

**Board of Zoning Appeals  
Meeting Minutes  
May 26, 2010**

Vice-Chairman Dave Robinson convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Dave Robinson, Paul Wilkerson, Neal Call and Naureen Dar. Zoning Department staff Sue Schultz and Matt Springer were present. Chairman Joe Weinstein, Bob Juve and Russ Hose were absent.

**NEW BUSINESS**

**PUBLIC HEARING**

**APPLICANT & LANDOWNER: DUSTIN BROOKS**

**LOCATION: 4632 MINOR RD.**

**ZONING DISTRICT: R-1 RESIDENTIAL**

**VARIANCE: SEC. 302-CC OVERSIZED DETACHED GARAGE (900 PERMITTED AND 1,440 SQ. FT. REQUESTED).**

Mr. Robinson opened the public hearing.

Mr. Robinson swore in all persons who wished to speak, as well as Ms. Schultz and Mr. Springer.

Mr. Springer presented the application and stated the applicant was before the Board this evening requesting that he be allowed to construct a 1,440 square foot detached garage at his property located at 4632 Minor Rd. Mr. Springer stated that the property consists of 2.9 acres, is zoned R-1 Residential and is serviced by well and septic.

Mr. Springer stated that the applicant received approval from the Summit County Health Department to construct the detached garage at the proposed location. Mr. Springer stated that the applicant does not have an attached garage and currently has an accessory building consisting of two hundred sixteen square feet. The applicant has stated on the application that the accessory building would be razed if the Board allowed him to construct the 1,440 square foot detached garage.

Question #12 from the Variance Application: Please explain the practical difficulties or unnecessary hardship which justify this application for a variance: "I have a small house without a garage and the existing barn is very small and unstable. My family is expanding and I need a place to store equipment and work on vehicles."

Mr. Springer stated that the Zoning Department would like the record to reflect that this property is located within a residential district and the proposed detached garage is not be used for any commercial activity whatsoever.

Mr. Dustin Brooks stated that he intends to service vehicles which belong to his immediate family. Mr. Brooks continued by saying that this work involves routine maintenance including oil changes, tire replacements and brake work. Mr. Brooks stated that he will not work on vehicles which he does not own and will not run a commercial operation from the detached garage.

Mr. Call asked the applicant why the permitted 900 square feet would not be sufficient for the storage of vehicles and personal items.

Mr. Brooks stated that he did not wish to construct three separate buildings as the current Zoning Resolution allows (attached garage, detached garage and accessory building) but would rather build one detached garage above the permitted square footage allowed. Mr. Brooks stated that his automobiles along with his lawn tractor and miscellaneous household items could be stored under a roof rather than being kept outside and exposed to not only vehicular traffic but to elements of the weather. Mr. Brooks continued by saying that the existing 216 square foot accessory building is dilapidated and would be razed as soon as items

could be moved into the proposed detached garage.

Mr. Wilkerson asked the Zoning Department if any riparian or wetlands are located on the property.

Mr. Springer said, "No."

Mr. Wilkerson asked the applicant if any agricultural activities occurred on his property.

Mr. Brooks said, "At one time the previous owner of not only my property but several of the abutting properties consisted of a single parcel and was used as a hay field. However, the owner decided to subdivide several parcels including the one which I currently own and the fields are no longer used for growing hay."

Mr. Wilkerson asked if the overall height of the proposed detached garage would be an issue.

Ms. Schultz stated that the requested height of 22'-6" was permitted since the maximum allowable height is 25' for detached garages.

Mr. Brooks stated that he designed the garage with this height so that he could maximize storage space and stated that the topography of his property slopes away from his house and therefore reduces the appearance of a drastically larger detached garage compared to the existing house.

Mr. Robinson asked for additional comments from the floor. None were offered.

**Mr. Wilkerson moved to close the public hearing, Mr. Call, second.**

**Mr. Weinstein called for a vote.**

**Roll call on the motion:**

<b>Aye:</b>	<b>Dave Robinson, Paul Wilkerson, Naureen Dar, Neal Call,</b>
<b>Nay:</b>	<b>None</b>
<b>Abstain:</b>	<b>None</b>

**Mr. Wilkerson moved to approve the application as submitted with the condition that the existing 216 square foot accessory building be razed once the detached garage has been constructed, Mr. Call, second.**

**Mr. Robinson called for a vote.**

**Roll call on the motion:**

<b>Aye:</b>	<b>Dave Robinson, Paul Wilkerson, Naureen Dar, Neal Call</b>
<b>Nay:</b>	<b>None</b>
<b>Abstain:</b>	<b>None</b>

