

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

BOARD OF ZONING APPEALS PUBLIC HEARING/MEETING
November 15, 2011
6:00 p.m.

The Perrysburg Township Board of Zoning Appeals held a public hearing/meeting on November 15, 2011. Russell R. Miller, Chairman, called the meeting to order at 6:00 p.m. He said there were a couple of preliminary matters. For those people in the audience who are present this evening, if they would turn off or put cell phones on vibrate or other innocuous settings so that they don't have those disturbing them during the meeting. And if they could keep non testimony conversation at an absolute minimum. They have microphones in the ceiling that are very sensitive, and they will pick up just about anything. So with those cautions, he asked Mr. Garn for a roll call. A roll call was taken. Grant W. Garn, Zoning Inspector, was also present. Mr. Garn said there are five members present. Mr. Miller said they do have a quorum to conduct business. He said there was one item not on the printed agenda but which they need to attend to which is the approval of the September 20th, 2011 meeting minutes. This meeting was tape-recorded.

MEMBERS PRESENT: Russell R. Miller, James Bennett, Russell Sturgill, Elsie Hetman, and Bob Warnimont.

MEMBERS ABSENT: Bill Irwin and Jeffry D. Justus.

APPROVAL OF THE SEPTEMBER 20, 2011 MEETING MINUTES: Mr. Miller said they lacked an appropriate quorum for a vote on these minutes due to abstentions last month. He believes they are in a position now with persons present who were at that meeting to consider those. He said so the chair would entertain a motion to approve the September 20, 2011 meeting minutes. Mr. Warnimont moved with a second by Ms. Hetman to approve those meeting minutes. Mr. Miller said thank you and asked if there was any discussion. There was not, and a roll call was taken. Yes votes by Mr. Warnimont, Ms. Hetman, and Mr. Miller. Mr. Bennett and Mr. Sturgill abstained. Motion carried 3-0-2.

APPROVAL OF THE OCTOBER 18, 2011 MEETING MINUTES: Mr. Miller said the next item on the agenda is the approval of the October 18, 2011 meeting minutes. He asked if all members of the board had received copies of the minutes and have an opportunity to review them, and the members indicated that they did. Ms. Hetman said yes, but they have problems, and she asked Mr. Miller if they wanted to address them now. Mr. Miller asked her if she had corrections or additions, and Ms. Hetman said yes. Mr. Miller said okay, what do you have. Ms. Hetman said well, first of all, the man's

name on McCutcheonville is Paul Nissen. They have misspelled it in several places. Mr. Miller said and what matter is that under, and he said he was sorry. Ms. Hetman said the soccer field. Mr. Sturgill asked Ms. Hetman which page is it, and she said well, she had it. Mr. Miller said it's the beginning of page 15. It's application number 2011-6798, conditional use permit. He said they would note that correction to the spelling in the minutes. He then said other corrections, additions, or other comments, and there were none. He said if not, the chair would entertain a motion to approve. Mr. Sturgill moved with a second by Mr. Bennett to approve the minutes with the correction to the spelling of Paul Nissen. Mr. Miller asked if there was any discussion, and there was not. He said to Mr. Garn to call the roll. A roll call vote was taken. Yes votes by Mr. Sturgill, Mr. Bennett, Mr. Warnimont, Ms. Hetman, and Mr. Miller. Motion carried 5-0-0. Mr. Miller said thank you.

Mr. Miller asked if all of those people who are present this evening and intending to speak in support or in opposition to a matter before the board to please stand to be sworn. They are not taking additional testimony on application number 2011-6789. They are only going to have board consideration and vote on that this evening. So if you are here on that matter, you do not need to be sworn. But if there is anyone on the other applications before the board this evening, would they please stand and be sworn. Attorneys are exempt from this requirement. Mr. Miller asked if there was anyone present on application number 2011-6785 and 2011-6807. He told those people to raise their right hands, please. He then swore in those people wishing to address the board this evening. He thanked them and told them they could be seated. Mr. Warnimont told Mr. Miller that a gentleman needs to be sworn in. Mr. Miller asked the man if he was here on one of the other applications, 2011-6785 or 6807, and the gentleman said yes. Mr. Miller asked him if he was going to be giving testimony, and he said possibly, yes. Mr. Miller said okay. He asked him to raise his right hand to be sworn, please. Mr. Miller then swore the gentleman in. Mr. Miller thanked him and told him he could be seated.

