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## MINUTES

**Board of Zoning Appeals  
Thursday, March 17, 2022**

**Regular Meeting  
7:00 PM**

### Call to Order

Vice President Aaron Epling called the Regular Meeting of Board of Zoning Appeals to order at 7:00 PM.

### Pledge of Allegiance to the Flag

Vice President Aaron Epling led the Board and attendees in the Pledge of Allegiance.

### Roll Call

Attendee Name:	Title:	Status:
President Matthew Piper	President	Absent
Vice President Aaron Epling	Vice President	Present
Steve Donato	Member	Present
James Martin	Member	Present
Greg St. Clair	Member	Present
Arthur Steele	Member	Absent
Bobby Stepp	Member	Present

**Staff Members Present:** City Council Representative Peggy Hale, Planning Director John Talentino and Planning Manager/Acting Clerk Carson Combs.

**Others Present:** Katherine Fulton, OmniScapes LLC, representing BZA-22-7; Braydon Putnam and Joshua Miller, V3 Companies, representing BZA-22-8; and Rick and Arlene Tidd.

### Approval of the Minutes of the February 17, 2022, Meeting

Vice President Aaron Epling made a motion to approve the December 16, 2021, meeting minutes, seconded by Mr. Martin. A Voice Vote approved the motion.

<b>Status:</b>	Accepted by Voice Vote (5-0)
<b>Mover:</b>	Vice President Aaron Epling
<b>Second:</b>	Mr. James Martin

### Changes to the Agenda (requests for postponements, withdrawals, or change in order of cases)

Mr. Talentino indicated that for Cases #1 and #5 the applicants request a postponement to the April 21, 2022, meeting. He indicated that staff is in support.

#### **CASE 1: BZA-21-31 – Administrative Appeal – 5340 Franklin Street**

**PARCEL NUMBER:** 050-000142

**APPLICANT:** Thomas Herlihy, 5340 Franklin Street, Hilliard, OH 43026, c/o Jeffrey Lucas, 1717 Bethel Road, Columbus, OH 43220.

**REQUEST:** Review & approval of an administrative appeal from a code violation letter issued by the City Code Enforcement Officer concerning Hilliard Code Section 917 Weeds.

**CASE 5: BZA-22-9 – 4095 Main Street LLC property – 4095 Main Street**

**PARCEL NUMBER:** 050-000153

**APPLICANT:** 4095 Main Street LLC, c/o Chelsea Setterlin Kimes; and James Butz, SPGB Architects, LLC, 4333-A Tuller Road, Dublin OH 43017.

**REQUEST:** Review and approval of variances to Section 1115.05(c)(1)A to reduce the interior parking lot landscaping from 200-square-feet to 0-square-feet and Section 1125.05(b) to reduce the required perimeter landscape buffer from 10 feet to 0 feet for the installation of four alley parking spaces and Section 1125.04(i) to reduce the required tree replacement from 30" to 0" for an 8,940-square-foot building with dwellings on the second floor with non-residential uses at street level on 0.162 acre.

Vice President Aaron Epling made a motion, seconded by Mr. Donato, to postpone both cases to the March meeting.

<b>Status:</b>	Postponed to the April 2022, meeting by Voice Vote (5-0).
<b>Mover:</b>	Vice President Aaron Epling
<b>Secunder:</b>	Mr. Steve Donato
<b>Ayes:</b>	

**Oath to Tell the Truth**

Vice President Aaron Epling administered the Oath to Tell the Truth.

**New Cases**

**CASE 2: BZA-22-6 – Special Olympics Ohio - 3935 Britton Parkway**

**PARCEL NUMBER:** 050-011178

**APPLICANT:** Echo Hilliard II LLC, 560 Epsilon Drive, Pittsburgh, PA 15238; c/o Bob Knecht, 1719 E. 39<sup>th</sup> Street, Cleveland, Ohio 44114; Ron Katz, 1719 E. 39<sup>th</sup> Street, Cleveland, Ohio 44114.

**REQUEST:** Review & approval of a temporary use under the provisions of Hilliard Code Section 1106.02 to permit a clothing donation bin in the parking lot.

Mr. Combs presented the staff report.

