

RAVENNA TOWNSHIP BOARD OF ZONING APPEALS

***JEFF GAYNOR, CHAIRMAN, REMY ARNESS,
DOROTHY GRIFFITHS, JIM ACKLIN, AND GARY LONG***

The Ravenna Township Board of Zoning Appeals met on February 9, 2011 at 7:00 P.M., in a regular session, at the Ravenna Township Trustee Meeting Room at 6115 S. Spring Street, Ravenna, Ohio 44266.

Jeff Gaynor brought the meeting to order at 7:00 p.m.

Board members present were Jeff Gaynor, Dorothy Griffiths, Remy Arness, Jim Acklin, and Gary Long. Also present Jim DiPaola Zoning Inspector and Vince Coia, Trustee.

On the agenda was Resolution 2011 BZA 01, Steve Dedinsky, 6087 St. Rt. 14 (unit B) and Resolution 2011 BZA 02, Mike Ambrose, Wall Street Recycling, and to approve minutes from September 8, 2010 BZA meeting.

There was no old business to be taken care of.

New Business we have a variance request from Mr. Steve Dudinsky, is Mr. Dudinsky present? Mr. Gaynor swears in Mr. Steve Dudinsky, 4319 Rootstown Rd., Rootstown, Ohio 44272

Mr. Gaynor-State the nature of your request
Steve-For a motorcycle and ATV service

Mr. Gaynor-The location of this would be at 6087 St. Rt. 14, is this an existing building.

Steve-yes

Mr. Gaynor-That's this building here that we see on the map, right?

Steve-Yes that's correct

Mr. Gaynor-Where is this on Rt. 14?

Steve-Right next to the Circle K, Portage Distributing is right next door.

Mr. Gaynor-I see, any changes need to be made to the building?

Steve-No

Mr. Gaynor-What was it used for in the past?

Steve-Enterprise rental car was in that

Mr. Gaynor- Repair motorcycles, ATVs over the counter parts sales, don't expect to do painting; any other Board Members have any questions on this?

Jim Acklin-Steve you are doing the same thing you did when you had the other building?

Steve-Sales will be limited, mostly just tires.

Mr. Gaynor-Was that yours up the road a little ways and across the street?

Steve-Yes

Mr. Gaynor-Do you have signs planned?

Steve-It is in the works, temporary

Mr. Gaynor-You know you will need permits for them?

Steve-I have spoke to Jim about temporary, I haven't got to the permanent at this point.

Mr. Gaynor-Do you expect to have any run off or drainage or dangerous material to dispose of?

Steve-No

Mr. Gaynor-Not even gasoline or oil or anything like that?

Steve-Just engine oil but that would be in a 55 gallon drum and then Akron/Canton waste oil pumps that.

Mr. Gaynor-Ok, do you anticipate any sort of noise problem, you won't be running anything outside or testing the machines?

Steve- Not outside the facility, inside there will be bikes run, but I do plan on using an exhaust system and that muffles it considerable.

Mr. Gaynor-Ok

Remy-Their being running during the regular business hours then.

Steve- Correct

Gary-The vehicle storage will be inside?

Mr. Gaynor-You wouldn't want to leave those things sitting out.

Steve-No, that's not an option

Jim Acklin-What about scrap parts and stuff?

Steve-I'll have a dumpster, but as far as the metal, I'll have to separate that. But there won't be any bikes or salvage of any type.

Mr. Gaynor-Ok, any other questions from any one? Does Jim DiPaola, our Zoning Inspector have any comments to make on this application? Swears in Jim.

Jim DiPaola-The reason he's here is this is a conditionally permitted use, this is a general commercial area and it's a conditionally permitted use. So that is why he is before the Board. Everything that we needed on our end of it has been satisfied.

Mr. Gaynor-So our people are satisfied with it and so forth should be. Any other questioned from the Board?

Jim Acklin-Is there a garage door in the back?

Steve-Yes, there is a wash bay in the back.

Gary Long moved to make a motion that they acknowledge and approve the resolution 2011 BZA 01, Jim Acklin, seconded it.

Roll Call: Gary Long-yes, Jim Acklin-yes, Dorothy Griffiths-yes, Remy Arness-yes, and Jeff Gaynor-yes. Motion passed

Mr. Gaynor-Your application has been approved, there is a waiting period during which appeals about it can be made and if you take any action within that period it is at your risk, so to speak.

Jim DiPaola-His motion does include the journalizing too?

Mr. Gaynor-Yes

Gary Long- Do we want to journalize it now before he leaves here or do we want to wait until the end of the meeting and journalize everything?

Mr. Gaynor-Our whole system on that changed late last year, should we go ahead and do that now?

Jim DiPaola-Yes, you can

Mr. Gaynor-We need a motion for that, I move we enter this request and approval into the minutes by journalizing, would the secretary take the vote please.

Roll Call: Remy Arness-yes, Jeff Gaynor-yes, Dorothy Griffiths-yes, Gary Long-Yes, and Jim Acklin-yes, Motion passed and journalized.

Mr. Gaynor-Ok, you can stick around or leave whatever suits you. Next up before the Board is 2011 BZA 01, request for Mike Ambrose Wall St. Recycling to construct a new and larger building, is Mr. Ambrose or a representative here? Would you come forward please. I will swear in both of you at once, do you swear that what you are about to say before this Board is the truth? Name and address for the Board please. My name is Theodore G. Manfrass I'm the architect representing Mike and my address is 101 Parkway North, Ravenna, Ohio

Mr. Gaynor-Ok, and you sir?

Mike Ambrose I'm with Wall St. Recycling, business address is 6751 Wall St., Ravenna, Ohio.

Mr. Gaynor-Ok and the nature of your request are to be permitted to construct a new building, why is the permit needed? Is it larger or

Mr. Manfrass- It exceeds the allotted size of the building

Mr. Gaynor-By how much?

