

# RECORD OF PROCEEDINGS

Minutes of

COPLEY TOWNSHIP BOARD OF ZONING APPEALS

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held March 9, 2022 20

Neal Call convened the meeting for the Copley Township Board of Zoning Appeals at 6:00 p.m. Present were Charles Myrick, Mike Pritchett, Neal Call, Kyle Nelson, and Dave Neumeyer. Russ Hose and Naureen Dar were absent. Also present were Shawna Gfroerer, Loudan Klein, and Clarissa Hunt from the Department of Community & Economic Development.

## REVIEW OF MINUTES

Mr. Call asked for a motion. Mr. Myrick made a motion to approve February 9, 2022, meeting minutes. Mr. Call second. Mr. Call asked for a vote. The motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X					X
Neal Call	X		X	X		
Naureen Dar	Absent					
Charles Myrick	X	X		X		
Kyle Nelson (alt.)	X			X		
Dave Neumeyer (alt.)	X			X		

## BUSINESS FROM THE DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

Ms. Gfroerer stated that the Department processed 18 applications for a total investment of approximately \$2,495,000 in February.

Mr. Klein gave an update from the Tree Commission on the Arbor Day 2022 celebration which will be held on April 29 and 30, 2022.

## NEW BUSINESS

**Applicant:** Wesley Noland  
**On Behalf of:** Stoney Hill's Station  
**Landowner:** Estate of Ronald G. Noland  
**Property Location:** 4640 Medina Road Parcel 1700158  
**Acreage:** 1.86 Acres  
**Zoning District:** Commercial Office Retail (C-OR)  
**Proposal:** Ground Sign  
**Case #:** VAR202203

A public notification was made to the West Side Leader

Ms. Gfroerer presented the application for the applicant Wesley Noland who has requested the continued review of a Ground Sign associated with the approval of a Major Site Plan application on 10/4/2021.

Per Article 8, Section 8.07 D. Table 2, the applicant is permitted one ground sign at 8' in overall height. Per a variance granted 3/21/1990, the applicant is permitted 48 square feet in overall area and placement 2' from the road right of way.

The applicant is requesting a ground sign at 12'4 in overall height, 73 square feet in overall area, 2' from the road right of way. The applicant requires variance approval for this request.

Ground Sign Approved 3/21/1990  
8' in overall height, 48 square feet in overall area, 2' from the road right of way.

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Per Section 8.11 all legal non-conforming signs must come into compliance no later than December 2022.

Ms. Gfroerer reviewed the variance request.

Section 8.07 D. Table 2 4' 4" INCREASE IN THE OVERALL PERMITTED HEIGHT: The applicant is proposing to lower the sign to 12' 4" and is seeking review and approval of a variance to maintain this height. The applicant is permitted 8' in overall height. **The applicant is requesting a height variance increase of 4' 4'.**



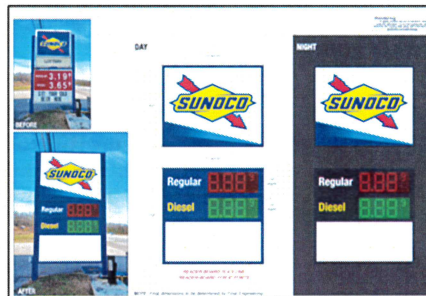
Section 8.07 D. 8. Table 2 25 SQUARE FEET INCREASE IN THE OVERALL PERMITTED AREA: The applicant is proposing to revise the sign panels to 73 square feet and is requesting a variance for the overall square footage. The applicant is permitted 48 square feet in overall area per a previous variance. **The applicant is requesting an area variance increase of 25 square feet.**

Section 8.07 D. 3.5 SQUARE FEET INCREASE IN THE OVERALL PERMITTED AREA OF CHANGEABLE COPY: The applicant is proposing digital changeable price panels and changeable copy signage at 39.5 square feet in overall area. Based on 48 square feet of the panel, the applicant is permitted up to 75% in changeable copy for a total of 36 square feet permitted. **The applicant is requesting an area variance increase of 3.5 square feet.**

Section 10.04 2. Only one (1) increase of up to 10 percent of the square footage of the structure will be allowed for the nonconforming structure, any additional increase will have to be applied for through the variance process. **The applicant is requesting an additional expansion.**

A variance was granted by the Board of Zoning Appeals on 8/14/2019 for improvement expansions as follows:

Expansion of the overall footprint of the legal non-conforming service station, limited to parcel 1700158, not to exceed 65% of the existing total footprint or 7000 square feet, for the following purposes: 1. Addition and/or reconstruction of a service station building not to exceed 4000 square feet in overall area; 2. Construction and/or reconstruction of a Gas canopy, inclusive of 2 additional pumps, not to exceed 3000 square feet in overall area. Conditioned upon satisfactory approval of the Site Plan by the Copley Township Architectural Review Board and approval from all required external agencies, including but not limited to Summit County Soil & Water, OH EPA, and the Summit County Engineer's Office.