**BACKGROUND:**

The site is 2.71 acres located on the west side of Britton Parkway 250 feet north of Cemetery Road and is zoned PUD, Planned Unit Development District (First Industrial Property Plan). The site has two entrance drives from Britton Parkway and one from All Seasons Drive. The applicant is requesting approval of a variance for a temporary use under Section 1106.02 of the Code to locate an accessory donation bin at the rear of the parcel within a paved parking lot.

**CONSIDERATIONS:**

- Hilliard Code Section 1121.02(b)(2) states that accessory buildings shall not be located within any front yard or within any easement. Section 1121.02(b)(3) states that accessory buildings may be erected in a rear yard if set back not less than six feet from the rear property line and three feet from the side property line. Section 1121.02(b)(4) states that buildings and structures accessory to non-residential uses shall meet the minimum setback requirements and height limitations for principal buildings in the respective zoning district.
- The proposal consists of one donation bin (4'x5') located at the rear of the parking lot west of Rusty Bucket and south of Scrambler Marie's. The bin will be the receptacle for donations of clothing and shoes for Special Olympics. No resale of merchandise will occur at the site, and no additional lighting is proposed beyond the existing parking lot lighting. The bin includes informational signage, and no additional signage is proposed.
- On June 21, 2018, the Board approved a variance to locate three Special Olympic bins in the front yard of 3780-3785 Park Mill Run Dr. The motion was approved for a 12-month period with the condition that all

refuse laying around the bins was to be cleaned up at all times. This temporary use resulted in significant code enforcement efforts due to the abundance of rubbish outside and around the bin. The bins were removed before the 12-month period ended.

- Staff has found that the areas around donation bins of the type proposed with this application often become the receptacle of materials other than the items intended, such as furniture, household goods, mattresses, toys, trash, etc. because the sites are not monitored.

**STAFF RECOMMENDATION:**

Staff finds that the proposed outdoor, unattended donation bin is of a type that has been the source of significant zoning enforcement efforts to eliminate trash and debris from accumulating in the area around the bin. Staff finds that this type of donation bin would be more appropriately located within an indoor commercial tenant space that would provide ongoing monitoring. Based on these findings, consistent with the provisions of Code Section 1106.04, staff respectfully recommends that the proposed variance to locate one accessory structure be denied.  
[end of report]

Vice Chair Epling asked for the location and applicant of the previous temporary use approval; Mr. Talentino noted that the location was near Arhaus and Floor & Decor along Park Mill Drive – the applicant was the Special Olympics.

The applicant was not present and there was no testimony from the public.

Mr. St. Clair noted that he understood the staff’s position on the issue because he has seen such examples where the donation area becomes unsightly.

Mr. Talentino clarified that the request was not a variance, but a temporary use request because the proposed location is not located forward of the building (in the rear yard).

Mr. St. Clair made a motion, seconded by Mr. Donato, to approve the temporary use request under the provisions of Hilliard Code Section 1106.02 to permit a clothing donation bin in the parking lot.

<b>Status:</b>	The Board denied the application (5-0).
<b>Mover:</b>	Mr. Greg St. Clair
<b>Secunder:</b>	Mr. Steve Donato
<b>Nays:</b>	Vice President Aaron Epling, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Bobby Stepp

**CASE 3: BZA-22-7 – Vawter Residence – 6069 Heritage Lakes Drive**

**PARCEL NUMBER:** 050-007078

**APPLICANT:** Gary Vawter, 6069 Heritage Lakes Drive, Hilliard, OH 43026.

**REQUEST:** Review and approval of a variance from Hilliard Code Section 1121.02(d)(5) to permit a pool with an automatic cover in lieu of a fence around the pool.

Mr. Combs provided the staff report.

**BACKGROUND:**

The site is located on the south side of Heritage Lakes Drive, approximately 110 feet east of Heritage Point Court. The 0.49-acre parcel is Lot #61 of the Heritage Lakes PUD (Planned Unit Development) District and was platted as part of Section 1 which was originally approved for zoning in 1992. This application is a variance request to install a mechanical pool cover in lieu of swimming pool fencing with self-closing and self-locking gate as required by Section 1121.02(d)(5) of the Code.

