

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

PUBLIC HEARING/MEETING
December 20, 2011

The Perrysburg Township Board of Zoning Appeals held a public hearing/meeting on December 20, 2011. Russell R. Miller, Chairman, called the meeting to order at 6:02 p.m. A roll call was taken. Grant W. Garn, Zoning Inspector, was also present. The meeting was tape recorded. Mr. Miller said a couple of preliminary matters for those who are in the audience. If anyone has cell phones or other similar devices, if they would either turn them off or put them on vibrate or something so that they are not a distraction during the meeting.

MEMBERS PRESENT: Russell R. Miller, Bill Irwin, James Bennett, Russell Sturgill, Jeffrey D. Justus, Elsie Hetman, and Bob Warnimont.

MEMBERS ABSENT: None.

APPROVAL OF THE 11/15/2011 MEETING MINUTES: Mr. Miller said the first matter before the board this evening is the approval of the November 15, 2011 meeting minutes of the board. He asked did all board members receive a copy of the minutes, and the members indicated that they had by saying yes. Mr. Miller said okay. He asked if there were any corrections, comments, questions of the minutes. No one indicated that there were. Mr. Miller said if not, the chair would entertain a motion to approve. Mr. Bennett moved with a second by Mr. Sturgill to approve the minutes as submitted. Mr. Miller said they have a motion and a second, and he asked if there was any further discussion of the approval of the minutes, and there was not. A roll call vote was taken. Yes votes by Mr. Bennett, Mr. Sturgill, and Mr. Miller. Mr. Justus and Mr. Irwin abstained. Motion carried 3-0-2. Mr. Miller said thank you.

Mr. Miller asked if all those who were present this evening who intend to provide testimony before the board would please stand and raise their right hands to be sworn. Mr. Miller then swore in all persons wishing to address the board this evening.

APPLICATION NUMBER 2011-6825, (VARIANCE). The Kohl's store is located at 10323 Fremont Pike. It is zoned C-2. They are anticipating selling the northeasterly portion of their parking lot (1.23 acres) to a restaurant (Chick-fil-A) and converting part of the Kohl's property to a dedicated access road. Article IX Section B 2 gives the formulas for determining the minimum number of parking spaces required. If they were to do this sale, the number of parking spaces for Kohl's would be reduced from the required number of 425 parking spaces to 348 parking spaces. They are asking for a variance so as to reduce the number of required parking spaces. Also, according to

Article XIII Section C 4 a (2) b, this would be a major modification to the approved site plan, and this one item would need to be reviewed and a separate action would also have to be taken by the zoning commission. At their 12/12/2011 public meeting, the zoning commission discussed this proposed change, took testimony into consideration, and approved their portion of the change to the site plan.

Mr. Miller said to Mr. Garn that it might be helpful if he would just provide them briefly with some background behind this particular application. He knows the applicant has been before them on another matter fairly recently.

Mr. Garn said yes. They have been dealing with the township for over a year on this site trying to work some things out. They have met with the trustees and so on. This is where the access road came through with their legal counsel that evidently Kohl's is willing to put the access road in as far as the property that they would potentially be selling. Then last week they met with the zoning commission, and went over the proposed changes, and that would be the change to the site plan, amend the site plan. The zoning commission did pass that as an amended site plan with the possible reduction. This is all hinging on things being approved.

Mr. Miller said okay. But if he understands it, there is really just a single element to the request before them this evening, and that is the reduction of parking spaces. And Mr. Garn said yes, yes. Of parking; correct. Mr. Miller said all right. He asked if there was anyone present on behalf of the application. A gentleman indicated that he was. Mr. Miller asked him to step to the microphone, state his name or otherwise identify himself, and make a presentation.