Section 8.11 C: Variance to maintain a legal non-conforming sign. **The applicant is requesting a variance to maintain a legal non-conforming sign.**

**Per the applicant, the Practical Difficulties that justify this application include:** This sign has been out there since the early 1990s. Currently, the Sunoco brand is making us bring everything up to the current branding. This sign is the first thing you see and needs to be its current height to be seen over traffic. We are not looking to change anything about the current sign, just the facing and numbers which will digital, being that's what the brand is going to.

**Per the applicant, the granting of this variance will have no effect on the immediate neighborhood as we plan to keep the same size and shape but there will be positive impact of a newer cleaner-looking sign that will be crisp and clean.**



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a) Can the property in question yield a reasonable return or can there be a beneficial use of the property without the variance? **Yes. The applicant has access to two recently approved canopy signs, a building sign, and one ground sign.**

b) Is the variance substantial? **Yes, the sign requires variances at greater than 50% of the permitted height and overall square footage, an additional increase to a legal non-conforming use, and is contrary to the goal of the Zoning Resolution regulation to bring all signs into compliance by 2022.**

c) Will the essential character of the neighborhood be substantially altered or will adjoining properties suffer a substantial detriment as a result of the variance? **Per the applicant, the existing ground sign has been in place since the 1990s, however, there are no records on file to support the existing ground sign height or overall square footage. There are no similar ground signs in this neighborhood.**

d) Does the variance adversely affect the delivery of governmental services (i.e. water, sewer, garbage)? **No**

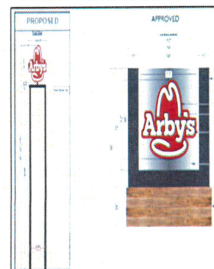
e) Did the applicant purchase the property with knowledge of zoning restrictions? **Uncertain.**

f) Can the property owner's predicament be obviated through some other method than a variance? **Yes, installation of a ground sign is permitted.**

g) Would the spirit and intent behind the zoning requirements be observed and substantial justice done by granting the variance? **No. Granting of the variance is in direct conflict to the Zoning Resolution Article 8, Section 8.11 Regulations of Non-Conforming Signs C. C. All Legal-Nonconforming signs shall be brought into compliance with the provisions pertaining to signs contained in this Resolution no later than ten (10) years from the effective date of this Resolution (the Effective Date of this resolution is October 6, 2012)...**

The following are signs which have been brought into compliance to meet the regulations since 2018:

- 2018: Circle K Gas Station-1456 S Cleveland Massillon Road
- 2018: Circle K Gas Station-2806 Copley Road
- 2018: Olive Garden-3924 Medina Road
- 2019: Get Go Gas Station-4072 Medina Road
- 2019: Former BP Gas Station-4100 Medina Road Variance Denied to maintain a non-conforming pylon sign
- 2020: Firehouse Tavern-1442 S Cleveland Massillon Road
- 2021: Wendy's-126 Flight Memorial
- 2021: Former Babies/Toys R Us-52 S Springside Drive



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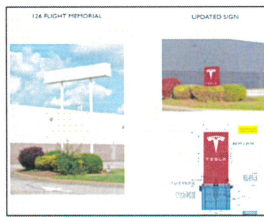
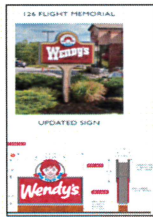
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## ARCHITECTURAL REVIEW BOARD

On March 7, 2022, the Copley Township motioned 3-2 to recommend disapproval of the applicant's request to maintain a sign which did not meet the current sign regulations. The Board discussed the following, the need to make the price numbers visible on a high traffic road, the ability of the applicant to place multiple signs on the canopy and maintain a changeable copy sign, the goal of the regulations to bring signs into compliance, and the nature and history of the business at this location.

RECOMMENDATION: Disapproval of the applicants' request to maintain a sign which does not meet the zoning regulations. Approval of one ground sign at 8' in overall height, 48 square feet in overall area, inclusive of up to 36 square feet in changeable copy, placed a maximum of 2' from the road right of way. Applicant to confirm the right of way setback with ODOT prior to installation. CONDITIONED UPON REMOVAL OF ILLEGAL CHANGEABLE PORTABLE COPY GROUND SIGN

Mr. Call asked if anyone wished to speak for or against this application.

Wesley Noland, applicant, 4640 Medina Rd.

Mr. Call swore in all who wished to speak.

Mr. Call asked if there were any questions.

Mr. Noland spoke to his business, stating that it's a hard business to be in, and explained how he uses his sign for interesting quotes, comments, or advertising for new beers seasons and that sort of thing. Mr. Noland said the signs that have come into compliance are on Cleveland Massillon Rd., and it's a two-lane road. Mr. Noland stated that his business is on a seven-lane road.