Mr. Miller said he is going to take the one matter out of order per the written agenda. It's a continuation in any event, so it's appropriate to do that. This is the board consideration of application number 2011-6789, the continuation from their October 18 public hearing with regard to the variance with regard to a motor home, recreational vehicle, parked at a residential premises.

APPLICATION NUMBER 2011-6789, (VARIANCE.) Continuation of the 10/18/2011 public hearing. Lee W. Stubbins lives at 29307 Belmont Farm Road which is zoned R-3 Suburban Residential District, (medium density). He owns a recreational vehicle (motor home). It was observed that this vehicle was parked in front of his home for an extended period (over 72 hours) of time. He was notified that Article IX, Section C 2 c states that "Notwithstanding the provisions, (b), recreation and utility equipment may be parked in the paved area anywhere on the premises for loading and unloading purposes for a period of not more than 72 hours in a one month period." He

has since moved the recreational vehicle to another location. He is applying for a variance from this rule. Article IX, Section C 2 e states "Any variance of these conditions shall be considered by the board of zoning appeals."

Mr. Miller said the purpose for their consideration this evening was to give the board an opportunity to review the materials that were provided to them at the last hearing, and consider those, and then have discussion and action on the matter this evening. So he will open that matter up for discussion among the board, and he asked if anyone had any comments. He said he had a few comments himself, but he will open it up for other board members. He then said okay. He said in his review of the information provided to them, first of all, the declaration of restrictions, not making statements with regard to validity or invalidity of those, they are simply a private restriction in his opinion which do not govern this board. They are governed by the zoning resolution of the township. The provisions of that are available to the other property owners in the neighborhood. So while it's informative for them, he believes he does not believe that it binds them in any way. He reviewed also personally the case of City of Euclid versus Fitzhume which on its face purported to upset a similar but not identical restriction in the City of Euclid, Ohio. His reading of that case, however, indicates that the issue before them, the primary issue as it relates to the matter before them as a board is whether the inclusion of the specific requirement that the motor vehicles, motor homes and the like be completely enclosed was valid. In fact, the court in the case referred to the fact that they had previously considered the validity of that regulation on other bases. And it's his reading that that is distinguishable from the provisions in their resolution here within the township. So those were his comments for consideration by the board after reviewing the information they did receive. He asked if there was further discussion on the matter or a motion from the panel.

Mr. Warnimont said he would like to make a motion that they go into executive session for about 5 minutes. Ms. Hetman was the second on the motion. Mr. Miller said they have a motion and second to adjourn to executive session. He asked if there was any discussion, and there was not. A roll call vote was taken. Yes votes by Mr. Warnimont, Ms. Hetman, Mr. Sturgill, Mr. Bennett, and Mr. Miller. Motion carried 5-0-0. Mr. Miller said they are going to stand in adjournment. The meeting was adjourned for the members to go into executive session from 6:08 p.m. until 6:15 p.m.

Mr. Miller said so they have a complete record of what he said, and he thanked Mr. Garn for that deference, and he is calling the meeting to order again at 6:15 p.m. He said further discussion among the board with regard to this particular application, and there was not. He said if not, the chair would entertain a motion. Mr. Bennett moved that the application be denied, and Ms. Hetman was the second on the motion. Mr. Miller said they have a motion to deny application number 2011-6789. He asked if there was further discussion, and there was not. A roll call vote was taken. Yes votes by Mr. Bennett, Ms. Hetman, Mr. Warnimont, Mr. Sturgill, and Mr. Miller. Motion carried 5-0-0. Mr. Miller said that application is denied.

APPLICATION NUMBER 2011-6785, (CONDITIONAL USE). Continuation of the 9/20/2011 and 10/18/2011 public hearings. Perrysburg Township legal counsel has requested that this hearing be continued until the 11/15/2011 BZA hearing date. Universal Marble & Granite/UMG Investments, LLC, is locating in part of 27511 Holiday Lane which is zoned C-2. They will be in the portion of the building which previously housed the Holiday Park Tennis facility which faces Helen Drive and abuts the Lock It Up storage facility. They will be operating a retail and wholesale marble, granite, and tile business. They will be able to fabricate custom kitchen, bath, and related accessory items from slabs of material. Besides the retail sales, they will have some operations which would be similar to a supply yard or a building material supply and storage facility which requires BZA conditional use approval in a C-2 zoned area.