Gary Rouse introduced himself and addressed the board regarding this application. He said he is representing Kohl's this evening in conjunction with Chick-fil-A. And basically Kohl's does desire to sell to Chick-fil-A a 1.32 acre parcel which they would develop into a fast food restaurant. And at the township's request have agreed to begin a dedication or a dedicated road along the property which will be sold to Chick-fil-A which takes up about 0.32 acres of land. And the result is that the parking count goes from the required 425 down to 348 spaces. Kohl's, and obviously he would not be here this evening if they were not in favor of this, and they are very okay with the amount of parking that would remain, the 348. They feel that it's over parked the way it is now, and the Chick-fil-A would have adequate parking, but just barely. They are showing 67 spaces on the site plan, and 65 are required for a fast food restaurant. So they are selling to Chick-fil-A just what Chick-fil-A would need in order to meet the code for Perrysburg Township. So they are here asking for a variance to reduce the required parking from 425 down to the 348. He would be more than happy to answer any questions.

Mr. Miller said he would note for the record that they did receive notarized letters from both Chick-fil-A, Inc., and Kohl's Department Stores, Inc., authorizing GBC Design to

appear on their behalf. He asked if there were questions from the board for the applicant.

Mr. Warnimont said to Mr. Miller that he had one question. He asked do people eat in or eat out in this, or both ways. Mr. Rouse said it's pretty much a typical fast food restaurant. You can go inside and get your food and eat in their dining area. There are 138 seats inside, and they are planning on 20 outdoor like patio seating type thing. And they also are going to have a multi order station drive-thru similar to the McDonald's which is just across Simmons Road where you can pull up and go to either one of the open lanes. And they feel that improves the speed of the drive-thru considerably doing a multi order station. So drive-thru and dine-in.

Mr. Sturgill asked do they have any plans to put in place something that would prevent their overflow from coming over and parking in their lot. Mr. Rouse said no. Mr. Sturgill asked or is that somewhat expected. Mr. Rouse said he guesses if it happens, it happens. There is definitely no prevention plans. Kohl's and Chick-fil-A get along very well. They are involved in this deal. They are involved in other deals as well. And this is not an unusual situation for them to take an unused portion of their parking lot knowing that it's unused. And he is not exactly sure how long the Kohl's store has been there, but it's been there for some time now. And they have a pretty good tracking of how much parking they actually need, and it's very underutilized out that way. So if there would be some cross-over parking, you know, patrons felt that they needed to do that, that would not be an issue, so preventing it definitely is not something that is on the table. Mr. Sturgill said and he feels Chick-fil-A feels the same way, and Mr. Rouse said yes, yes.

Mr. Miller asked if there were other questions from the board, and there were none. Mr. Miller said he does recall on the earlier application before them between these parties there was an item of concern that this transaction has not yet occurred, and Mr. Rouse said that is correct. And Mr. Miller said he presumes that it's still contingent on this and any other approvals from any other agency, and Mr. Rouse said yes. As Mr. Garn alluded to earlier, this whole process started probably about a year and a half ago. And it's kind of a slow mover in that everybody wants to make sure that they are doing things in the proper order, and the introduction of the dedicated road was something that took some time, a hurdle to get over. And, well, both Kohl's and Chick-fil-A, you know, stepped up to the plate at the township's urging and agreed to dedicate the portion that is adjacent to Chick-fil-A. So yeah, the deal is not done, and it won't be done until they get through some of these approvals. The signage is the last thing that he was before the board for a couple of months ago maybe, and they just wanted to make sure that the township was okay with the way the parking is ultimately going to be. Mr. Miller said okay. Mr. Rouse said he would like to point out one other thing. It was probably mentioned last time. Chick-fil-A is not open on Sundays, so there won't be any parking out in their parking lot on those days by Chick-fil-A patrons. Mr. Miller said thank you, and Mr. Rouse said you're welcome.