Remy-4,000 sq. feet

Mr. Gaynor- It exceeds by 4,000?

Remy-It exceeds by 4,000 sq. feet, greater than 2 acres is 2,000 sq. feet

Mr. Gaynor-How much land do you have here?

Mr. Manfrass-Just under 5 acres

Mr. Gaynor-This building would be how big?

Mr. Manfrass-6,000 sq. feet

Gary Long-Your plans are to demolish, do away with that old building?

Mike-Yes. There is a septic tank underground and that will be taken out and replaced.

Gary Long-So you're going to replace the septic system?

Mike-We are in the process either septic or some sort of system, we haven't decided yet we are working with EPA to get approval for some sort of storage instead of septic because of the way the ground isn't acceptable for a septic tank that soil isn't

Mr. Gaynor-Won't pass a permit test?

Mike-Right,

Jim Acklin-So you would have to pump it out every so often

Mike-Yes, some sort of a holding tank system

Mr. Manfrass- I thought the EPS approved that

Mike-I think they have but there was one more thing that they were to do, I'm pretty sure it's going to go.

Remy-Is that well in use? The existing well?

Mike-Yes

Remy-Is it potable?

Mike-No

Remy-You can use it then but not as a drinking source?

Mike-No

Mr. Gaynor-Any other questions from the Board?

Gary Long-Jim what was it that you brought up when I ask the question about Zoning?

Jim DiPaola-It is a legal non-conforming use, which means that it is a Grandfather type clause. It's been there for awhile so it can continue in use.

Gary Long-I think that is important, that's why I brought it up to put in the minutes.

Mr. Gaynor-Yes, what are you going to do with the building?

Mike-The building will be used for equipment maintenance; storage also will do our retail business where we buy our metal, cans and that type of material.

Mr. Gaynor-This is relatively close to the road? Is that accurate?

Mike-It's like 37 feet

Mr. Gaynor-To the right of way? Is 37 feet far enough back?

Jim DiPaola-Since he is a legal non-conforming use that's what his existing setback is, so he can't change that

Mr. Gaynor-Yes, there is a building there that is about that same distance back

Mr. Manfrass-Correct, that building has set the dimension setback so the new is set the same point as that, no nearer.

Mr. Gaynor-We can't correct that situation with the new building?

Jim DiPaola-That's up to you guys

Mr. Gaynor-What's the required setback in this?

Remy-It should be 35

Mr. Gaynor-Ok, well we are close enough, a little bit past there, I just wanted to make sure that we weren't one of the situations that had a larger setback required.

Jim Acklin-Are you going to do maintenance work in that building?

Mike-A little bit of maintenance mostly just storage, if we do it would mostly be just welding.

Gary Long-Cement floor, Floor drains?

Mike-Yes

Remy-Where do they drain to?

Mike-They will drain into our holding tank

Mr. Gaynor-Nope you can't do that

Mr. Manfrass-They can, but they have to go through an oil interceptor first

Gary Long-That was my next question

Mr. Manfrass-We haven't talked about that yet, if he wants to put floor drains in that's fine but they'll need to go through an interceptor and then they can go to the holding tank and be pumped out. We could slope the floor and just squeegee everything to the doors. But, if he would rather have a floor drain we can do that just put in a adequate sized interceptor.

Mr. Gaynor-Who would oversee the installation and cleanout of the oil interceptor situation. Is that our concern?

Jim DiPaola-That's the owner's responsibility.

Mr. Gaynor-Any other questions from the board?

Gary Long-Would the health department get in on that?

Jim DiPaola-They may since its commercial

Gary Long-Well if you are pumping out the EPA or someone is going to pump that fluid out you don't want any oil or anything in it. Someone would sample it I'm sure

Mr. Manfrass-Typically the EPA has a time frame on which it is to be pumped and you have to keep all your pumping records and a log and if they ever stop and knock on the door you have got to have all that information available to them.

Jim Acklin-What about runoff here? I know it gets pretty muddy in here anyway.

Mike-It's going to be all concrete around that building probably the first 80 feet of the property will be concrete. Gate to gate to the back of the building and probably a little bit behind the back. Right now we have street sweepers we bring in.

Jim Acklin-Right, I know you clean up when you can but sometime it gets pretty dusty.

Mike-We also in the fall we pour concrete up all the way to the scale and that is where 90% of the traffic goes and that eliminated a lot.

Jim Acklin-Yeah, if you have this part done that would be adequate

Mr. Gaynor-We do have regulations- against dust creating parking lots and such things.

Mike-This will help the dust when we are done.

Mr. Gaynor-Ok, does anyone else have anything they would like to bring in front of the Board? Would you step forward please, bear in mind that we cannot put into the minutes any comments made by the people other than by people who are standing here so they can be heard and be sworn in standing or sitting of course so folks in the back shouting out something won't help.

Gary Long-Do we have a list of neighbors in here?

Mr. Gaynor-Yes, You need to be sworn in. Do you swear that the statements you are about to make to this Board are the truth, all three of you. State your name and

address please. I'm Rodney Fleshman at 6703 Wall St., Ravenna, Ohio 44266. Lorene McMahon 6675 Wall St. Ravenna, Ohio, Ray Fleshman 6665 Wall St. Ravenna, Ohio.

Mr. Gaynor-We have a Rodney and a Ray.

Ray- Regan, Rodney goes by Regan

Gary Long-We have Raymond which is an owner and Lorene which is an owner and your name sir

Ray-You have my name there.

Lorene-this is my son that lives in the mobile home next door on my property right next door to the Recycling center.

Mr. Gaynor-Point out on the map where the mobile home is on here.

Regan-Points to where the mobile home is located on the map

Mr. Gaynor-Right up by the road, it runs parallel to the road.

Regan-Yeah

Mr. Gaynor-Your concern sir?

Regan-First we could like to know if all these apply to (passes out handouts to Mr. Gaynor.) Do they all apply to his business? I got off the website from the Zoning

Jim Acklin-Were those Ravenna Township Zoning Rules?

