

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD JULY 23, 2015**

TO ORDER: The meeting was called to order at 7:02 P.M. with the Pledge of Allegiance.

ROLL CALL: Present were members Mario Cipriano, Martin DeVries, Vice Chairman Linda Masterson and Chairman Shawn Kimble.
Absent and excused was Planning Commission Liaison Tim Anderson.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, Council Liaison Bernadine Butkowski, Ward 4 Councilmember Robert Olesen and Secretary Donna Tjotjos.

MINUTES:

Chairman Kimble asked if there were any corrections or additions to the minutes dated June 25, 2015. Hearing none, he entertained a motion.

It was moved by Masterson and seconded by Cipriano to approve the minutes dated June 25, 2015.

Chairman Kimble asked the Clerk to call the roll.

Yes, 3 No, 0 Abstain, 1 (Kimble)

Motion was approved by a vote of three yes, zero no and one abstention.

REPORTS:

Chairman Kimble asked if there were any reports from Planning Commission or the Board of Drainage and Flood Control.

Member Cipriano stated no report.

OTHER REPORTS AND CORRESPONDENCE:

Chairman Kimble noted no other reports or correspondence and moved the meeting on to the public hearings. He asked the Clerk to read the first application under public hearings.

PUBLIC HEARING:

APPLICANT: Jeremy Fry, PE, Cypress Engineering, 9049 Dover Road, Apple Creek, OH 44606

OWNER: City of North Ridgeville, 7307 Avon Belden Road

REQUEST: Determination of like use to operate a retail/athletic complex in an I-2 District

LOCATION: 7777 Victory Lane in an I-2 District

Permanent Parcel No. 07-00-003-102-084

The application was read along with the comments received from the Chief Building Official.

Chairman Kimble asked if there was a representative. No response.

It was moved by Kimble and seconded by Masterson to postpone the application until the next regular meeting.

Chairman Kimble asked the Clerk to call the roll.

The roll call vote was interrupted with the Chairman asking the Clerk to hold the roll call.

Chief Building Official Fursdon suggested that instead of postponing until the next regular meeting to move on to the next application in order to give this applicant time to arrive.

It was moved by Kimble and seconded by Masterson to withdraw the motion before the Board to postpone the application until the next regular meeting.

Chairman Kimble asked the Clerk to call the roll.

Yes, 4 No, 0

Motion was approved by a vote of four to zero.

Chairman Kimble moved the meeting on to the next application and asked the Clerk to read the application.

APPLICANT: Cesar Guzman, 12213 Brighton Avenue, Cleveland, Ohio 44111

OWNER: Same

REQUEST: Determination of like use to operate a construction business within a B-3 District currently existing as an R-1. Applicant's intent is to apply for rezoning from R-1 to B-3 District.

LOCATION: 32329 Chestnut Ridge Road in an R-1 District
Permanent Parcel No. 07-00-004-108-099

The application was read along with the comments received from the Chief Building Official. Chairman Kimble stated before the Board moves on with this application, it appears that there has been some issues that have been brought up in the Law Department. He addressed Assistant Law Director Morgan and asked if she would elaborate on that issue.

Assistant Law Director Morgan apologized for not noticing this earlier but she did receive a phone call today in regard to this application from one of the BZA members and it was then that she started to look at it more carefully. What she noticed was that this applicant doesn't actually have a B-3 property and so, this Board being a quasi judicial type Board taking sworn testimony, has some rules and regulations and some constraints that other Commissions might not have and as such, the person making an application has to have standing to bring what they are asking the Board of Appeals to look at and because this property is not currently B-3, but they are asking this Board to make a determination as if it were, then in legal terms, it is not right for consideration yet. He has no standing to bring this before this Board. This cannot be decided

until it is actually rezoned. So, for that reason, the Board cannot make a determination on it at this time.

Chairman Kimble asked for clarification. He asked if the Board was to hypothetically vote on this application tonight and it still went for its rezoning, if it was turned down in the rezoning process, what would happen to the decision the Board made to approve the use in a B-3.

Assistant Law Director Morgan stated that because the Board is quasi judicial and because the testimony is sworn testimony that to really act on something from someone who doesn't have standing; something that is not right for a decision at the moment, the decision right from the outset would be a nullity. It would have no affect right from the beginning. It is just something that the Board is unable to do and to her knowledge, this is the first time this has come up or at least the first time that we have really taken a look at it, but it's as if the Board has no jurisdiction to hear it at this time. If the property gets rezoned, the applicant can come back and make the request and the Board could move forward, but at this time, he has no standing to ask that. This is not ready and it can't be decided because it would be like trying to decide something that doesn't actually exist at the moment.

Chairman Kimble stated that the big hold up is the rezoning of it.

Assistant Law Director Morgan stated correct.

Chairman Kimble stated that is what separates it from say a residential subdivision that is already zoned R-1 that would come to this Board before they had final approvals because it was already zoned for it. He asked if that was correct.

Assistant Law Director Morgan stated that is correct. This applicant is asking the Board to decide what the hypothetical would be at this point, as in what if he rezoned it and in that case what would the Board do and that is just not an appropriate way for the Board to make a decision.

Chairman Kimble stated then it would be the recommendation of the Law Department to postpone this until after his rezoning procedures have been completed.

Assistant Law Director Morgan stated that is what she would say is the way to go and then the applicant can decide at that point how he wants to proceed.

Member Cipriano stated that has to do with as much as anything as to how it is worded. It says determination of like use to operate a construction business currently in an existing R-1. If the applicant had requested the variance and stated that they were a property owner in an R-1, they could still request a variance.

Assistant Law Director Morgan stated that it could be he was requesting a nonconforming use or conditional use or something along those lines or a different use for that.

Member Cipriano stated that it just depends on what was presented and in this case it was presented in the context that has not yet occurred.

It was moved by Kimble and seconded by Masterson to postpone the application until a decision has been made by Council to rezone this property.

Yes, 4 No, 0

Motion was approved by a vote of four to zero.

Chairman moved the meeting on to the first applicant who was not in attendance.

APPLICANT: Jeremy Fry, PE, Cypress Engineering, 9049 Dover Road, Apple Creek, OH
44606

OWNER: City of North Ridgeville, 7307 Avon Belden Road

REQUEST: Determination of like use to operate a retail/athletic complex in an I-2 District

LOCATION: 7777 Victory Lane in an I-2 District

Permanent Parcel No. 07-00-003-102-084

Chairman Kimble asked if there was anyone in attendance that knows the applicant to where he can be called to see if he is in the area or on his way.

Secretary Tjotjos asked to be excused to contact the applicant by phone.

Chairman Kimble asked for a five minute recess.

Meeting recessed at 7:16 P.M.

Meeting reconvened at 7:21 P.M.

Chairman Kimble stated that the Secretary was unable to reach the applicant.

It was moved by Kimble and seconded by Masterson to postpone the application until the next regular meeting.

Yes, 4 No, 0

Motion was approved by a vote of four to zero.


OTHER BUSINESS: None.

ADJOURNMENT:

Chairman Kimble moved to adjourn the meeting. He asked all those in favor of adjourning the meeting signify by aye.

MOTION CARRIED

The meeting was adjourned at 7:24 P.M.



Chairman



Secretary Donna Tjotjos

August 27, 2015

Date