Mr. Miller said all right. He asked if there was anyone speaking in support of this matter other than the applicant, and there was not. He said if not, he asked if there was anyone speaking in opposition. Mr. Sturgill said to the gentleman sorry, but he was not sworn in. Mr. Miller asked the gentleman if he was sworn in earlier, and the gentleman said no, he was not sworn in earlier. Mr. Miller said well, if he is going to speak, why doesn't he stand up, and he will administer an oath to him, and the gentleman said okay. Mr. Miller said they generally swear or make the oaths at the beginning of the meeting, and the gentleman said that's what he thought, but he was not sure. Mr. Miller asked him to raise his right hand, please, and asked him to state his name. The gentleman said Jason T. Chen, and Mr. Miller swore him in. Mr. Miller said okay. He asked him to step forward, and he will need to restate his name and address.

Jason T. Chen introduced himself and addressed the board regarding this application. He said his problem is that, you know, it's required 425 parking spaces, and then went down and reduced it to 348. To him that is like 60 percent in compliance, you know, with the requirement, number one. That's a huge, you know, different variance. You know, it's not right, you know, two or three parking spaces, you know, that kind of thing. Number two is that, you know, like the traffic, you know, they do use those parking spaces all the time, you know, especially during the sales and the peak seasons. So with that, you know, and also the traffic is really a nightmare, you know, like they probably know, especially during this time from Black Friday until now. He sees it every day they have problems there with traffic like that. Also in addition to that also he believes this is a problem there behind Kohl's, and he does not know if they are aware of that. There are signs saying that, you know, coming from where ever, that kind of thing. And they approached him to put those signs on his property, and he told them no, he would not do that, you know. So he is concerned about all the traffic, you know, the leftover traffic. Mr. Miller said okay. He asked the members if there were any questions of this witness, and there were none. He said all right. Thank you.


Mr. Miller then asked if there was anyone else to speak in opposition, and there was no one. He said if not, he opened it up for discussion among the board. Mr. Warnimont said he would mention that they did extend Simmons Road now into Woodmont subdivision, so most of the Woodmont traffic is going to be coming out that Simmons Road exit now. So they have two ways out, either Thompson Road or Simmons Road. Mr. Miller said okay.

Mr. Miller asked if there was anything else from the board, and there was not. He then said the chair would entertain a motion. Mr. Justus said he would make a motion that the application be approved as stated, and Mr. Irwin was the second on the motion. Mr. Miller said he shares the concern expressed earlier on the first application that the rights that they might grant by an approval here, you know, be specific to this transaction because they could have a higher user come in, that sort of thing. He asked Mr. Justus if he would consider an amendment to his motion to condition it or

limit it to this particular transaction, and Mr. Justus said yes. Mr. Miller said okay. They will consider the motion so amended, and he asked if the second was in accord with that, and Mr. Irwin said yes. Mr. Miller said all right. He said they have a motion and a second, he asked if there was further discussion from the board, and there was not. He said if not, he asked Mr. Garn to call the roll, please. A roll call vote was taken. Yes votes by Mr. Justus, Mr. Irwin, Mr. Sturgill, Mr. Bennett, and Mr. Miller. Motion carried 5-0-0.

Mr. Miller said okay. They have no other agenda items on the agenda for this evening. He said he would note that the board of zoning appeals meeting for January will be on January 9th at 6:30 p.m. following the zoning commission meeting at 6:00 on that date, and will be their organizational meeting. He asked is that just to accommodate, and Mr. Garn said his FMLA the next day. Mr. Miller said okay. He asked if there was a motion to adjourn. Mr. Warnimont moved with a second by Ms. Hetman to adjourn. Mr. Miller asked if there was any discussion, and if not, please call the roll. A roll call vote was taken. Yes votes by Mr. Warnimont, Ms. Hetman, Mr. Bennett, Mr. Irwin, Mr. Miller, Mr. Justus, and Mr. Sturgill. Motion carried 7-0-0. The meeting was adjourned at 6:20 p.m. Mr. Rouse said thank you very much. Mr. Miller said thank you.

Respectfully submitted,



Grant W. Garn,
Recording Secretary