Mr. Noland stated that the road speed might be 45 miles an hour, but he could have Officer Rafferty here saying that average speeds are over 50.

Mr. Noland stated that he didn't know the sign was illegal when he first applied for this. They never got anything in the mail. Otherwise, he would have done something about it. Mr. Noland said he plans to put the new sign between the existing poles, drop the sign to 12 feet, or a little over 12 feet

Mr. Call asked for a motion. Mr. Pritchett made a motion to close the Public Portion of the meeting. Mr. Myrick second. Mr. Call asked for a vote. The motion carried.





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Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X	X		X		
Neal Call	X			X		
Naureen Dar	Absent					
Charles Myrick	X		X	X		
Kyle Nelson (alt.)	X			X		
Dave Neumeyer (alt.)	X			X		

## DISCUSSION

Mr. Pritchett stated that he agreed with Mr. Noland, all the examples that Ms. Gfroerer showed were in Montrose or on Cleveland-Massillon Rd. Mr. Noland's location on Route 18 while 45 mph is the posted speed limit is not the actual speed limit. Mr. Pritchett stated he thinks it requires the size of the sign and maintaining it the way it is. Bringing up the sign concepts to go along with the improvements, an eight-foot monument sign would be visible to traffic speeding along there.

Mr. Call stated that he appreciates the fact of bringing it essentially down a little bit to fit it into the on the same posts. However, he also appreciates that Copley is planning on taking everything down to the eight-foot limit. Mr. Call said he liked the design of the sign, but the eight-foot size, we've talked about it. The Zoning Commission has spent some time on this for sure, so that's what made my decision.

Mr. Pritchett stated, but with that point, we've (the BZA) also given variances in the last year or so against that eight-foot height.

Ms. Gfroerer stated that the BZA has granted variances for area, but not for height in the last year.

Mr. Call stated that hardships are also one of the things to consider for a variance. It is in his opinion, a substantial size change going over an eight-foot limit to 12 feet. Mr. Call stated that he does appreciate though the major building renovations, and then having the sign a little smaller, but the traffic at rush hour does get backed up, so it goes way slower than 40 mpg.

## RESOLUTION - Case #: VAR202203

Mr. Call asked for a motion. Mr. Pritchett made a motion to approve the applicants' request for variances as submitted. Mr. Myrick second. Mr. Call asked for a vote. The motion did not carry.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X	X		X		
Neal Call	X				X	
Naureen Dar	Absent					
Charles Myrick	X		X	X		
Kyle Nelson (alt.)	X				X	
Dave Neumeyer (alt.)	X				X	

Mr. Call made a motion to deny the applicants' request for variances as follows: 4' 4" increase in overall height. 25 square foot increase in overall area. 3.5 square

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foot increase for changeable copy. Expansion of a nonconforming structure dedicated to a nonconforming use. Maintain a nonconforming sign. *RATIONALE: The applicant has not demonstrated a hardship for this request. The applicant has access to two canopy signs at 16' in overall height, a building sign and a ground sign at 8' in overall height, and 48 square feet in overall area. The sign requires substantial variances for requests which exceed 50% of the permitted height and the expansion of a nonconforming structure dedicated to a nonconforming use. There are no similar ground signs in this area. The Granting of the variance is in direct conflict to the Zoning Resolution Article 8, Section 8.11 Regulations of Non-Conforming Signs C. C. All Legal-Nonconforming signs shall be brought into compliance with the provisions pertaining to signs contained in this Resolution no later than ten (10) years from the effective date of this Resolution (the Effective Date of this resolution is October 6, 2012). On March 7, 2022, the Architectural Review Board motioned to recommend disapproval of the applicants' request for variances associated with the proposed ground sign. Mr. Neumeyer second. Mr. Call asked for a vote. The motion carried.*

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X				X	
Neal Call	X	X		X		
Naureen Dar	Absent					
Charles Myrick	X				X	
Kyle Nelson (alt.)	X			X		
Dave Neumeyer (alt.)	X		X	X		

**Applicant:** Cody Free  
**On Behalf of:** MedVet  
**Landowner:** Broadstone MV Portfolio LLC/Copley Road Holdings LLC  
**Property Location:** 1321 Centerview Circle/3675 Copley Road/Parcels 1508153 & 1502424  
**Acreage:** 1321 Centerview Circle: 2.80 3675 Copley Road: 1.93  
**Zoning District:** Industrial  
**Proposal:** Addition/Parking  
**Case #:** VAR2022204

Ms. Gfroerer presented the application for the applicant, Cody Free, on behalf of MedVet Akron, who is requesting approval to construct an addition and parking expansion.

The applicant requires a variance for this project. The variance request is to exceed the maximum parking requirements.

The addition will be located on the north side of the building. The addition will be utilized to house two MRI cassettes totaling 1740 square feet in overall area and a 41 square foot entry vestibule.

Additionally, the updates will include renovation of existing space to accommodate additional exam rooms, ophthalmology services, dentistry, and a pet relief area.