Regan-Yes, off the web site

Jim Acklin-Whose web site?

Regan-Zoning Board

Jim Acklin-Were those Ravenna Township Zoning Rules?

Regan-Yes, off the website

Mr. Gaynor-You have a great deal highlighted

Regan-This right here (shows on the map) was before they cut the woods out. They cut out all that green and by some of the rules in here they have to ask for permission and leave some if they are remodeling or doing anything there. They didn't.

Mr. Gaynor-Would you find that

Regan-It's all in these

Jim Acklin-When were the woods removed?

Regan-Last year, we went to the Zoning Board and do you want to know what he gave us? This stuff right here (points to handouts). We came to this meeting they no showed right here now look at the second page.

Mr. Gaynor-Well I'm not quite done with the first page, wait a minute this is September 8, 2003

Regan-Yeah, we went to that one and they no showed that's for that little building up front here. (Points to map)

Mr. Gaynor-who did not show up?

Regan-The Recycling Center

Mr. Gaynor-This is for September 8, 2003 this is rather historical

Regan-I know but it all ties in

Mr. Gaynor-I don't interrupt you don't interrupt me

Regan-Go ahead

Mr. Gaynor-Not much I can do about this 8 year old decision the building's been there, one would think that if the building was not correct, you would have done something 7 years ago

Regan-I think we tried, I think he just put the building up 2 and ½ years ago. He laid the concrete slab if I'm not mistaken and the county commissioner, I ask them and they called me and they said they never came to apply for the building permit for that building.

Mr. Gaynor-Building permit is another thing I have no control over.

Regan-We have a letter we want to ask stuff about. On the second page

Mr. Gaynor-I don't wish to see a second page, this is 8 years old. There is nothing I can do about that at this point. We have a matter before us this evening. This is the sole thing we can act upon on this evening anything else I would recommend possibly a visit to a lawyer

Regan-That's why I brought this up to you

Mr. Gaynor-I'm not a lawyer

Regan-I know, but you guys have the opportunity to bring a lawyer in, it's right in here. You guys have permission to bring in anyone you guys request for anything that is being done it's somewhere in these.

Mr. Gaynor-Why would we wish to do that, I don't understand.

Remy-What is your opposition to this building.

Regan-We need to work on the noise, it looks like an amusement park there. The noise is unbelievable, sometimes when they get their containers there not laid in the right place they sit there and beat them until they get in there.

Mr. Gaynor-Ok, this is another thing over which I have no control. Our interest for this meeting this evening is whether or not we should give them permission to build this larger building.

Regan-Ok, we don't want it. Not until they at least tone it down and put a block up evergreen trees and everything. We typed this up too. Passes out a letter

Mr. Gaynor-Quite frankly I'm at a loss at what to do with all of this paper work before us. If we sit here and study it that would take hours and I don't know how much is appropriate to this evening's discussion.

Regan-Ok

Mr. Gaynor-Don't do an then

Jim Acklin-All that paper work there is up to the Zoning Inspector

Regan-Ok but that is the rules for it

Jim Acklin-Right, not us, so you can grab all your paper work there before you lose it.

Mr. Gaynor-We can't do anything with the past

Regan-Ok, well I just wanted to make sure it stood for his, what he's going to do that they follow the guide lines. Runoff water like you guys said there is nothing for it, they raised the ground over 3 feet into the woods and out back towards the creek the Wahoo Ditch and then I've got photos here, I tried to print them out in color but it wouldn't, they buried down, they have been receiving oil tanks, are they permitted for that?

Mr. Gaynor-I don't know

Regan-This one is black and white but they have you know like the trash can lids, I'll reprint them in color if you want them, but you know the big dumpster that flip over but they don't, they have a whole container of them and just threw them out there they buried tires

Mr. Gaynor-These grievances are not the problems of this Board

Regan-Yes, but if they

Mr. Gaynor-Don't yes but me, these things are not generally controllable by this Board, if there is suppose to be a green space at the edge of his property before your property, we can look into that. Jim do you have any, what's the zoning on the two properties; it should be in the application, right?

Jim DiPaola-The zoning is Residential Low Density, they are by definition in code legal non-conforming use because they were there before the new Zoning Code was, and acted in some other changes have gone on in the Zoning Code, so by definition they are allowed to continue in use.

Lorene-May I ask a question?

Mr. Gaynor-Certainly

Lorene-Before they had moved in there were just tin cans but the stuff now that they are doing we don't know what this is. I mean in no way did Chet have anything near, as you can see even before Chet left, I showed him that picture.

Regan-That's a satellite photos

Jim Acklin-That is all still within their property right?

Ray-We were told they weren't allowed to road business

Regan-Yes, even in the minutes of the last one, you guys even requested are there going to be any other additional heavy duty equipment, his answer was "no". It's in the minutes, that's why we are turning this in to you guys so we can get all that on there.

Mr. Gaynor-I don't know, was that meeting with Zoning Commission or Board of Appeals?

Regan-It was minutes, let me see if I can find it somewhere in this mess.

Mr. Gaynor-Is this related to the 2003

Regan-No, that's what we're going to ask for, for the Zoning, Board of Trustees and the Zoning.

Jim Acklin-We're the Board of Appeals, we're different than that, do you understand that sir?

Regan-Ok, who do

Jim Acklin-Sir, do you understand the difference?

Regan-Not really

Jim Acklin-When they are not going to conform with something in the Zoning Book there needs to get a change, a variance issued that is what we do, that's all we do, that's all we have the right to do we don't set the zoning we don't have nothing to do with the zoning only if there is a variance needed to put a building or something that is part of the change in here, a variance, that's all we do. We are small; Zoning is what sets the rules.

Regan-How do we stop it until we get this figured out? Since you're the one that is going to approve it, how do we stop it?

Jim Acklin-Stop what?