**The motion carried.**

## **NEW BUSINESS**

PUBLIC HEARING

APPLICANT: **MANN ARCHITECTS**

LANDOWNER: **DR. THOMAS HANDEL**

LOCATION: **270 S. CLEVE-MASS RD.**

ZONING DISTRICT: **C-2 COMMERCIAL**

VARIANCES:

1. **SECTION 601-4 (B). DRIVEWAY SEPARATION MINIMUM OF 200 FEET FROM OTHER DRIVES.**
2. **SECTION 601-4 (C). INTERNAL CIRCULATION REQUIREMENTS: PARKING AREA MUST HAVE THRU CIRCULATION**

Mr. Robinson opened the public hearing.

Mr. Robinson swore in all persons who wished to speak.

Ms. Schultz stated the applicant is proposing a redevelopment of his property just south of Almost Mom Day Care. The scope of work involved at this property will include demolishing the existing structure and rebuilding a new two-story office building consisting of 4,048 square feet per floor.

The applicant and landowner have two variance requests before the Board:

- 1.) Sec. 601-4 (B) Entrance and Exits: A reduction in the driveway separation of 200 feet.

Ms. Schultz stated the proposed driveway actually meets the driveway of an existing business located at 258 S. Cleve-Mass Road and therefore does not satisfy the requirements of the Zoning Resolution.

- 2.) Sec. 601-4 (C) Internal Circulation Requirements: All parking areas sharing common entrances or drives, or servicing the same use and providing for 20 or more spaces, shall have thru circulation. No dead end aisle shall serve more than 19 cars nor be less than 24 feet in width.

Ms. Schultz stated that the parking area does not have thru-circulation and therefore does not meet the requirements of the Zoning Resolution.

Question #12 of the Variance application: Please explain the practical difficulties or unnecessary hardship which justify this application for a Variance: "Adjacent existing driveways are built on north and south property lines. Regardless, our driveway would be less than 200 feet from the nearest existing driveway because our property frontage is at 98 feet wide. We have no alternative here but to file a variance."

### **SUMMIT COUNTY AGENCY COMMENTS**

**Summit County Planning:** There should be more space between the property line and parking spaces for landscaping on the south side. In general, it is recommended that shade trees be planted near the north and side property lines to provide shade for the parked cars and for more buffering for adjacent property owners. According to the Copley Township Zoning Resolution Section 901-6 Site Plan Review, the plan should provide for maximum visual and auditory privacy for surrounding properties and occupants through the design of the relationships among buildings, fences and walls, landscaping, topography, and open spaces.

**Summit Soil and Water:** The Storm Water Pollution Prevention Plan has not yet been approved.

**Summit County Engineer (COSE)** expresses concerns regarding the sight distance at the driveway. Shifting the driveway to the south is not recommended, as the sight distance becomes restricted to the south by a horizontal curve at the golf course. The preferred location for a driveway on the Handel site is at the north end of the property. Unfortunately, this location provided a potential conflict with vehicles exiting the Almost Mom Day Care site.

For vehicles exiting both the Handel driveway and the southerly driveway from the day care facility, there exists a significant risk for collisions. Vehicles exiting either

driveway will be blocking the sight distance for vehicles exiting the other driveway. When the Handel property was being utilized as residential, the number of trips into and out of the property was relatively low. With the change in use at this location, there will be a substantial number of vehicles entering and exiting the site on a daily basis.

COSE strongly encourage both property owners to mutually agree to share one driveway for egress purposes. Although this would require a modification to both site plans, it would be in the best interest of the safety of those using both facilities. Since both sites are currently being improved, this is the ideal opportunity to address this sight distance deficiency.

If the day care is unwilling or unable to work out an arrangement with Dr. Handel, the COSE suggests the day care facility flip its driveway configuration to allow for egress of the northerly driveway instead of the southerly driveway. Another option would be to eliminate the southerly driveway altogether, which would likely be objectionable to the day care.

COSE has spoken with the applicants engineer about the driveway concern and the sight distance and would continue to encourage both the applicant and the neighboring property to reach an agreement that would resolve the safety issue at hand.

Mr. David Mann stated that he was the architect handling the redevelopment of Dr. Handel's property and agreed with much of the concern that has been voiced thus far. Mr. Mann stated that he had no objection to working with the neighboring property owner to reach an agreement that would benefit all parties involved.

Mr. Mann stated that unfortunately due to the size and layout of the exiting property few possibilities exist for the access to be relocated but will be more than cooperative in researching all possibilities to ensure that pedestrian and vehicular safety is accounted for.