## SUMMIT COUNTY ENGINEERS OFFICE

No objection to the proposed conceptual layout. Detailed stormwater calculations have not yet been submitted, as the location of the underground storage has not been finalized. There is an existing LTMA for the previous improvements. The LTMA will need to be updated to include these improvements. LTMA to address neighboring property. Awaiting Traffic Impact Questionnaire.



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## SUMMIT SOIL & WATER CONSERVATION DISTRICT

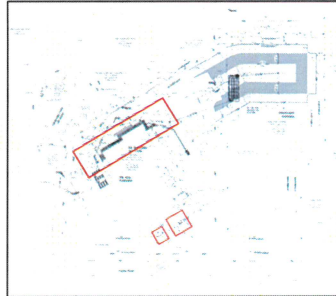
There are no riparian setbacks, no wetlands, and no floodplains on site. Include limits of disturbance on the plan as well as any sediment and erosion controls. Provide SWPPP details on the updated plan.

## COPLEY TOWNSHIP FIRE DEPARTMENT

No objections

## ARCHITECTURAL REVIEW BOARD

On March 7, 2022, the Board voted unanimously to recommend approval of the project and approval of the applicant's request to exceed the Parking Maximum based on the Parking Demand information which was provided by the applicant.



## COPLEY TOWNSHIP DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

The Department of Community and Economic Development is supportive of the major site plan application along with an increased parking variance request from MedVet.

The proposed addition is the sign of a successful and growing business and one that we want to do our best to accommodate properly. If possible, we want to encourage expansion on-site to keep a thriving business in our community. The parking expansion will allow them to accommodate the additional square footage of the office, while also accommodating the large increase in staff and medical services that have occurred since MedVet took over in 2017. As the parking demand letter outlines, their current goal is to work towards 135 employees with a long-term projection of up to 200 in 5 years making them one of the largest employers in Copley Township. The methodology that created the current parking requirements for veterinary services did not necessarily consider this type of office which operates on a much larger and regional scale than traditional vet offices, accounting for nearly an 80% larger footprint and staff structure. In conclusion, the project supports our efforts to retain existing businesses within Copley, and the proposed parking request is a reasonable request to make the project viable

## ARTICLE 5-SECTION 5.01 D. DEVELOPMENT STANDARDS

This is a corner lot-Copley/Centerview

25' Minimum Front Yard Setback: Copley Road is the primary front yard. The addition will be set back 209' from the road right of way.

25' Minimum Side Yard Setback (Secondary Front Yard): Centerview Drive is the secondary front yard. The addition will be set back 56' from the road right of way.

25' Minimum Rear Yard Setback: The addition will be set back 58' from the northern property line.

25' Minimum Side Yard Setback. The addition will be set back 163' from the eastern property line.

50' Maximum Building Height: The addition is 11'-10" in overall height (one story)

## LANDSCAPING, BUFFERING, SCREENING

14.06 Building Façade Landscaping

75% of Façade Landscaped

3 Deciduous Trees for every 100' linear feet



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1 14.08 Screening and Landscaping of Parking Lots  
2 Perimeter landscaping 10' in width 160 square feet of interior landscape per 10 spaces  
3

## 4 **Article 9, Section 9.03** 5 **Parking Requirements**

6  
7 As part of the building addition, the applicant is seeking a variance to increase the  
8 maximum parking requirements.  
9

10 Per Article 9, Section 9.03, and approval of the parking plan dated 9/5/2013, the applicant  
11 is permitted 85 spaces.  
12

13 The applicant is requesting an increase of 71 additional parking spaces for a total of 155  
14 spaces.  
15

16 The new parking surface will be 25,738 square feet in overall area.  
17 Parking calculations were provided for a similar MedVet Site located in Cleveland Ohio.  
18

19 Copley MedVet: 31,000 square feet (155 spaces requested)  
20 Cleveland MedVet: 35,000 square feet (175 spaces)  
21

22 Additional parking will be provided for via an easement agreement with 3675 Copley  
23 Road.  
24

25 The adjacent lot will be illuminated and buffered.  
26

27 **3675 meets the parking required for the**  
28 **existing building. The land proposed for the**  
29 **parking expansion has been underutilized as a**  
30 **vacant parking area for the existing building.**  
31

32 *Per the applicant, the practical difficulties that*  
33 *justify this application include: To be able to meet*  
34 *the parking demand of not only the existing MedVet*  
35 *Akron building but also parking for the new staff and customers that the building addition*  
36 *will bring, MedVet is seeking to expand its parking lot, therefore is requesting the necessary*  
37 *variances to do so. The MedVet site is limited on space, which is why they are leasing the*  
38 *neighboring gravel lot to expand parking.*  
39