**CONSIDERATIONS:**

- *Description.* The site and surrounding properties are zoned PUD, Planned Unit Development District as part of the Heritage Lakes PUD Plan. The rear of the property backs onto one of the fairways of the Heritage Golf Club. A decorative post-and-rail white fence installed by the golf course is located along the rear property line to delineate the edge of play. The rear property line is approximately 60 feet from the closest cart path.
- *Required Fencing.* Hilliard Code Section 1121.02(d)(5)(a) states that the immediate surroundings or yard around the pool shall be fenced and equipped with a self-latching gate with a self-closing lock to prevent uncontrolled access into any swimming pool.
- *Prior Variance Requests.* Since 2018, the Board of Zoning Appeals has received five variance requests to replace required pool fencing with an automatic pool cover. **The Board has approved all five requests.** [BZA-21-35 Bandow Residence; BZA-21-6 Capron Residence; 20-0157AR Miglietti Residence; 20-0145AR Ruma Residence; 18-0093AR Tucker Residence]
- *Patio & Pool Design.* The proposed 714-square foot patio will surround the proposed 494-square foot fiberglass in-ground pool that complies with all required setbacks and site standards. Mechanicals for the pool will be placed on a concrete pad along the east elevation of the home. A side yard setback of 8 feet is required, and mechanicals are permitted to encroach up to 3 feet within the side yard. **Any proposed mechanicals must be screened to comply with Code.**
- *Fencing.* Plans indicate a 48-inch-tall decorative aluminum fence with gate hardware around the pool and patio that complies with Code. This variance request is to install an electronic pool cover in place of the required fence. **To meet the intent of the Code, a cover would need to be closed at all times when the pool is not in use.**
- *HOA Review.* The Heritage Lakes HOA has approved the proposed plan on the condition that the variance to utilize the electronic pool cover from the Board of Zoning Appeals is granted. The HOA is also requesting that the proposals screen the mechanicals on the side of the home.

**STAFF RECOMMENDATION:**

Staff finds that there can be beneficial use of the property without the variance and that the proposed variance to permit a pool without fencing is substantial. Staff finds that the property owner's difficulty can be feasibly obviated through some method other than a variance. Based on these findings, consistent with the provisions of Hilliard Code Section 1106.04 staff respectfully recommends that the proposed variance be denied.

[end of report]

Mr. St. Clair asked if staff was stipulating a condition in the report; Mr. Combs clarified that the language provided was that proposed by the Board and adopted as a condition in its previous approvals. Mr. Combs explained that the fence with lock and latch is a required safety measure.

Vice Chair Epling asked if City Council is considering this issue.

Mr. Talentino said it currently is not, but that a Code change could be part of a larger rewrite. He said that staff is not aware of any complaints from the previously granted variances. He said staff cannot recommend approval when the Code does not address the issue, but today's pool covers have a much better quality that what was available years ago.

Mr. Stepp asked if there were any legal ramifications if the Board made such a decision; Vice Chair Epling noted that public boards have some immunity but did not know about this instance.

Mr. Talentino explained that even with fences, a gate can be left open and there are operational requirements that must be carried out to keep it from creating an attractive nuisance.

Mr. Stepp asked if the property backed up to the golf course and already had a fence and Mr. Martin noted that the fence is there for a good reason and wondered why the owner would like to forgo the fence.

Ms. Katherine Fulton, Omnipools, affirmed that there is a fence. She then provided images of the proposed pool cover to the Board. She explained the key will be removed from the switch when not in use. She indicated that the cover will be better than a fence, which can be jumped over. She said that her company is aware of other municipalities that are allowing the pool covers. She noted that the plans originally included both the fence and cover. She said she believed that the owners removed the fence due to cost.

Council Member Hale inquired as to the cost of the cover and asked about the location of the switch and key.

Ms. Fulton indicated that the cover is between \$10,000-\$20,000, and the cost of the fence is comparable to that of the cover. She said that the key and switch is located outside near the pool and that the key will enclose the switch so that it cannot be accessed.

Mr. St. Clair noted that past requests have include a keypad that would be placed too high for children to reach; Ms. Fulton pointed out that the applicant did not choose that as an option.

There was no testimony from the public.

Mr. St. Clair made a motion, seconded by Vice President Epling, to approve the variance from Hilliard Code Section 1121.02(d)(5) to permit a pool with an automatic cover in lieu of a fence with the following condition:

- (1) That while the pool is not in use, the cover must be closed.