Mr. Robinson asked if the applicant was willing to discuss other options with Township staff, COSE and the Almost Mom Daycare facility.

Mr. Mann stated that he has no objection to the Board tabling the request so that his client is able to review and present other proposals to the Board which would minimize or eliminate the present safety concerns.

Mr. Robinson asked for additional comments from the floor. None were offered.

**Mr. Call moved to table the application until the June 23, 2010 meeting so that the applicant has ample time to reconsider and explore other options relative to the ingress and egress concerns voiced this evening, Mrs. Dar, second.**

**Mr. Robinson called for a vote.**

**Roll call on the motion:**

<b>Aye:</b>	<b>Dave Robinson, Paul Wilkerson, Neal Call, Naureen Dar</b>
<b>Nay:</b>	<b>None</b>
<b>Abstain:</b>	<b>None</b>

**The application has been tabled until the June 23, 2010 meeting.**

PUBLIC HEARING

APPLICANT & LANDOWNER: **DOMINIC MUSITANO III**  
LOCATION: **258 S. CLEVE-MASS RD.**  
ZONING DISTRICT: **C-2 COMMERCIAL**  
CONDITIONAL: **SECTION 421-3(E) SUBJECT TO SUBSECTIONS 802-2-101,103, 105, 110, 111, 118 AND 138.**

Mr. Robinson opened the public hearing.

Mr. Robinson swore in all persons who wished to speak.

Ms. Schultz stated the applicant and landowner is requesting to update an existing Conditional Use Certificate so they may enlarge an existing classroom, add a deck and a handicap ramp. Ms. Schultz stated that the applicant has submitted a site plan and are currently in the process of having their plans reviewed by County agencies.

Mr. Dominic Musitano Jr. stated that his son (Dominic Musitano III) owns property which abuts Dr. Handel's property to the south. Mr. Musitano Jr. stated that he believes that the issues expressed from the Board regarding sight visibility are warranted and deserve a thorough review. However, Mr. Musitano Jr. believes that such reviews should not interfere with Almost Mom Day Care from moving forward with their development plans.

Mr. Dominic Musitano III stated that he is willing to consider and listen to proposals from David Mann and Dr. Handel on what solutions may be agreed upon to eliminate ingress and egress concerns for both properties. Mr. Musitano however stated that he could make no guarantees that a feasible solution would be able to come about.

Mr. Robinson read the Conditional Use sections from the Zoning Resolution and stated that all such requirements have been satisfied with the previous Conditional Use approval issued for the day care center on October 28, 1992.

Ms. Cheryl Ober stated that she resides at 278 S. Cleveland-Massillon Rd. and is not opposed to either Dr. Handel's Eye Center or the addition and alterations made to Almost Mom Day Care but wanted to reiterate the concern over traffic. Ms. Ober stated that she believes it to be wise for both Dr. Handel and Mr. Musitano III to collaborate and explore possibilities of a shared drive which may minimize safety concerns addressed by multiple parties. Ms. Ober asked that she be kept apprised of any plans that are agreed upon by the Zoning Department.

Mr. Robinson asked for additional comments from the floor. None were offered.

**Mr. Call moved to close the public hearing, Mrs. Dar, second.**

**Mr. Robinson called for a vote.**

**Roll call on the motion:**

<b>Aye:</b>	<b>Dave Robinson, Paul Wilkerson, Neal Call, Naureen Dar</b>
<b>Nay:</b>	<b>None</b>
<b>Abstain:</b>	<b>None</b>

**Mr. Call moved to approve the conditional use request as submitted for an indefinite period of time, Mrs. Dar, second.**

**Mr. Robinson called for a vote.**

**Roll call on the motion:**

<b>Aye:</b>	<b>Dave Robinson, Neal Call, Paul Wilkerson,</b>
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**Naureen Dar**  
**Nay: None**  
**Abstain: None**  
**The motion carried.**

Mr. Robinson asked the Board to review the minutes from the April 14, 2010 meeting.

**Mr. Call moved to approve the minutes submitted from the April 14, 2010 Board of Zoning Appeals meeting as submitted, Mrs. Dar, second.**

**Mr. Robinson called for a vote.**

**Roll call on the motion:**

**Aye: Dave Robinson, Neal Call, Paul Wilkerson, Naureen Dar**  
**Nay: None**  
**Abstain: None**  
**The motion carried.**

With no further business to come before the Board, the meeting was adjourned at 7:00 p.m.

Approved By:

Submitted By:

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Dave Robinson, Vice- Chairman

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Matt Springer, Assistant Z.I.