Regan-From them building that building until they clean up their act and quit burying tires have all the runoff water going in the ditch and in our woods on top of that, the building being put up without a permit. How do we stop all this through you guys before he gets a variance?

Jim Acklin-Tell us what your concerns are about this building

Regan-I just did

Jim Acklin-No you told us about what his business is. His business is already established, we can't do anything about it

Regan-We don't want to see it

Lorene-No, no no Regan please

Jim Acklin-What is your disagreement about having that building variance done?

Lorene-Ok, can I ask you

Jim Acklin-Sure

Lorene-The building he is putting in and the trees he has taken down

Jim Acklin-Ok the building, there are no trees in that area right now

Lorene-Well no, he took them down

Jim Acklin-Ok, well he had to file that with the Zoning Inspector or the EPA or with the

Lorene-Ok, we went to talk to the uptown or whatever it is and they didn't have the paper work they didn't have this, they were know help to us at all, none what so ever. We couldn't get anything, we tried to get when the minutes were at that one meeting. Whenever I get something from you people I always read it then I miss the meeting when it pertains to us.

Jim Acklin-You go to the Zoning Board?

Regan-We went to his office

Lorene-Oh yea there was the one down on Oakwood and we went also up town. We even got a stupid map.

Jim Acklin-We are here to talk about what is your thing about the new building going in.

Regan-They keep breaking

Lorene-He doesn't do what he says he's going to do

Jim Acklin-Well, that's Jim's job and that's what he'll do and the building department will enforce it.

Lorene-Well, when we go uptown or we go out on Oakwood no buddy does anything.

Jim Acklin-Well if it's something that has happened three years ago, it's a little difficult. Now as this proceeding if you want if you want to watch over it and let one of the officials know what is going up and make sure everybody has the same

Lorene-How do we know?

Jim Acklin-Well its right there across the street from you isn't it?

Lorene-No next door

Regan-Well, when I was taking pictures already he threatened me and said if I step a foot on his property he is going to shoot me.

Mike Ambrose-I did not

Jim Acklin-You can't trespass

Lorene-He is not trespassing; he's going through the gate on working hours and he's asking questions, you are telling me we are not allowed to do that?

Mr. Gaynor-Ok, let's not make accusations. This really should be spoken of with the police rather than us

Jim Acklin-He can ask you to leave at anytime

Lorene-I can see leave not threaten you

Jim Acklin-You can only be there to conduct business or any other

Regan-How do you monitor it?

Jim Acklin-The Zoning Inspector is the monitor

Regan-Ok, could we have a detailed design of the plan what he is going to do the stipulations on how high the building can be and what it can't be and the original building cannot be taken down unless it is damaged or destroyed and that Chet's building is perfectly fine, unless they purposely go and knock it over

Jim Acklin-This is all part of the variance, we have the plans here and he is knocking down the block building

Regan-I thought he wasn't allowed to unless it was damaged or destroyed and it looks like it's in pretty good condition.

Jim Acklin-A person can take down a building anytime they want.

Regan-Well it's in the rules right here.

Lorene-No, no, It don't pertain to that

Mr. Gaynor-Jim, do we have anything that says he can't take down the building?

Jim DiPaola-Nothing that keeps him from replacing it

Ray-Who do we ask when he was grandfathered in whether or not that business could grow? When he was grandfathered in it was a certain business certain size even though it's on his property it is a junk yard and he said his water is not drinkable, my well butts right against his

Lorene-So does mine

Jim Acklin- It sounds like all these pictures of the garbage, the water that is something you need to meet with someone from the EPA

Ray-Well, his drains like I know he can't fix those drains

Regan-We went to him and he did nothing, he gave us outdated stuff and stuff that was not signed.

Mr. Gaynor-If Jim did nothing it's because he determined there was no violation
Lorene-Then he should have wrote us and told us

Regan-And he should have went to the Township and got records that we requesting; now we are requesting on that letter we just gave you. Just so you have a copy of it we're going to give it to the Township.

Lorene-We are not trying to stop this business, but he has got to be up front with us and those that live around us, from what we are experiencing now is not what we had with Chet

Regan-He doesn't care

Lorene-I've lived there for 40 some years.

Jim Acklin-So the problem goes back to, once the business got started in there, once it's in there that is when the fight needed to be was back then. That's the problem is, now to change that is very, very difficult cause once it is established

Regan-He's changing it not us, he's already put a building up that ain't allowed to be there

Jim Acklin-As long as he's within his property he can do what he wants on his property within guidelines of EPA, building department, and the Township Zoning.

Lorene-I ask him have you expanded and he has, he cut down trees and everything

Jim Acklin-But he hasn't expanded outside his property has he.

Regan-His runoff water is

Mr. Gaynor-What do we have that says he wasn't allowed to expand?

Ray-That is the impression that we have that the business could not expand as a junk yard or salvage yard, he could have that business and maintains it as is. Like last year, he don't care. He took out all those trees and now you can see plan as day. People drive down our property and robbed him so now he put up a chain link fence.

Ragan-Now we can see everything that goes on there, and he has the whole place flooding and lit up like an amusement park. The vibration and the noise everything else he ain't doing anything about. He cleared all the woods out and didn't do a thing about runoff water.

Mr. Gaynor-Do we have something that says between a business and residential area there needs to be a green space is that in the book?

Regan-Yea, its right here, landscaping and screening.

Lorene-Regan, let the man speak

Jim DiPaola- That is in the Zoning Code for anything new going in that there has to be green space and that he is a legal non-conforming use, he's grandfathered. He's been there for years.