Mr. Miller asked some people in the audience if they could hold their voices down, please, and he thanked them for complying. He then said to Mr. Garn that he understands there has been contact to him from counsel for both the township and the applicant in this one, and he asked if that was correct. Mr. Garn said he has received an e-mail from their counsel, and the last e-mail that he has is from Friday, November 11th, and it said the appeal is to be withdrawn. Now, he does not have anything beyond that. One of the parties is here, and Mr. Miller said yes. Mr. Miller said to the gentleman, does he have knowledge about that, whether this particular application, and this relates to the, and the gentleman responded, and Mr. Miller said please, and asked him to step to the microphone to state his name.

Martin Youseff introduced himself to the board. Mr. Miller said and his address, please. Mr. Youseff gave his business address. Mr. Miller said okay. He said this particular application is to allow this particular use, and Mr. Youseff said correct. Mr. Miller said and they understood through Mr. Garn that this application was to be withdrawn. He asked him what is his position with Universal Marble & Granite. Mr. Youseff said co-owner. Mr. Miller said okay. He asked if that was a correct statement, and can he, on the record, state that they are withdrawing that application. Mr. Youseff said yes, absolutely, they are withdrawing the application. Mr. Miller said okay. Thank you very much. He said he may as well stay there. He said he understands, however, that the next item on the agenda, application number 2011-6807, is an application for variance, and they are to hear that matter.

APPLICATION NUMBER 2011-6807, (VARIANCE). A marble and granite business is planning on locating at 27511 Holiday Lane which is zoned C-2. They would like to install three wall signs. Two signs, 120 square feet and 40 square feet, would face Helen Drive (170 lineal feet of building), and one sign, 338.5 square feet, would be on the gable end of the building (120 lineal feet of building). Article X Section F Table 2 allows two building signs, one per street frontage, with a maximum area per lineal foot of building width of 1.5 square feet up to 350 square feet max. They are asking for one

wall sign too many facing Helen Drive, and the gable end sign that is 158.5 square feet too large.

Mr. Miller said so they are being asked to consider variances from the strict application of the signage resolution. He said to the gentlemen that one of them can go ahead and make a presentation then, and step up, and give their name and address, please.

Mike Knoll addressed the board regarding this application. He gave his address and business. Mr. Miller said thank you and told him to go right ahead. Mr. Knoll said basically coming before the board. He thinks the reason they are here is for a fabrication for a marble and granite business to Perrysburg Township. He is actually making a major investment in the commercial building here in their township, and he is trying to get adequate signage to be seen for local business and also for business that's traveling up and down 75. A lot of his business comes from customers outside of this area. People drive from Toledo, Sylvania, Ottawa Hills, or down to Bowling Green to Findlay. He is trying to attract his people who are traveling along 75 to indicate that his business is here located in Perrysburg Township. That specifically is what that sign is for the one on the gable end of the building.

In addition to that, upon reading the code, it looks like under one spot where it says that the sign could be up to 10 percent of the square footage of the building. And they are also looking for clarification that that is the case, or this is the sign that would be the principal sign based on the square footage and the percentage of the square footage of the building. Mr. Miller asked him if he had the specific provision to which he is referring. Mr. Knoll said he was looking for that, and he did not see that he had it in his file. Mr. Garn said they have it right there. He's at Article X, Page 11. Mr. Miller said if he will give them just a minute to refer to that. Mr. Miller said and they are in C-2; correct, and Mr. Garn said correct. Mr. Sturgill said what page is it, and Mr. Miller said page 11. C-2 is covered on page 11 instead of 10. Mr. Miller said he is not seeing in Article X Section 2, and Mr. Garn said if he goes to across from building signs, half way across. Mr. Sturgill said wall signs here. 15 percent of wall area per building tenant. Mr. Bennett said and under max area per lineal foot for building width it's 1.5 square foot up to 350 square foot max. The response was and they are at 338 and a half.

Mr. Sturgill asked are these lighted signs. Their response was this sign here is not a lighted sign. This is a form plastic letters that will be installed, individual letters installed into the building.

