

PERRYSBURG TOWNSHIP BOARD OF ZONING APPEALS
26609 Lime City Road
Perrysburg, OH 43551

PUBLIC HEARING

April 19, 2011

The Perrysburg Township Board of Zoning Appeals held a public hearing on April 19, 2011. Mr. Garn said just for the people in the audience, if they would be quiet during the entire hearing, because with that, their recording system, it will pick up every word they say, and nothing that is said up here because of the microphones that are in the ceiling. So there will be a time. They are going to start with an election, but then after that where they will be sworn in. But then they are to just sit and listen until they would come up to the microphone if they are going to speak, and then they would give their name and address and so on there. They need the audience to be relatively quiet because it picks up all the whispering. So get things started.

Mr. Sturgill asked Mr. Garn if he was ready, and he said yes. Mr. Sturgill said it's 6:50 p.m. April 19th, 2011, and the Perrysburg Township Board of Zoning Appeals will now come to order. A roll call was taken. Mr. Sturgill said all right. They have three members here. Anything that comes before them will require all three of the votes for or against. So anyone who wishes to wait until next month has that privilege right now to continue their matter. Other than that, they will have a meeting.

MEMBERS PRESENT: James Bennett, Russell Sturgill, and Jeffry D. Justus.

MEMBERS ABSENT: Russell R. Miller, Bill Irwin, Elsie Hetman, and Bob Warnimont.

Mr. Sturgill said the first matter to come before the meeting is because of the abbreviated membership here today, there is no chairman or vice chairman, and they will have to vote a temporary chairman and vice chairman. He asked if he had a nomination. Mr. Justus said he nominated Mr. Sturgill as chairman. Mr. Bennett was the second on the nomination. Mr. Sturgill said it's been moved with a second that Mr. Sturgill be temporary chairman for this meeting. A roll call vote was taken. Yes votes by Mr. Justus, Mr. Bennett, and Mr. Sturgill. Motion carried 3-0-0.

Mr. Sturgill said the next matter to come before the meeting is the temporary secretary of the meeting. He asked if there was a nomination. Mr. Garn said vice chairman, and Mr. Bennett said vice chairman. Mr. Sturgill said vice chairman and secretary. Mr. Bennett nominated Mr. Justus, and Mr. Sturgill was the second on that nomination. He said it's been moved with a second that Jeffry Justus be the temporary secretary and vice chairman of the meeting, and Mr. Garn said no, just vice chairman. A roll call vote was taken. Yes votes by Mr. Bennett, Mr. Sturgill, and Mr. Justus. Motion carried 3-0-0.

APPROVAL OF THE 3/15/2011 MEETING MINUTES: Mr. Sturgill said the next matter to come before the meeting is the approval of the March 15, 2011 meeting minutes. He asked if every member received a copy of the minutes, and all members indicated that they had. He then asked if there were any corrections, additions, or deletions, and there were none. He said if not, they will have a vote to approve the minutes. Mr. Justus moved with a second by Mr. Bennett to approve the minutes of March 15th. Mr. Sturgill said it's been moved with a second that the March 15, 2011 minutes be approved. A roll call vote was taken. Yes votes by Mr. Justus, Mr. Bennett, and Mr. Sturgill. Motion carried 3-0-0.

Mr. Sturgill said to anyone who wished to testify or make a statement before the board of zoning appeals to please stand and raise their right. Mr. Sturgill then swore in everyone who wished to give testimony or address the board this evening.

APPLICATION NUMBER 2011-6666, (VARIANCE). MEI, Inc., would like to build a medical office building at 28370 Kensington Lane which is zoned PUD-M. They plan to provide 69 parking spaces which are 24 more spaces than the required 45 spaces. Article VIII Section C 1 states that when parking is over 100 percent in number, that the landscape peninsulas be increased to almost twice the present amount provided. Article VIII Section C 4 states that they should provide one deciduous tree for every 3,000 square feet. They are showing six and should be providing ten. Some of the interior islands are too small. They need increased landscaping because of the additional parking spaces, more trees need to be added, and the islands and peninsulas need to be increased in size.