Lorene-Not under him

Jim DiPaola-Mam, please, the yard has been there for years it does not matter who the owner is as long as that yard continues in use multiply owners whoever it can continue in use. Once that use stops for two (2) years then it cannot come back and that is court cases and that is standard BZA stuff across this country. He is allowed to expand his business by 10% which means he is allowed to go beyond his present property line by 10%. His business has not expanded beyond his property lines. But, he has the ability under the Zoning Code to purchase an additional 10% of space to expand that business in and that's legal, that's Prosecutor office, court cases and everything. He has not expanded beyond his present property lines. He has done nothing to violate the Zoning Code, I've checked every time these folks have been in the office I have given them copies of everything that exist in our file and I've gone out and looked at things and there is no violations.

Dorothy-Is there any question that they are not in compliance with EPA or anything that we have jurisdiction over?

Jim DiPaola-We have heard nothing from the EPA if there was a complaint filed we have heard nothing from the EPA.

Jim Acklin-Mike, if I may, have you been cited by the EPA anytime within the last two (2) years?

Mike-No, as a matter of fact we have had an inspection last year and she wrote us a warning because there was a tank that didn't have a new boiler sticker on it that is the only reason.

Regan-They ran over the tires before the EPA got there. I'll call them back again.

Jim Acklin-Once it got in there, just like the one next door

Lorent-But it changed owners

Jim Acklin-But it has changed owners 3 or 4 times.

Dorothy-I don't think the EPA is easily fooled, they come out and inspect

Regan-I've got the pictures where the tires are and I'll point them out and we'll dig them.

Gary Long-The EPA will probably listen to you and tell you to keep all your pictures and you documentation to yourself and they will review it on their own.

Regan-Well, they said if I wanted to go over I could. I said no but I will call them back and I will go over. I got the pictures exactly in the picture right exactly where they laid and where they ran over them.

Gary Long-You have that right to do that

Mr. Gaynor-That is something that is outside this Board that is not where we are at tonight and I understand your concern, you are unhappy with this business in general and the condition of this building might increase the business or it might lower it if they are putting in more concrete it's going to cut down the dust and mud taken onto the road.

Regan-They don't even keep the street clean

Lorene-Well when they do it makes more dust

Regan-They had a street sweeper come in, I don't think he was sucking it he was blowing it outward. You couldn't even see down there and half the time when a semi goes through they stop in and look at the houses in the neighborhood and every time it rains you got dirt run marks coming down because of them. They don't care about anything or anyone but themselves.

Mr. Gaynor-Could we make it a point to check into the parking lot and make sure that it is more mud industry, because we do have regulations against creating lots of dust or any dust actually you need a dustless parking lot and this is essential.

Ray-Since he was grandfathered in the rules will probably not apply to him. Because he's been there for so many years that nothing applies to him.

Jim Acklin-You are playing word games now

Jim DiPaola- The ones you are talking about is the used car lots that we've dealt with in the past. If there is a problem I have driven Wall St. on a regular basis. The Sheriff's department has notified me that there was a problem with dust. I notified Mr. Ambrose and that's when he instituted the street sweeper. I have yet to receive any more complaints from Major Messimy at the sheriff's department about that and he drives that road on a regular basis every day.

Regan-Ok, since that's how we have to bring it up, I'll start calling them when the dust gets back.

Mr. Gaynor-That's the direction to go with that

Regan-If you want me to call the Sheriff, I'll call the Sheriff

Mr. Gaynor-We don't want you to call the Sheriff or anything, we want this to be taken care of properly

Regan-Well, you need a record of it.

Mr. Gaynor-Why am I a record of it?

Regan-No, every time we call, they need a record of it because they are not keeping the roads clean.

Mr. Gaynor-Oh, so you have a record of it?

Lorene-So who should we notify of it?

Jim Acklin-If you like to call the Sheriff's department one of our deputies will come down and make a report with you so you will have a documentation and they will notify the business owner if there is an exceed hazards or material on the roadway. That is part on the traffic laws in Ohio. You can ask the officer that you want to make a report that is on record then there will be a report in the Sheriff's office kept on record for at least seven (7) years.

Lorene-Can we at least have them put up some trees, some evergreen trees the kind they cut down cause it's not that far from my son's home.

Regan-It just looks like a mess; before the woods were there you didn't have to look at it. It cut down a lot of noise but, when you take 206 feet of woods going straight back 94 in the front of this lot, 58 in the middle and 90 some in the back that's going to create a lot of noise with those woods gone, that's why we are here to put it all on record. I mean that is not right for you guys to sit there and giving him stuff and letting him do stuff let alone the first building he got without a building permit, the county did not allow it and then he keeps getting variances. The county is going to look into it.

Gary Long-Which building is it?

Regan-The first one closest to the road, the newest one.

Gary Long-Can I speak now?

Lorene-His hearing is not that good.

Gary Long-Which building did he build without a building permit?

Regan-The very first one closest to the road.

Lorene-Show them

Regan- I did and they didn't want it. That one right there.

Gary Long-This is the one we are taking about

Regan-Yea, but this is the one they did without a permit that's Chet's old building

Mr. Gaynor-Jim, have you gone out and looked at the building in question? This predates your involvement with Zoning I think.

Jim DiPaola-That was Mark Tirpak that looked into that.

Mr. Gaynor-We don't have any record of it being in violation?

Jim DiPaola-No

Regan-The County does

Mr. Gaynor-The County says it's in violation

Regan-Yes, he called me and the guy never went and pulled a permit to build it.

Gary Long-What does that have to do with us?

Regan-Well, we're just trying to state

Mr. Gaynor-Well, here's the question it's not the county's business where the building is, that's Zoning and we don't have any record of any violation as far as that building is concerned

Regan-Well can you pull it up from the county? Since we are requesting it?

Mr. Gaynor-I don't know exactly what you mean by calling it up from the county

Regan-The County will know in this area, call them up and ask them about the building he built.

Jim DiPaola-That is something the County is going to have to enforce, if he did it without a permit the County will have to deal with that.

Mr. Gaynor-That is not our problem

Regan-He said he is going to do it

Mr. Gaynor-You have to look into that with the County then.

Lorene-You okayed it correct?