<b>Status:</b>	Approved with one condition (5-0).
<b>Mover:</b>	Mr. Greg St. Clair
<b>Secunder:</b>	Vice President Aaron Epling
<b>Ayes:</b>	Vice President Aaron Epling, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Bobby Stepp

**CASE 4: BZA-22-8 – Tidd Funeral Home – 4010 Columbia Street**

**PARCEL NUMBER:** 050-000085

**APPLICANT:** Ricky and Arlene Tidd, 4492 Carrington Way, Hilliard, OH 43026; c/o Braydon Putnam, V3 Companies, 3500 Snouffer Road, Columbus, OH 43235

**REQUEST:** Review and approval of a request of variances to Section 1127.04(b)(3)(c) to reduce required aisle width from 24 feet to 20 feet and Section 1125.05(b) to reduce the minimum perimeter landscape buffer to 0 feet for the construction of a 27-space, shared-access parking lot.

Mr. Combs presented the staff report:

**BACKGROUND:**

The site is 0.17 acre located on the southeast side of Columbia Street approximately 120 feet southwest of Norwich Street. The site is currently undeveloped and is the former location of a residence. The applicant is requesting approval of a 27-space parking lot that will include accessible parking, improvements to the Columbia Street right-of-way and related bicycle facilities. *On March 10, 2022, the Planning and Zoning Commission reviewed Case PZ-22-005 and approved (7-0) an Old Hilliard Design Plan for the parking lot with three conditions that are duplicated in this report.* This variance request is to reduce the required drive aisle width for the parking lot from 24 feet to 20 feet and to eliminate minimum perimeter landscape buffer requirements to permit the shared access layout. Following review by this Board, the proposed parking lot development could proceed to obtain necessary permits for construction.

**CONSIDERATIONS:**

- *Comprehensive Plan.* Adopted plans for the District recommend the provision of private, on-site spaces where possible. The Plan emphasizes increasing connectivity for pedestrians and vehicles throughout the District and to redevelop underutilized properties in an attractive way that respects the existing character. The proposed plan will provide needed resources in a way that will be appropriately screened, provide

pedestrian amenities and connections that are missing on Columbia Street and will include alley improvements that will benefit the general public. The proposed improvements will create a short-term resource in that portion of the District until such time as market conditions encourage further development consistent with the Plan.

- *Zoning.* The site and all surrounding properties are located within Old Hilliard. Properties to the north, east and south are within the OH-RD District and include a mix of commercial uses. A single-family residence is located to the south across the alley, and a variety of businesses (including Tidd Funeral Home) are located on the other side of Columbia Street within the OH-MD mixed use district.
- *Parking Requirements.* 78 spaces are necessary to meet standard parking requirements. Section 1115.05(f) allows the Planning and Zoning Commission to grant a 50% reduction upon consideration of whether other parking is available within a reasonable distance if transit is available and if hours or peak activity for the use will not coincide with other nearby uses. As a funeral use a 50% reduction requires 39 spaces. The existing lot at the corner of Columbia and Center Streets includes 42 spaces. This proposed lot will provide 27 additional spaces (69 total). As a unique use that has significant parking needs during limited times, the property owner is working to provide adequate parking resources in proximity to the use.
- *Lot Design.* The proposed parking layout will provide 27 spaces and is designed to integrate with adjacent parcels that are controlled by the applicant. Circulation along the north property line is proposed at 20 feet and paved portions of the alley will be widened and range from 22.97 to 25 feet to enhance vehicular movement.
- *Aisle Width.* A variance from Section 1127.04(b)(3)(c) is necessary to reduce aisle width from 24 feet to 20 feet. The reduction is consistent with other parking lots in Old Hilliard, will improve the condition of the alley and addresses the limitations created by the small lot size.
- *Right-of-way Improvements.* Sidewalks, stormwater improvements (including underground storage) and site enhancements will be installed to the satisfaction of the City Engineer.
- *Cross Easements.* Because the proposed parking circulation is shared/coordinated with surrounding parcels, cross access easements will be required with the adjacent parking areas.
- *Landscape Buffers.* Section 1125.05(b) of the Code requires a 25-foot landscape buffer for properties adjacent to a residential property or district. The plan utilizes coordinated parking with the alleys and a drive aisle with properties to the north with landscape buffers that range from 7 feet to 0 feet from the property line. The Code does not address alley parking configurations, the size of many small lots within Old Hilliard or coordinated access between properties as proposed by this plan.