Mr. Miller said well, it would appear that they are only then really dealing with the issue that they are requesting one sign too many. Mr. Garn said well, you have two different issues in his opinion. First is to make some type of decision because there seem to be two different rules as to wall signs on that. And the other on building, if you take that across it says two of the following types, and then under wall signs for the listing for

maximum number for a zoned lot they say one per street frontage other than having two smaller signs facing Helen Drive. So instead of one sign they have two signs. Mr. Miller said right. So that's a clear issue, and Mr. Garn said that's a clear issue. And Mr. Miller said whether they are going to allow two rather than one, and Mr. Garn said right. Right. Mr. Garn then said and then the other issue is to just determining whether that rule applies as to the square footage.

Mr. Miller said as he reads the chart, their square footage appears to be in conformance. The proposed appears to be in conformance, and Mr. Garn said right. Right. Mr. Miller asked the members if they were in agreement on that, and Mr. Sturgill said yep, and Mr. Bennett said yeah.

Mr. Miller said yes. Go ahead. Somebody asked if he could add something real quick, and Mr. Miller said sure. The gentleman said he was Martin Youseff again with Universal Marble & Granite, and Mr. Miller said thank you. Mr. Youseff said their entrance actually comes off of the Holiday Park which is not on Helen Drive, per se. So for them when someone drives around into Holiday Lane, they are kind of a cul-de-sac there. When someone pulls into their property, looks at the building, and he is not sure which page it is under, the one that has got a few signs on it, and Mr. Miller said yes, and Mr. Youseff said there is kind of like, it's got a true D image here, and you don't see the actual building kind of popping out. Someone said it projects out on to the right hand side. Mr. Youseff said so the reason why he wanted the sign here is it's actually not going to be on this side, it's going to be right on the one that projects out. Mr. Miller said okay. Mr. Youseff said so when you pull into their building, hopefully they will see that sign first, unless they go around in circles and then go back around where Cracker Barrel is. So if they pull around, then they will see the sixth side that is almost kind of hidden inside because it's physically an L shape there where it kind of projects out. So they are just trying to make sure a customer comes in. It's kind of a remote area for them. It's not necessarily one that's going to allow, you know, it's just sitting there without a pylon sign or anything else. So when someone pulls in and says where is 27511, Suite Number C, for example, that they are not going to miss them or they are going to miss us. Mr. Miller said sure.

Mr. Miller said he wants to get an understanding among the board, though, as he reads the chart and interprets it, and looks at the description in the application, he thinks they only need to deal with the issue of the second sign. A member said well, this looks like the gable end sign is 338 and a half square foot, and the other two signs are 184 square foot, so that's over the 350 square foot max. Mr. Miller said okay. He understands what he is saying. So it's the combination of signs. The member said right, and that's where that 158.5 that Mr. Garn has mentioned here, they are asking for one wall sign too many facing Helen Drive, and the gable end sign is 158.5 square foot too large.

Mr. Miller asked the applicants do they understand that, this part of the distinction. They are looking at the total cumulative square footage of the signs for the classification. The applicant responded correct. Mr. Miller said that's the 1.5 up to 350 square feet. So they are dealing with an excess in total signage. So all he is trying to define is what the variance is that they are looking at. One of the applicants said and he was not clear of that, too. Mr. Miller said okay. Very good. The applicant said he was not clear on that when they were trying to go for more square footage, and he thought they were looking at just one side of the building and another side. Mr. Miller said okay. So he understands. The applicant said okay.

Mr. Miller asked if there were any questions from the board of the applicant, and he said if not, and he thanked them. He said he sees no one else in the room, but he asked if there was anyone wishing to speak in opposition to this application. He said hearing none, that brings the matter to board consideration. Mr. Warnimont said he knows what the building looks like back there because it was, if they don't know, it used to be the old Jed's building. And it does set back off in an L shape sort of. And he did not know the address came off of Holiday Lane instead of Helen Drive. You know, that could be very confusing to people. Because if they drive around, all they are going to do is see Holiday Park entrance. Mr. Miller said yeah, he was initially concerned until he, you know, drove that area again. He does not think it's inconsistent with the area generally, and in particular with the storage facility there and all. That's the only comment he has. Mr. Sturgill said he agreed with him. Mr. Miller said the chair would entertain a motion. Mr. Sturgill moved that the application be allowed as filed, and Mr. Warnimont was the second on the motion. Mr. Miller said they have a motion and second, and he asked if there was any further discussion, and there was not. A roll call vote was taken. Yes votes by Mr. Sturgill, Mr. Warnimont, Ms. Hetman, Mr. Bennett, and Mr. Miller. Motion carried 5-0-0. Mr. Miller said the motion carried. The applicants thanked the board, and Mr. Miller said thanks very much to them, and said glad to have them in the township. The applicant said they appreciate it, and thank you.