40 *Per the applicant, the granting of this variance would have no effect on the immediate*  
41 *neighborhood and community. Granting these variances and allowing MedVet to expand its*  
42 *parking lot will assure there is always the proper amount of parking for not only its staff but*  
43 *also its customers. In an emergency situation with a pet, there must be always ease of access*  
44 *to the MedVet building.*  
45

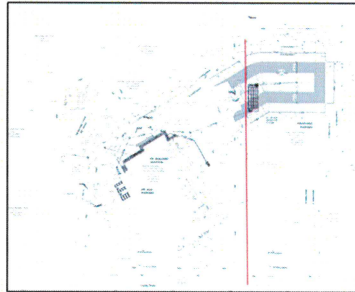
46 *The neighboring lot that is being leased is already an existing gravel lot, so in that sense, it*  
47 *will not be affected too much. Landscaping/screening will be provided to ensure neighboring*  
48 *parcels are not affected by car lights, etc.*  
49

50 *a) Can the property in question yield a reasonable return or can there be a beneficial use of*  
51 *the property without the variance? **Parking will limit the applicant's ability to provide***  
52 *the highest and best level of service to customers at this location.*  
53

54 *b) Is the variance substantial? **Yes.***  
55

56 *c) Will the essential character of the neighborhood be substantially altered or will adjoining*  
57 *properties suffer a substantial detriment as a result of the variance? **No. The adjoining***  
58 *property will be improved by the variance.*  
59

60 *d) Does the variance adversely affect the delivery of governmental services (i.e. water, sewer,*  
61 *garbage)? **No. The applicant is required to submit stormwater plans to Summit***





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County Engineers and Summit Soil and Water Conservation District. These improvements will enhance the site aesthetically and bring the site, which is currently impervious, into compliance with stormwater regulations.

e) Did the applicant purchase the property with knowledge of zoning restrictions? Uncertain.

f) Can the property owner's predicament be obviated through some other method than a variance? The applicant is at maximum capacity for parking on the existing site.

**RECOMMENDATION: Approval conditioned upon removal of illegal parking spaces along Copley Road, satisfying all agency requirements and recorded lease agreement**

Mr. Call asked if anyone wished to speak for or against this application.

Mr. Call swore in all who wished to speak.

Cody Free, the applicant, and Justin Grimm, Med Vet, attended the meeting virtually.

Mr. Grimm stated that the presentation painted a picture of what they are looking to do.

Mr. Grimm said that he heard a comment earlier as far as quantity of staff on-site, he can confirm 80 to 85% of their staff will be on-site during daytime hours with the minimal shifts for the emergency teams on-site for the overnight hours. They want to provide ample parking for their staff in a safe parking lot, especially for those teams that are outside at night, coming and going, and during shift change.

Jim Ripley, Copley Car Care, Copley Road Holdings, LLC, attended in person.

Mr. Ripley spoke to the buffer, stating that there is a white vinyl fence going straight across, and they will not be sharing a parking lot. Mr. Ripley stated that he had cleaned up the lot with the thought of offering RV parking. He was approached by the applicant with their plan, and he is all for it.

Mr. Call asked if the BZA should question the surface of the parking lot. Ms. Gfroerer stated no, that the department would prefer that the applicant improve the parcel. The parcels are both impervious and the improvements will bring them into compliance with Summit Soil and Water review

Mr. Call asked if there were any complaints about driving from one property line to another, as long as there is no parking directly on the property line. Ms. Gfroerer stated that is what the long-term lease agreement would take care of. We asked that the lease agreement be maintained and written for the life of the use of the building. Which is a regulation in our Planned Development District, not in our parking zoning regulations for Industrial but the applicant obliged to do that.

Mr. Call asked if the Board would need to mention that in their motion. Ms. Gfroerer stated that the Board could if they would like.

Mr. Call asked if there were any other questions. There were none.

Mr. Call asked for a motion. Mr. Pritchett made a motion to close the Public Portion of the meeting. Mr. Nelson second. Mr. Call asked for a vote. The motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X	X			X	
Neal Call	X				X	

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Naureen Dar	Absent				
Charles Myrick	X			X	
Kyle Nelson (alt.)	X	X		X	
Dave Neumeyer (alt.)	X			X	

## DISCUSSION

Mr. Neumeyer stated he didn't have any issue with this.

Mr. Pritchett stated that it was logical and needed.

Mr. Call stated with the projected expansion that it would make sense.