April Smucker introduced herself and addressed the board regarding this application. Mr. Sturgill asked her if her microphone was on. He said there is a little button up there. Mr. Garn told her to just tap on it, and she did. He said yeah, it's on. Mr. Sturgill said yeah, just speak into it. She again introduced herself to the board. She said she first would like to explain a little bit of what they have done since they actually, and Mr. Sturgill interrupted her and said before she goes any further, does she understand that if they vote on this, it requires a hundred percent, the three of them, and she said yes. He then told her she has the privilege to wait till next month where she might have a full board, which he can assure her she would. This is a very unusual circumstance here. Ms. Smucker said okay. Mr. Justus told her her only recourse, if it's not unanimous, is common pleas court, and she said okay. She said she guesses she would like to clarify a few things. She asked if there was a discussion that could take place before hand while she would still have the right to wait for a continuance, or is that right now does the decision have to be made. Mr. Sturgill told her she was going to have to speak up because he can't hear her. She said does the decision need to be made prior to explaining more details, or as long as a vote has not happened, or does she need to make the decision now. Mr. Sturgill said well, you know, anything she says now, if they don't vote on it, she will just have to say it next month anyhow. She said okay.

Mr. Garn said to Mr. Sturgill that if it would continue on, they would need to pay the additional \$150.00, and Mr. Sturgill said not under the circumstances. Mr. Garn said okay. As long as there is no vote then. Mr. Sturgill said not under the circumstances, and Mr. Garn said okay. Mr. Garn said there will be no additional fee if she chooses at the very end to back away, and Ms. Smucker said sure. Mr. Sturgill said under the circumstances that there is not a full board. Ms. Smucker said sure.

She said she guesses she was contemplating due to, you know, other schedule constraints, of course, that they have as well, so that's what has her pondering waiting another month to actually go through this, but of course, she would also like to see a full board as well. Does also discussion take place then, too, before she would make the decision. Mr. Sturgill said the discussion would take place then also, and Ms. Smucker said okay. She said she guesses she will go through and present and listen to the discussion, and then make a decision at that point. Mr. Sturgill said it's too late. She has to make the decision now. Ms. Smucker said okay. That's what she was trying to get clarified. She asked if she was understanding that correctly. Mr. Sturgill said if they proceed, they will decide it and have discussion here. Ms. Smucker said okay. Maybe she is just not understanding, too. She said she guesses if a discussion takes place, it's too late to ask for a continuance at that point. Mr. Sturgill said she can present her case and discuss it. Then they will discuss it, and they will have a vote. Or at this point she can request that they continue it till next month for a full board. Ms. Smucker said okay. That's different than the way she understood it initially, that the discussion would take place, and then she would have the opportunity to rescind and ask for a continuance. Mr. Sturgill said now, if they go to the full hearing and then she wants to continue it, she will have to pay another fee. If you continue it now because there is not a full board, then she can continue it without a fee. Ms. Smucker said so she still has the ability to have a continuance, she just has to pay a fee. Mr. Sturgill said yes, she would have to pay a fee then. Ms. Smucker said okay.

Mr. Garn said it would be that same \$150.00 fee. Ms. Smucker said right. Mr. Garn asked her if she understood that then, and Ms. Smucker said she did, and she said she guesses she will just ask for a continuance then. Mr. Garn said okay. She can go through the hearing except without the vote. And if she chooses a continuation then, then she just pays the additional \$150.00 fee to start over again. Mr. Sturgill said or they will continue it now because they don't have a full board. Ms. Smucker said sure. No, she understands that completely. She was trying to understand at what point she had her options. Mr. Sturgill said her option is right now. Ms. Smucker said she does understand that now, and she thinks she will ask for a continuance. Mr. Sturgill said okay. Thank you. The continuance is granted. He said accept a motion to accept the continuance of this applicant. Mr. Bennett moved with a second by Mr. Justus to accept the continuance request of Ms. Smucker. Mr. Sturgill said it's been moved with a second that the application for continuance by this applicant be granted, and that they will have to pay an additional fee to accept the continuance, or no, they will not have to pay an additional fee, and Mr. Bennett said they will not. A roll call vote was taken.

Yes votes by Mr. Bennett, Mr. Justus, and Mr. Sturgill. Motion carried 3-0-0. Mr. Sturgill said the continuance is granted.

APPLICATION NUMBER 2011-6682, (CONDITIONAL USE). American Tower Corporation would like to construct a wireless telecommunication tower at 26852 West River Road. It is zoned A-1 Agricultural. Article IV Section A states that such a structure shall require conditional use approval from the BZA as per Article VII Section EE. They are regulated by ORC Section 519.211, and as a conditional use, the BZA can only require 1. landscaping around the base as per Article VIII Section D 3 a; 2. certified evidence of the structure's stability; 3. evidence that the applicant has attempted to co-locate; and 4. evidence that adequate provisions are in place for the removal of the tower should it become obsolete.

