
Zoning Inspector (DiPaola)
File