## RESOLUTION - Case #: VAR202204

Mr. Call asked for a motion. Mr. Call made a motion to approve the applicants' request for an increase of 71 spaces in overall parking for a total of 155 spaces upon which the additional 71 spaces will be located on Parcel 1501847 conditioned upon satisfying all agency requirements, recorded lease agreement, and removal of temporary gravel parking spaces located adjacent to Copley Road on the south side of the building. Upon removal of gravel, the applicant will install impervious vegetation in this area. Mr. Nelson second. Mr. Call asked for a vote. The motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X			X		
Neal Call	X	X		X		
Naureen Dar	Absent					
Charles Myrick	X			X		
Kyle Nelson (alt.)	X		X	X		
Dave Neumeyer (alt.)	X			X		

## UNFINISHED BUSINESS

**Applicant:** Stephen Ciciretto, AIA, Architect  
**Business Name:** Mr. Tee's Golf Driving Range  
**Landowner:** 2782 Ridgewood Road LLC  
**Property Address:** 2782 Ridgewood Road  
**Property Location:** Parcel #1505166; 18.24 Acres  
**Zoning District:** C-GR (Commercial General Retail)  
**Proposal:** Major Site Plan & Variance

Those speaking were previously sworn in.

Ms. Gfroerer reviewed the application for the applicant, Stephen Ciciretto, on behalf of Mr. Tee's Driving Range, who is requesting approval of a Major Site Plan and variances required for the installation of range nets.

July 5, 2021: The Copley Township Architectural Review Board recommended/motioned the following:



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- 7/5/2021: Approval of a variance required to exceed the overall height permitted in the District for the installation of structural netting poles.
- 7/5/2021: Approval of a building sign at 150 square feet in overall area.
- 7/5/2021: The ARB to continue review of final site plan pending an updated wetland delineation and approval from the Army Corp of Engineers.
- 9/7/2021: Disapproval of the applicants' request to place a mascot on the building canopy.



RECOMMENDATION: Approval of site plan conditioned upon satisfying all agency reviews and connection to the centralized sewer.

OHEPA

Connection to centralized sewer required for this site.

SUMMIT COUNTY ENGINEERS

No objections to the impact of the proposed wetland. Plan review for site development in progress.

SUMMIT SOIL & WATER CONSERVATION DISTRICT

Updated delineation and Nationwide Permit review in progress.

ARCHITECTURAL REVIEW BOARD

*On March 7, 2022, the ARB motioned unanimously to recommended approval of the applicants' site plan and variances required for the overall height of netting poles and impact to identified wetland.*

**Original Submission: 7/5/2021**

**Variance Request #1**

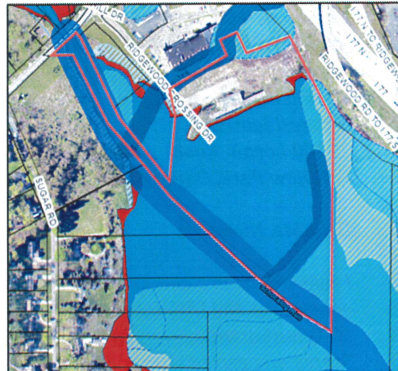
**Article 15, Section 15.06**

The property formerly operated as a driving range known as "Highlander Golf". Highlander Golf ceased operation sometime between 2006-2010. The property has been idle since this time.

There are identified floodplains, riparian, and wetlands on the property. The applicant has submitted for a revised wetland delineation. The existing delineation has expired in March of 2021.

*Variance Required:* Article 15, Section 15.06 A. Request to fill/dredge wetland for purpose of maintaining range field.

Per Section 15.06 E. The applicant is permitted to maintain the landscape/lawn located in the floodplain/riparian as the lawn was established prior to the Riparian regulations.



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## Findings of Revised Delineation:

The site was allowed to go fallow since 2016 (when it was an active driving range). As a result, three "new" wetland areas were identified by PSI during the re-delineation. The revised Wetland Delineation Report determined that Wetland D was expanded by 0.53 acres, and Wetland B was expanded by 0.1 acres.

## Request for Permit Re-Authorization

Allow the switching or changing of the area(s) of wetland that is slated for impact. The proposed impacts will remain the same, at 0.44 acres. However, the original permitted impact to Wetland A (0.15 acres) will not take place. Additionally, the portion of Wetland D slated for impact will change to a 0.44-acre area as shown in the attached Figure 4. These impact changes are necessary to allow the re-opening of the driving range business and are located within the previous grass driving range field. The previously planned parking area expansion areas will not be constructed. Because the site already has 0.9 acres of wetland mitigation credits purchased (for 0.44 acres of originally planned impacts), the owner is requesting to apply this mitigation credit to the revised 0.44 acres of proposed impact.



Per the Army Corp of Engineers Nationwide Permit 39 Verification letter, the update has been submitted and reviewed as follows:

- Approval to fill/dredge 0.44 acre of (1) non-forested wetland for the purpose of landscape, mowing, and range picking.
- Approval of Compensatory Mitigation of 0.9 acres of non-forested wetland credits

RECOMMENDATION: Approval pending Summit Soil & Water review.

The following is a copy of a letter dated January 31, 2022.

DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, HUNTINGTON DISTRICT  
502 8TH STREET  
HUNTINGTON, WV 25701-2018  
Regulatory Division  
North Branch  
LRH-2016-169-TUS-Unnamed Tributary (UNT) to Schocalog Run  
NATIONWIDE PERMIT NO. 39 VERIFICATION

Mr. Michael Niederst  
NM Residential  
21400 Lorain Road  
Fairview Park, Ohio 44126

Dear Mr. Niederst:

I refer to the pre-construction notification (PCN) received in this office on October 13, 2021, concerning the Ultimate Golf Facility Project. You have requested a Department of the Army (DA) authorization for the discharge of dredged and/or fill material into waters of the United States associated with a commercial development located at 2782 Ridgewood Road, in the City of Fairlawn, Summit County, Ohio (41.110672 latitude, -81.611329 longitude). We have assigned the following file number to your PCN: LRH-2016-169-TUS. Please reference this file number on all future correspondence related to this subject proposal.



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The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a DA permit be obtained prior to discharging dredged and/or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) requires a DA permit be obtained for any work in, on, over or under a traditional navigable water.

The proposed project, as described in the submitted information, has been reviewed in accordance with Section 404 and Section 10. Based on your description of the proposed work, and other information available to us, it has been determined that this project will not involve activities subject to the requirements of Section 10. However, this project will include the discharge of dredged and/or fill material into waters of the United States subject to the requirements of Section 404.

In the submitted PCN materials, you have requested a DA authorization for the permanent discharge of dredged and/or fill material into 0.44 acre of one (1) non-forested wetland, in association with the improvement of the Ultimate Golf Facility Project. The proposed discharges of fill are associated with filling and grading of one (1) wetland to improve the landscape for mowing and range picking. In order to compensate for the permanent discharge of dredged and/or fill material into waters of the United States, you have agreed to provide a total of 0.9 acre of non-forested wetland credits from the Stream + Wetlands Foundation Huntington District In-Lieu Fee Program. We have determined your compensatory mitigation proposal is acceptable. All work will be conducted in accordance with the PCN received in this office on October 13, 2021.

Based on your description of the proposed work, and other information available to us, it has been determined the proposed discharges of dredged and/or fill material into waters of the United States in conjunction with the proposed project meets the criteria for Nationwide Permit (NWP) No. 39 (enclosed) under the January 13, 2021 Federal Register, Reissuance of NWPs (86 FR 2744) provided you comply with all terms and conditions of the enclosed material and the enclosed special conditions. Please be aware this NWP verification does not obviate the requirement to obtain any other federal, state, or local assent required by law for the activities.

This verification will remain valid until the expiration date of the NWP (March 16, 2026), unless the NWP authorization is modified, suspended, or revoked. The verification will remain valid if the NWP authorization is reissued without modification or the activity complies with any subsequent modification of the NWP authorization. Prior to the expiration date, it is not necessary to contact this office for re-verification of your project unless the plans for the proposed activity are modified. Furthermore, if you commence or under contract to commence the proposed activity before March 16, 2026, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP

A copy of the NWP and this verification letter must be kept at the site during construction. Upon completion of the activities authorized by this NWP verification, the enclosed certification must be signed and returned to this office. If you have any questions concerning the above, please contact Rachel King of the North Branch at 304-399-6902, by mail at the above address, or by email at Rachel.A.King@usace.army.mil.

Sincerely,

Cecil M. Cox

Regulatory Project Manager

North Branch

Enclosure(s)

cc (via email):

Paul Bowyer, PSI, Inc.

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Per Article 6.01 B-Permitted Height Exceptions, no structure may be erected to exceed by more than 15 feet of the height limits of the district in which it is located. Per Section 4.01 F. 5., the maximum height for this district is 35'. Therefore, a structure can be no taller than 50' in overall height.

The applicant is requesting approval of the installation of 600' of structural netting 75' in overall height and 300' of structural netting 95' in overall height for the purpose of constructing a perimeter range net.



Posts will be located 15' outside of the Riparian setback to ensure all guy wires are outside of the setback.

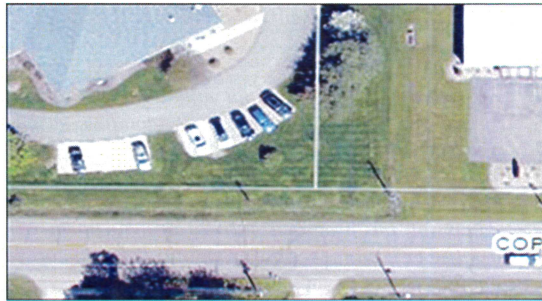
RECOMMENDATION: Approval Posts and nets will be placed outside of the Riparian and wetland areas. Netting will help maintain the sensitive areas to the rear of the property.