Jamie Abbgly introduced himself and addressed the board regarding this application. Mr. Sturgill asked him what is his standing in this case. Mr. Abbgly said he is representing American Tower Corporation. Mr. Sturgill asked him is he employed by American Tower, and Mr. Abbgly said as a contractor, yes. Mr. Sturgill said they have a rule here that applicants are only represented in person or by an attorney. So he does not think he has standing. Mr. Abbgly said okay. He is also an attorney, but he is not legal counsel for American Tower. Mr. Sturgill asked him if he understands their position here. Mr. Abbgly said yeah. Mr. Sturgill said the applicant or an officer of the applicant can appear, but an outsider cannot. Mr. Abbgly said okay. So it would have to be somebody who is actually on their, a W-2 payroll person as opposed to somebody else. Mr. Sturgill said they would have to be an officer, not just an employee. Mr. Abbgly said an officer or legal counsel, and Mr. Sturgill said yeah, officer or legal counsel. Mr. Abbgly said okay. He was not aware of that. He asked does this automatically become continued until they can provide the proper person, and Mr. Sturgill said yes, continued until next week, or next month. Mr. Abbgly said okay. Very good. All right. Thank you very much. Mr. Sturgill said thank you.

Mr. Abbgly said to Mr. Garn, should he leave this here with them at this point, and Mr. Garn said that's fine. He then said yeah, that was in the, that one that they have that said that he needed a notarized letter from his corporation. He believes it's in there, if he wanted to wait. Mr. Abbgly said very good, and he said thank you to the gentlemen on the board.

Mr. Garn said now, do they need a vote then for this continuance, and Mr. Sturgill said he thinks so. Mr. Abbgly said he was sorry. Mr. Sturgill said accept a motion. Mr. Bennett said he would make a motion to extend Application Number 2011-6682 until the May meeting. Mr. Sturgill was the second on the motion. Mr. Garn said okay. Mr. Sturgill said it's been moved with a second that the application be continued until next month so that the applicant can either retain legal counsel or appear in person. Mr. Garn said or he thinks it's a notarized letter from, and Mr. Sturgill said or a notarized letter of authority, and Mr. Garn said from authority. A roll call vote was taken. Yes

votes by Mr. Bennett, Mr. Sturgill, and Mr. Justus. Motion carried 3-0-0. Mr. Sturgill said to Mr. Abbgly that he will be up on the docket next month, and Mr. Abbgly said thank you.

APPLICATION NUMBER 2011-6683, (VARIANCE). OK Patron Fajita Bar of 27393 Helen Drive would like to add a fenced in patio area to the front of the building. It is zoned C-2 Commercial. Article V Section A Table 5.1 currently requires a seventy (70) foot front yard setback. There is presently a curbed circular area in this front area. The building is located fifty (50) feet from the front right-of-way line. In locating the patio in this area, the proposed twenty (20) foot deep patio would be within thirty (30) feet of the right-of-way line. Article V Section B 7 b allows for an open paved terrace to project within the required front yard not more than ten (10) feet. They are asking for ten (10) more feet than is currently allowed.

Mr. Justus addressed Mr. Garn and said the gentleman on the left here is the owner, and the gentleman on the right is his manager. Mr. Garn said okay. Mr. Justus said the gentleman on the left does not speak English. He said he speaks a little Spanish, so he will be able to ask him questions. He will say what they are in English first, and then interpret. Mr. Sturgill said he will turn the meeting over to him.

Jose Mendez said okay. He said hi, how are you. Mr. Garn said to him that they need his name and address. He said okay. His dad, his name is Carlos M. Quiroz. He gave his address. He said his name is Jose Mendez. He is the manager of the place. He gave his address to the board. Mr. Justus said to him what's his dad's first name, and Mr. Mendez said Carlos. Mr. Justus said Carlos, and his is, and Mr. Mendez said Jose. Mr. Justus said Jose. Okay. Mr. Mendez said yes. Mr. Justus said to Mr. Mendez that he is going to ask some questions in Spanish, and he is going to ask them in English first, and he wants him to interpret what his father has to say; okay. Mr. Mendez said okay.