Mr. Gaynor-Not me personally, I was not on the Board at that time. Since we have no record of violation I have to do a dangerous thing and make an assumption that it was okayed.

Lorene-I'm not asking you that, I'm asking you since we have to come to you to ask permit to build a building, correct?

Mr. Gaynor-Yes

Lorene-Alright then, would there not be minutes reading on that? That you have given him permit permission and he got it to build that new building?

Mr. Gaynor-There should be a Zoning Permit yes, and building permit. The building permit is County, I should have never even brought that up, and the Zoning Permit should be within our minutes, yes. When did this occur?

Regan-When did he get the variance? There're right here. When I requested, when he was putting up the building this is all they gave me and then on top of that

Mr. Gaynor-Is that back to the 2003 thing?

Regan-Yea, but he just built it a couple of year ago; by law after two (2) years you cannot do it.

Mr. Gaynor-You would have to get another permit.

Regan-The thing is we came to the first meeting, he now showed, you want to know what they turned around and did that he gave me, unsigned and had another one Sept. 9, 2003 is when it got passed by you guys. And then this isn't even in the paper ten (10) days ahead.

Mr. Gaynor-We are still back to 2003 then what was the date.

Regan-Sept 8, 2003

Mr. Gaynor-There isn't much we can do about that right now.

Lorene-If we come to you, like we did, would you pull up that paper work that we ask about?

Jim DiPaola-We gave you all the paper work that we had from that 2003. Is there more paper work you are looking for?

Regan-Can you go to the Board of Trustees and get a copy of all the minutes, since you are the Zoning guy?

Jim DiPaola-You have a copy of all the minutes

Regan-You only gave me one

Jim DiPaola-I gave you what we have in our records

Lorene-Well, who do we go to then for when all this was passed and you okayed it and stuff like that. Isn't that always suppose to be kept on file?

Jim DiPaola-Minutes we have you got copies of

Gary Long-What was that appeal for?

Regan-I'd like it noted that I gave Jim the Zoning guy a copy of our letter.

Mr Gaynor-We are straying pretty far from the business at hand tonight

Regan- We are trying to prove that all this stuff keeps going on and he keeps getting away with it.

Jim Acklin-He got a variance for it

Regan-Yes but how does he get the next following day don't we have that advertised in the paper ten (10) days ahead for another variance or 30 days? How can you go back to back the 8th and then 9th ? We were here on the 8th and he no showed. The Zoning guy gave me another day behind it.

Jim Acklin-Following the request all you have to do is put in an application so he doesn't have to be here.

Mr. Gaynor-To the meeting? Yes, he does

Regan-Yea it says it right there. He no showed

Mr. Gaynor-The applicant or representative has to be at the meeting

Regan-Then to turn around and have the meeting the following day you guys can't do that, it has to be within 30

Mr. Gaynor-I agree having a meeting the following day probably doesn't meet at least today's guide lines. I don't know about the guidelines eight (8) years ago. Once again we are trying to change the past and we can't do that. I understand your point, you are unhappy with the situation here. I know this in Grandfathered in.

Regan-Who do we ask; if not you guys, who do we ask when he took over the business and was grandfathered in what the restrictions were then? Who's going to answer those questions for us so that we can?

Mr. Gaynor-He would have needed a conditional use permit at that time; we don't know it was a long time ago.

Regan-And a copy of non-conforming grandfather clause rules

Gary Long-There wouldn't have been anything that would have made any restrictions

Regan-Yea it was all revised in 1999

Jim DiPaola-If the Board of Zoning Appeals, back in 2003, gave him a variance for use then they went by whatever the requirements were back then. Once you have a decision by the Board of Zoning Appeals you have 30 days from the date that decision is made to file in Common Pleas Court your objections. Once that 30 days passes you're pretty much binding. You can go to court anytime about anything. That's up to you how you want to pursue this, we have given you all the records you have ask for. We have given you all the information you have ask for and they comply with what the Zoning Code is and what they need to do now. Back then

Ray-What are his restrictions from when he took over the business from 2003 to now?

Regan-Ok, he bought the business in 2000 according to your website. The rules right here that I made copies of was revised in 1999, and these rules were done before you bought it.

Ray-But they are saying that doesn't matter

Regan-These rules I got were 1999 were revised according to the website

Jim DiPaola-There is nothing the Zoning office can do or the Zoning Inspector can do about something that went on eight (8) years ago.

Regan-Ok then there is no grandfather clause

Jim DiPaola-Yes there is and it's in the Code. All we can do is enforce the Code we have now and make sure he has all the requirements for being there. A non-conforming use continues until it's discontinued for two (2) years. He has to basically continue in business as is anytime he wants to make a change, building or anything like that if it's beyond what is permitted by the Code then he has to come before the Board of Zoning Appeals and likewise for property owners if you come to me and I make a decision about you wanting to put up a building and you agree with me you have the right to go before the Board of Zoning Appeals. So it works for both sides.

Ray-I'm sure you don't really care but if I put a barn in and it is really a garage and you can't even see it from the road, he can't even see it cause it is down in my property as a fall off I had to go and kiss some serious butt to get this barn in and this guy can come in and do whatever he wants cause I don't know why, I know it's all your mumbo jumbo legal stuff and all that.

Jim DiPaola-But if you want to tear down all the trees on your property you have the right to do that there is nothing in the Zoning Code that prohibits anyone from doing that except if you put a subdivision in like a housing development and there are requirements you have to meet by the Code he is not a housing subdivision.

Lorene-I'd rather have housing

Ray-Our neighbor has an auto kinetic business and he was required to put up those trees and he did.

Jim DiPaola-Right and he had to get a variance for that. That decision is by the Board of Zoning Appeals. If they want to attach conditions and restrictions they can do that. I can't do that

Regan-Who is that?

Jim DiPaola-These guys right here

Ray-So where are we at with that then sir, some kind of sound barrier for his business and our homes. Plus I don't know if it will help with runoff or not but like my well is right next to his property on that side of the house. I have to drink that water you don't have to drink the water.