*Per the applicant, the difficulties which justify this application include, this project anticipates the addition of fencing/poles to restrict the golf balls from entering the wetlands. The Riparian setbacks to stream/wetlands have complied. Since the entire range area is a Zone A wetland construction on any part of the site requires relief from the Riparian regulation.*

*Per the applicant, the granting of this variance would not affect the neighborhood since the range is a permitted business. Granting the variance to restrict the flight of golf balls into the watershed/wetlands will protect these areas from potential damage.*

Ms. Gfroerer reviewed the variance criteria as found in the Zoning Resolution.

a) Can the property in question yield a reasonable return or can there be a beneficial use of the property without the variance? **The commercial building can be used as a stand-alone structure without the variance. However, a variance is required to bring the site into compliance with the use which has existed on site since 1971 (golf driving range).**



b) Is the variance substantial? **No. There are 3.33 acres of identified wetlands on this site. The request to impact .44 acres of wetland has been approved by the Army Corp of Engineers through a Nationwide Permit and mitigation plan.**

c) Will the essential character of the neighborhood be substantially altered or will adjoining properties suffer a substantial detriment as a result of the variance? **No. The site has been utilized as a golf driving range since 1971.**

d) Does the variance adversely affect the delivery of governmental services (i.e. water, sewer, garbage)? **The variance will impact storm water by filling of identified wetland area. Negative impacts will be mitigated by the applicants' compliance with the floodplain administrator, Summit County Building Inspection, Summit Soil & Water Conservation District, and Summit County Engineers to ensure the property manages storm water as required. The applicant has submitted and received the necessary approvals from the Army Corp of Engineers to impact and mitigate the site as requested.**



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e) Did the applicant purchase the property with knowledge of zoning restrictions? **Uncertain. A review of the applicants' intent to utilize this site has been ongoing since 2016.**

f) Can the property owner's predicament be obviated through some other method than a variance? **No, a variance is required to utilize the site as requested.**

g) Would the spirit and intent behind the zoning requirements be observed and substantial justice done by granting the variance? **Yes. The site has been utilized as a golf driving range since 1971. The applicant will improve the site by compiling with the current regulations and mitigation of wetland area as required by current regulations. The project will help protect exterior wetlands and Riparians through the installation of range netting.**

**Mr. Call asked if anyone wished to speak for or against this application.**

**Stephen Ciciretto, AIA Architect**

Mr. Ciciretto stated that Ms. Gfroerer did an excellent job of explaining their position, and they couldn't think of a better use for a floodplain than a lawn. Mr. Ciciretto said he wanted to make sure it was clearly understood that the matched areas in red were originally proposed as part of a much larger venture. Because, those are no longer affected, and have gone fallow. There are shrubs, bushes, and things that are characteristic of wetland in there. That is where the mitigated areas took place. Nothing will be affected in the tree structures or any of the perimeter this plan, it will be just mowed lawn.

The tall poles were proposed to keep the golf balls out of the wetland area.

**Mr. Call stated that at one point years ago there was a proposal for an underground ball return system, is that the plan for this one.** Mr. Ciciretto stated was not in the current plan

**Mr. Call asked if the poles that they are proposing, will they require lights on them.** Mr. Ciciretto stated that there are lights at the building line, and no poles or new lighting of the field

**Mr. Call stated that this is close to the highway, will there be signs on the poles.** Mr. Ciciretto stated there are no signs on the poles.

**Mr. Call asked if there were any other questions.** There were none.

**Mr. Call asked for a motion. Mr. Pritchett made a motion to close the Public Portion of the meeting. Mr. Neumeyer second. Mr. Call asked for a vote. The motion carried.**

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X	X			X	
Neal Call	X				X	
Naureen Dar	Absent					
Charles Myrick	X				X	
Kyle Nelson (alt.)	X				X	
Dave Neumeyer (alt.)	X		X		X	

## DISCUSSION

**Mr. Call stated that he was pleasantly surprised to hear the poles were moved outside of the wetland.**



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## RESOLUTION - Case #: VAR202111

Mr. Call asked for a motion. Mr. Nelson made a motion to approve the applicant's variance request as stated, subject to Summit Soil and Water District's report, which was the mitigation of the wetlands. Mr. Pritchett second. Mr. Call asked for a vote. The motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X		X	X		
Neal Call	X			X		
Naureen Dar	Absent					
Charles Myrick	X			X		
Kyle Nelson (alt.)	X	X		X		
Dave Neumeyer (alt.)	X			X		

**BUSINESS FROM THE FLOOR.** There was no business from the floor.

With no further business to come before the Board, the meeting was adjourned at 7:45 pm.

Mr. Neumeyer made a motion to adjourn the meeting. Mr. Pritchett second. Mr. Call called for the vote. Motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	Absent					
Mike Pritchett	X		X	X		
Neal Call	X			X		
Naureen Dar	Absent					
Charles Myrick	X			X		
Kyle Nelson (alt.)	X			X		
Dave Neumeyer (alt.)	X	X		X		

Mr. Call stated that the next regular meeting would be held on April 13, 2022.

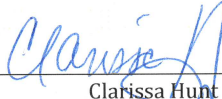
Approved By:



Neal Call, Chair

Board of Zoning Appeals

Submitted By:



Clarissa Hunt

Community & Economic Development