#### **STAFF RECOMMENDATION:**

Staff finds that the proposed parking lot installation is generally consistent with the intent and purpose of the Zoning Code in Old Hilliard and will provide additional parking resources for the District in a coordinated manner. The proposed lot will coordinate with the existing alley system and result in improvements to the public right-of-way. The project will maintain the spirit and intent of the Code, and the variances will address the unique aspect of the proposed layout to coordinate with the alley system and adjacent uses. The integrity of the alley will be maintained for public services and utilities, and the proposed lot will provide a valuable use in this transitional portion of Old Hilliard until such time as growth in the District encourages the development of additional mixed uses that meet the intent of the Code and objectives of the Comprehensive Plan. Based on these findings, staff recommends approval of the proposed variances with the following three conditions:

- 1) That all necessary cross easements be provided to the satisfaction of staff;
  - 2) That the installation of all improvements to the site and in public right-of-way be completed to the satisfaction of staff; and
  - 3) That all necessary variances be obtained from the Board of Zoning Appeals prior to submitting for permits.
- [end of report]

Mr. St. Clair asked if there were any variances granted for the parking lot to the south and inquired about lighting.

Mr. Talentino clarified that the public alley right-of-way would not be widened. He said he was not aware of variances, but at the time that lot was installed the Zoning Code was different. He noted that the parking lot did go through a public process. He said that what is currently there may have been approved as a package.

Mr. Martin asked about the proposed lighting; Mr. Combs indicated that cutoff fixtures that meet code will be provided.

Vice Chair Epling asked why the conditions included “to the satisfaction of staff” and whether “prior to and during construction” could be added.

Mr. Talentino explained that the wording allows staff to make detailed adjustments in the field during the construction process (which happens with most projects). He said additional language could absolutely be added to the condition.

Council Member Hale asked if placing the accessible space on Columbia Street will still allow for emergency vehicles and two-way traffic.

Mr. Combs noted that the design does not impact the street’s capacity and that all modifications in the right-of-way will require approval from the City Engineer.

Mr. Martin asked about the dumpster that is currently located on the property; Staff noted that it is probably in a temporary location.

Mr. Martin inquired about the increased stormwater; Mr. Talentino noted that they would have to meet all the City’s requirements and that preliminary information has been provided to the engineers. Mr. Combs clarified that preliminary calcs have are included with underground detention and that final calculations will be provided in conjunction with permits.

Mr. Stepp asked if the drive aisles will be two-way, and Mr. Talentino confirmed that they will be widened to provide two-way traffic.

Council Member Hale inquired as to whether the parking areas would be utilized for other purposes such as special events; Mr. Talentino noted that the applicant has been accommodating in the past, but no discussions have been made to this point.

Mr. Martin suggested additional signs for patrons to be able to know where to park; Mr. Talentino indicated that staff would work with the applicant.

Mr. Putnam, V3 Companies, noted that there is a dumpster that would be relocated to the corner of the parking lot to the south as indicated on the plans.

Joshua Miller, V3 Companies, indicated that their company has previously worked for Tidd Funeral Homes; Mr. St. Clair noted that the Tidd’s have been good stewards of the downtown property and their past involvement provides assurances.

No public testimony was provided.

Vice Chair Epling, seconded by Mr. St. Clair, made a motion to approve the request for variances to Section 1127.04(b)(3)(c) to reduce required aisle width from 24 feet to 20 feet and Section 1125.05(b) to reduce the minimum perimeter landscape buffer to 0 feet for the construction of a 27-space, shared-access parking lot with the following conditions:

- 1) That all necessary cross easements be provided to the satisfaction of staff prior to and during construction;
- 2) That the installation of all improvements to the site and in public right-of-way be completed to the satisfaction of staff prior to and during construction; and
- 3) That all necessary variances be obtained from the Board of Zoning Appeals prior to submitting for permits.

<b>Status:</b>	Approved with three conditions (5-0).
<b>Mover:</b>	Vice Chair Aaron Epling
<b>Second:</b>	Mr. Greg St. Clair
<b>Ayes:</b>	Vice President Aaron Epling, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Bobby Stepp

**President’s Communication**

Mr. Talentino noted that there are applications for the April meeting.

**Adjournment – 7:38 PM**

Vice President Epling, seconded by Mr. Martin, motioned to adjourn at 7:38 p.m.

**CERTIFICATION:**



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Carson Combs, Planning Manager/Acting Clerk