Regan-And I'm even closer

Ray-And he is well water and she's well water. We have to maintain our septic systems. I don't know if that's you or another group EPA or whatever. We're not the Zoning people we don't realize that we are at the wrong place and if we ask a stupid question, it's just because of our ignorance, I'll be the first one to admit it and I don't want attitude from somebody because of that. But, then send us to the right direction. That's all; this is a starting point for us believe it or not for me anyhow.

Mr. Gaynor-I need to vote or take a break, one or the other

Gary Long-I don't think we are ready to vote

Mr. Gaynor-The Board would like to take a ten (10) minute break.

Regan-You got my letter in there, don't forget about that. I want these admitted in the things and I gave you a copy of the landscaping and all that stuff

Mr. Gaynor-Is this the letter you are speaking of?

Regan-Yes, if you can. Can you give that to the Board of Trustees.

Mr. Gaynor-We are not on record yet

Regan-Just that letter if he abides by it, fine

Mr. Gaynor-(Board is back in session) Ok there is some kind of agreement between you two folks that does not concern the Board. Matters that are the concern the EPA are not the concern of this Board. Our sole concern tonight is whether or not this building should be allowed to be built, but it is somewhat larger than the rules call for. The building will probably take some; put some things out of sight. There is going to be more concrete there which ought to cut down on the dust and mud problem and I'm ready to entertain a motion from a Board member on the item before the Board at this time.

Gary Long-I move that the appeals number 2011 BZA 02 be approved as written.

Mr. Gaynor-I second that.

R/C: Jeff Gaynor-yes, Remy Arness-yes, Dorothy Griffiths-yes, Jim Acklin-yes, and Gary Long-yes. Motion passed

Mr. Gaynor-I move we journalize the above vote and put it into the record, we need a second on that at this time please. Remy Arness second it

R/C: Remy Arness-yes, Dorothy Griffiths-yes, Gary Long-yes, Jim Acklin-yes and Jeff Gaynor-yes. Motion passed

Mr. Gaynor-We have an appeal period if there is anything you would like to take action on you can do so.

Regan-How long do we have?

Mr. Gaynor-Thirty (30) days

Regan-Can we have a record of the minutes?

Jim DiPaola-I told them during your recess that we would send them a copy of the minutes and the decision.

Lorene-Who is the one that does the landscaping?

Jim DiPaola-They did not decide to put any restrictions or requirements on this.

Lorene-That is what we are here for.

Jim DiPaola-That was their decision, the Board decided not to add anything else to this.

Mr. Gaynor-It already has a six (6) foot tall fence there.

Regan-That's the front we are talking about the side. We don't care about the front, she said that.

Gary Long-On our map it shows an existing fence.

Lorene-That is just a fire one

Regan-Could we get you guys to drive out there and look at night?

Mr. Gaynor-We are told by the Portage County Law Director, our decisions are made upon information brought to us at this meeting it is not a trial. We are technically requested to not go look at property. We are to act upon information brought to us here. Our map shows a fence along that line. If it's not there, this is something you could take to the Portage County Legal Department and say this man brought an incorrect map to the meeting or something.

Ray-What is the purpose of the fence that we are talking about?

Gary Long-A sight barrier

Regan-It ain't no sight barrier.

Gary Long-The fence that was presented to this group of people tonight, it's a sight barrier.

Remy-Could there be slots between the links?

Regan-That's what she said in the meeting. She said the whole side, not the front, she specifically said that.

Jim Acklin-Well, here's the other option why is it him that has to bury it if you guys have the problem you guys could also put up trees.

Regan-Their making the noise

Jim Acklin-Right, but you could also put the trees down the side on you land you can, correct?

Regan-Yes, but it's not our responsibility to stop his noise

Jim Acklin-There is no Zoning in this to plant trees down that side

Lorene-So other words he can do what he wants and you guys are going to pass it?

Jim Acklin-If he was doing something that was outside the Zoning laws or outside anything that was reasonable we wouldn't have a problem with that.

Lorene-Evergreen trees isn't called unreasonable, just make a barrier and it might even block some of the light that looks like a football field.

Regan-And you are telling me none of this can be enforced even if it's in the rules, is what you are telling us?

Jim Acklin-That is not part of the groups of section that we are looking at

Regan-Who do we go to for that then?

Gary Long-I think you have to seek legal counsel

Mr. Gaynor-Yes

Regan-He's saying it's up to you guys

Jim Acklin-Because that does not comply then if you feel you want to make him do something then you need to seek legal counsel, ok? Because it's nothing that has to do with our Zoning rules it does not fall within our Zoning. Zoning is not an answer to every single thing to make people do something that you don't like. That is not part of what Zoning is for.

Regan-Well, in here it actually stipulates that is someone brings up; you guys have the power to go to the prosecutor and anyone that needs to be brought in to do it.

Jim Acklin-We chose not to do that.

Regan-Why?

Lorene-So why do we bother coming?

Regan-What's the use of coming?

Jim Acklin-Other meetings people have come here and we felt what they had to say was reasonable and we voted their direction, we vote the way we vote, so we voted.

Lorene-Can you tell us what is unreasonable

Jim Acklin-That is our decision

Ray-That apparently is unreason and that's not part of Code anywhere right?

That we are saying there is no code that requires a privacy fence from a business of that nature.

Mr. Gaynor-No, what is becoming unreasonable is the amount of time we are spending. I would like to excuse you folks at this time

Ray-We took an hour and fifteen (15) minutes of your time, we apologize

Mr. Gaynor-No, no need to apologize, you are perfectly within your right to be here.

Ray-We were unreasonable

Mr. Gaynor-No I said becoming unreasonable

Jim DiPaolo-I have one other thing to bring before you guys. You can do it now or after you do your minutes whichever you want to do.