Mr. Sturgill said when they dismissed that first one, that was his only problem. Mr. Miller said yeah.

Mr. Miller asked Mr. Garn do they need to approve the zoning map, and he presumed not, and that he was just providing that for their information. Mr. Garn said he was providing that for their information. He has shown this to the trustees. Initially he thought they might be doing something about this. And then he has shown it last night to the zoning commission. The problem that he has, and they were involved in this part before with the duplex condominiums that were along Saint Andrews, but there are, and he thought Mr. Sturgill might like this, but there are a number of other apartment buildings, condominiums, and other things that are located in the township that his problem he runs into are when the appraisers call and ask, you know, if there is a total loss, could it be rebuilt. Mr. Bennett, on the second page there is a section in

Starlight where there are a number of single family homes that are zoned R-5 which is multi family housing only without anything towards single family. There is an apartment complex there at the top that is zoned C-1, the Evergreen Apartments, C-1, commercial. You know, and he then was called on that last week by an appraiser. Now, he has no idea. Some of the appraisers just copy down the zoning resolution, and give it to the bank and say you figure it out what you want to do. A member said yeah. Mr. Garn said but then the condominiums around Belmont. Mr. Sturgill said they were all zoned wrong back there. Mr. Garn said yeah, that's the way he looks at it, and he is not sure. He knows over on Hufford Road there are some apartments there, the Hamlet Condominiums that are not the Hamlet itself, but across the road there are the condominiums there that are zoned R-1 residential. Now, what happened years ago, the R-3 allowed multi family, and he thinks that's how they came in. Well then, about 1990 they changed the zoning resolution, completely took that out and never thought of this, and it's never been back in there. A member said yeah.

Ms. Hetman asked can they do something to fix it, and Mr. Miller said well, they can't. They are an adjudicative body, you know. If they wanted to make a request of the zoning commission to review it, and Mr. Garn said zoning commission, and Mr. Miller said and consider it because it kind of puts them in a bind. They could perhaps do that. And he does not know that it takes a motion, but if the board tonight wants that, he will draft something. Mr. Bennett said he thinks they need to do that because they have already had one instance where this has come before the board, and Ms. Hetman said yes, and Mr. Bennett said because it was an issue. And he can see it, you know, because they are checking them now, that it's going to be an ongoing problem for them. So he thinks it's important that they take a look at it. Mr. Sturgill said the banks are insisting on the house being in proper zoning, and a member said correct, and Ms. Hetman said yes. Mr. Sturgill said and so they should do everything they can in the township as a whole to change the zoning to at least, and Mr. Garn said yes, and another member said reflect what it is.

Mr. Warnimont said he would make a motion that Mr. Miller draft up a resolution or letter, whatever it takes, and Ms. Hetman was the second on the motion. Mr. Miller said it's been moved with a second, and he asked if there was any further discussion, and there was not. A roll call vote was taken. Yes votes by Mr. Warnimont, Ms. Hetman, Mr. Bennett, Mr. Sturgill, and Mr. Miller. Motion carried 5-0-0.

Mr. Miller said to Mr. Garn that he will get with him on that, and he will propose an appropriate letter. Mr. Garn said yeah, because they all say hey, there is no problem, and who is going to turn it down, and Mr. Miller said right. Mr. Garn said and he thinks if he can't answer the question until it's gone. Mr. Miller said right.

Mr. Miller said they have exhausted the agenda. He said to Ms. Hetman that he would be honored if she would make a motion. Ms. Hetman moved with a second by Mr. Warnimont that they adjourn. Mr. Miller said there is a motion and a second. A

member said do it, Elsie. Mr. Miller said if there is no opposition, he will consider the motion passed. They will save the roll call which is allowed. The meeting was adjourned at 6:35 p.m.

Respectfully submitted,

Grant W. Garn,
Recording Secretary