Mr. Justus said he has the map here. He was out there 2 days ago, looked at it. The first thing he is going to say is he has a concern for the safety of the patrons out front there because it is an open grass area. There was a dialog that occurred in Spanish between Mr. Justus, Mr. Quiroz, and Mr. Mendez. Mr. Justus said okay. When he was out there taking a look at this, in the back of their building, of their restaurant, and Mr. Mendez said yes, and Mr. Justus said there are five concrete steel poles, and Mr. Mendez said yes, and Mr. Justus said that are on the property of the hotel, he believes, which is directly behind them, and Mr. Mendez said uh-huh, yes. Mr. Justus said he personally liked the idea of them having a deck out front there because many of the area restaurants do have that, and Mr. Mendez said uh-huh. Mr. Justus said but he does have a concern with the safety. He said in figuring the width of a car, is this something that they would be able to put up concrete. Because the problem he has is that as you turn in there in either direction, there is a real heavy curve, and there is 20 feet, and then there are people that would be sitting right there. Mr. Mendez said uh-

huh. Yes. Mr. Justus asked would they be in favor of putting up the same type of steel concrete poles at a 5 foot interval around that curve there where people would be seating. Mr. Mendez said yes. Actually they discussed that before the meeting, and they saw the same problem. So anything that happens today, if they approve the patio, or they don't approve, they want to apply for the poles because they saw the same problem with security. Mr. Justus said okay. Mr. Mendez said no use for the patio, for the whole front of the restaurant.

Mr. Justus said here's something they need to understand; okay. They are presenting evidence to them, and Mr. Mendez said yes. Mr. Justus said that they are going to make a decision on this evening; okay. Mr. Mendez said uh-huh. Okay. Mr. Justus said so it's not something that they can say yes or no, and then later they are going to go back and do something that they did not approve; okay. Mr. Mendez said uh-huh. Okay. Mr. Justus said so what he is asking is specifically would they put up those concrete steel poles every 5 feet in that circle there so no car could possibly while they are turning in hit someone that would be sitting there eating a meal, and Mr. Mendez said yes, yes, they do.

Mr. Justus said okay. He then said what type of, are they putting a fence up on the curve around there, or what type of structure. Tell him what else is going to be there. He sees what they are applying for is everything but the last, what is it, 5 feet of the circle. Are they putting up some type of fence or something around that circle. Mr. Mendez said yes, they are thinking in two different kinds of fence. One is really simple just with concrete posts. Mr. Justus said concrete posts, and Mr. Mendez said yes. And with a break, so between each post they have probably some metal fence, open view. Mr. Justus said uh-huh. Mr. Mendez said and this week they checked with the Ohio State Liquor Control, and Mr. Justus said right, and Mr. Mendez said and they said they want something like 4 feet tall. Mr. Justus said and it has to be an enclosed area, he understands, on the liquor laws. Mr. Mendez said yes, just to enclose their area to keep separate from the driving, or from the people site. And they don't want to keep it closed with something, they want a patio, open view, from the street. They don't want nothing to cover, or make a bar or something outside. They only changed their hours. They close by nine, and they continue with that. Their main business is food, so only they want to add something extra for the customers to enjoy the summer. And their place is more like a family business, and family customers.

Mr. Bennett said he has a clarification. So what they are saying, there is a sidewalk that goes across presently. What they are saying is the only access to this area once they put that fencing up would be the, and Mr. Justus said well, that was his next question, and Mr. Bennett said okay. Mr. Justus said the sidewalk runs right against the building, and Mr. Mendez said uh-huh. Mr. Justus said and then they have got the grassy area here. That's where they want to put the patio including the sidewalk area, apparently.

Now, looking at this diagram, they have got actual option one and option two; right. Mr. Mendez said yes. Mr. Justus said where is going to be the egress and ingress. Where can people come. Can they enter this patio area separately from the restaurant. Mr. Mendez said he prefers the option one because they have already the drywall and is safe for the people, and the patio will be separate from the building, so with a small gate, is a little orange square. So they try on the front, they try to keep the green area, is some landscape to keep the measures they have in the petition. Mr. Justus said so the 5 feet that they are not asking for patio area is right in the curve, and Mr. Mendez said yes, uh-huh. Mr. Justus said they are talking about putting landscaping there, and Mr. Mendez said yes. Mr. Justus said and those poles, those five poles, he sees they have actually got them drawn in here now on the diagram, and Mr. Mendez said yes, yes, uh-huh. Mr. Justus said so they would have landscaping between the steel and concrete poles up to the deck area, that 5 feet, and Mr. Mendez said yes.