Mr. Gaynor-Has everyone had a chance to review the minutes from the last meeting that is appropriate? Do I have a motion to approve the minutes from the previous meeting? Remy Arness moved and Jeff Gaynor second. R/C: Gary Long-yes, Jim Acklin-abstain, Remy Arness-yes, Jeff Gaynor-yes, Dorothy Griffiths-abstain. Motion passed minutes approved.

Mr. Gaynor-Your application to build this building has been approved and of course during the time which it appeals against that application can be file so if you start before that thirty (30) day period is up you do so at your own risk.

Mike Ambrose-I've got cranes with 40 foot booms on them and the building are 15-20 feet high and 8foot fence can't hide it. As far as noise, yea we run from 7:30 a.m. until 4:30 p.m. or 5:00p.m in the evening. We don't start until 8:00a.m. on Saturday, we don't even work on Sunday we are not even open on Sunday. We do a lot, we are very conscious of the people around us as much as we can be with the business that we have. I'm pretty sure that place was there long before they were.

Mr. Gaynor-Ok, thank you. We are done; you can stay or depart as you wish. Would you step forward Jim, you are already sworn in.

Jim DiPaola-Back in December of 2009 you heard a request for a conditional use from Online Motor Cars on St. Rt. 59. During that testimony

Mr. Gaynor-Which dealership is that please?

Jim DiPaola-Online Motor Cars across from the drive-in.

Mr. Gaynor-The old gas station building?

Jim DiPaola-Yes the old gas station. At that time he gave testimony that he had put gravel down and he intended in 2010 to pave his parking lot. To this date he has not paved his parking lot and he has put more cars in there and blocked one entrance up and gone back beyond where the gravel was. He is back almost to the rear of the building on the West side. Since it is a conditional use, and I checked with the Prosecutor, I can't sight him but you guys have the right to call him back in and hear testimony from him and either keep his conditional use in place or take it away from him.

Jim Acklin-If we take it away from him what happens?

Jim DiPaola-He's out of business

Jim Acklin- Who enforces that?

Jim DiPaola-The Prosecutor office will enforce that.

Mr. Gaynor-Why can't you site him for that?

Jim DiPaola-I have sent him a letter saying that you did give testimony to the Board that you were going to do this and you haven't done this yet. Since it was a

condition of the conditional use that is something, I can site him for it but you guys have to either let him continue and tell him he has a year to get it done or take it away. It used to be under the old Zoning Code that I could take his conditional use certificate away from him. But I can't anymore that all falls with you folks since you are the Board.

Jeff Gaynor-Ok, understood. We could give him until warm weather if we wanted to or something like that.

Gary Long-He has already used a year and four (4) months

Jim DiPaola- When I sent him the letter, he never answered. I said please let us know what your time frame is and I haven't heard a word from him.

Mr. Gaynor-Do you need a letter from us stating that?

Jim DiPaola-We should probably set a hearing and invite him to the hearing and find out why he hasn't complied.

Mr. Gaynor-Ok, that's good with me.

Jim Acklin-The other car dealer along there has something to do with the no parking.

Jim DiPaola-Well, he hasn't got his conditional use yet and he's parked out in the States Right of Way. Globe Auto

Gary Long- That's the one across the street from that trailer park.

Jim DiPaola-Yes, Globe Auto the people, cause when that guy came in, I pulled his file too.

Jim Acklin-I've been watching that too and seen a lot of that

Jim DiPaola-The other night there was seven (7) cars parked out there and they were almost sitting on St. Rt. 59. I'm surprised the State Patrol didn't come by and site them. But his testimony that you guys heard on the Board was just to be able to keep his fence.

Mr. Gaynor-He didn't want to?

Jim DiPaola-He didn't want to move his fence and the state told him that the only way they were going to let his fence remain there is if he got a variance for it. So that is why you guys gave him a variance.

Mr. Gaynor-We gave him a variance because if the fence is where it was the State had to pay to move it. Something along those lines, so we decided in his favor.

Jim DiPaola-What I am going to site him for is lack of parking space for his customers.

Jeff Gaynor-With those cars parked on the road you can't see to get out and is very dangerous

Jim DiPaola-I am going to notify the state that he is parking in their right of way

Mr Gaynor-Good that's the way to go then.

Jim DiPaola-I'm handling those two (2) things but, it's just two different critters So the Online Motor Cars this Board gave a conditional use to.

Gary Long-You guys won't like me when we vote on this one

Mr. Gaynor-Why won't we like you?

Gary Long-Well, he's had a year and four (4) months to get it done

Remy-You don't want to extend him any more time?

Mr. Gaynor-Just enough until the weather gets warmer?

Jim Acklin-we could extend him until June 30th and that would be spring and the first month of summer and get it done and then after that.

Jim DiPaola- And if he doesn't do that then his conditional use certificate is yanked. We will send him a notice saying that the Board requires his presence at the next meeting then in March.

Jeff Gaynor-Ok and if he doesn't show up we will decide what to do then. Just up East of there we gave an ok for a house, split, it faces 59 the driveway's on Menough the owner's name is Mike something.

Jim DiPaola-We have him in the Prosecutor's office
Gary Long-That's the guy that lives across from me. He didn't clean up anything.
He moved it from one side of the property to the other side
Mr. Gaynor-It's new junk once you move it. Are we done?
Mrs. Chambers-The meeting in March will be the second Wednesday in March
which will be Ash Wednesday, is that a problem?
Gary Long-What's the date on it?
Mrs. Chambers-March the 9th
Mr. Gaynor-That should be ok. Chair will entertain a motion to adjourn
Remy Arness- I so move.
Mr. Gaynor-Adjourns the meeting at 8:27 p.m.

Respectfully submitted by

Carolyn Chambers,

Zoning Secretary

Cc: Trustees (Coia, Artz, Gibson)
Zoning Inspector (DiPaola)
Board Of Zoning Appeals Members (5)
File