Mr. Justus said now explain to him again where this gate is going to be. Is it going to be on either side, or is there going to be one gate. Mr. Mendez said one gate on the front. Mr. Justus said actually from the restaurant in. Mr. Mendez said yes, it's in front of the gate, they have the front door. So basically they have one across on the front from each one. Mr. Justus said the only question he has about that is the way it is, and he does not know this, but isn't there some type of fire regulation that they are going to have to have one gate on the south side besides entering the building, and Mr. Mendez said yes, uh-huh, okay. Mr. Justus said so that would be a total of two gates; all right. Mr. Mendez said two. Okay. Mr. Justus said they can keep one apparently shut. And don't quote him on this, but he thought there was another way that they have to have to get out of here instead of entering back in the restaurant in case there was a fire. Mr. Mendez said yeah, he is right. Actually he thinks he has a mistake. Yeah, they need at least two gates for something happens inside the patio, and the people, they need to go outside. Mr. Justus said right, and one is coming out of the restaurant door, and Mr. Mendez said uh-huh. Mr. Justus said the other one is going to be on the side of the actual fenced in area is what he is saying; right, and Mr. Mendez said yes. Yes. Probably on the other side of the patio. Mr. Justus said okay, and Mr. Mendez said okay.

Mr. Sturgill moved that the application be approved as of option one with some stipulation as presented by Mr. Justus who will tell the members his stipulations. Mr. Justus said the stipulations will be that five concrete and steel posts, steel posts filled with concrete, be installed in the curve area of this particular spot no more than 5 feet. So he should say no more than 5 feet apart preventing any automobile from going through there. There also should be two gates, one coming from the restaurant to that area, and one side gate for egress if there was a fire inside the restaurant where people could escape. Mr. Sturgill asked if there was a second to that motion, and Mr. Bennett was the second on the motion. Mr. Sturgill said and as to the stipulations, and Mr. Bennett was also the second on the stipulations. Mr. Sturgill said it's been moved with a second that the application be approved subject to the stipulations as set forth by Mr.

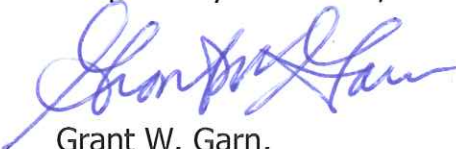
Justus in the record. A roll call vote was taken. Yes votes by Mr. Sturgill, Mr. Bennett, and Mr. Justus. Motion carried 3-0-0.

Mr. Sturgill asked Mr. Mendez if he understands what he has to do, and Mr. Mendez said yes, sir. He said one more question. How tall they need the posts. What is the regulation for that, and Mr. Justus said he believes it's 4 feet, isn't it, and Mr. Garn said 4 feet. Mr. Mendez said 4 feet. Okay. And Mr. Justus said yeah. Mr. Garn said or no more than 4 feet, and Mr. Mendez said no more than 4 feet. Mr. Garn said he does not know, their regulation just says it can't be more than 4 feet high. Mr. Mendez said they need them inside the area they have right now, or outside. Mr. Justus said the posts, and Mr. Mendez said yes. Mr. Justus said they should be on the outside of the curve. Mr. Mendez said okay. Mr. Justus said he thought about that the other day, because if somebody hits that, it's probably going to move the whole thing, unless it has that asphalt. So probably right up against that curve would be the safest thing.

Mr. Mendez said okay. He asked if he can approach to ask him one more question, and Mr. Justus said he has to ask from the microphone. Mr. Mendez said well, he needs exactly where do they want the second gate, and Mr. Justus said he does not think it matters. On either side. Mr. Mendez said on either side. Okay. Mr. Justus said just as long as people have a way to egress in case there is a fire was his only concern. Mr. Mendez said okay. Okay. Mr. Justus said they come through the restaurant area, or they have a side gate in emergencies that probably can be opened from the inside in case there would be a fire. Mr. Mendez said okay. Mr. Sturgill said thank you, and Mr. Mendez said thank you, and Mr. Bennett said thank you. Mr. Quiroz, Mr. Mendez and Mr. Justus said gracious.

Mr. Sturgill asked if there was any new business to come before the board. Mr. Justus said take care to both Mr. Quiroz and Mr. Mendez, and good luck on their business. Mr. Sturgill said if there is no new business, he asked if there was any old business to come before the board. He then told both Mr. Mendez and Mr. Quiroz that they may go. Mr. Sturgill said if not, he will entertain a motion to adjourn. Mr. Bennett moved with a second by Mr. Justus to adjourn. Mr. Sturgill said it's been moved with a second that the meeting be adjourned. A roll call vote was taken. Yes votes by Mr. Bennett, Mr. Justus, and Mr. Sturgill. Motion carried 3-0-0. The meeting was adjourned at 7:20 p.m. Mr. Sturgill said thank you.

Respectfully submitted,



Grant W. Garn,
Recording Secretary