The meeting of the Harrison Township Board of Zoning Appeals was called to order at 7:00 p.m. on Monday, July 8, 2019.

Those present:
Charles Waldron
Patty Larrick
Jerry Barnes
Don Marlow
Steven Russell

Justin Riley Olszewski,
Zoning Administrator, Development Dept.

APPROVAL OF THE MINUTES:
Ms. Patty Larrick made a motion to approve the minutes from the Monday, June 10, 2019 BZA meeting. Mr. Don Marlow seconded. Motion carried and passed 5-0.

NEW BUSINESS
Case# BZA -08-19
Case# BZA-08-19 was initiated Mohammad Rihan, 3585 Knollwood Dr., Beavercreek, OH 45432. The applicant is requesting a Conditional Use permit to establish an automobile sales establishment under Article 22, Section 2203(D), in the “B-4” Business District. The property is located at 3688-3694 Salem Ave. in Harrison Township, Montgomery County, Ohio.

Staff states that the property is located at 3688-3694 Salem Ave. The property is located on the southwest side of Salem Ave. The property is currently zones “B-4” Business to the north, south, east and west. The surrounding land use is commercial. The property is currently a vacant, formerly a pawn shop and barber shop multi-tenant use. Access to the property is off of Salem Ave. Article 22, Section 2203(D) lists “Automobile Sales” as a Conditional use in the “B-4” Zoning District. Article 22, Section 2204(M) lists seven requirements that must be met in order to obtain a conditional use permit for automobile sales in the “B-4” Business District. Article 4, Section 406.05 lists the general “Standards for Conditional Use”.

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Discussion:

The applicant has submitted no site plan or additional application material to demonstrate that any of the criteria in the two aforementioned sections will be met.

Recommendation:

Staff recommends the Board take into consideration all of the factors presented in this material and presentation by staff and applicant.

The applicant, Mohammad Rihan, 3585 Knollwood Dr., was duly sworn and stated he purchased the building almost 7 years ago and he has been unsuccessful in selling or even renting the property due to the accident that occurred in the property. He also stated that, although he continues to clean up the property, people are still dumping trash there. He feels that with the closing of Good Samaritan Hospital, the car lot would be a benefit to the Salem Ave. area. When asked of the Board, Mr. Rihan indicated that he did not currently have a site plan for the proposed use.

After some discussion amongst the Board, Ms. Patty Larrick made a motion to table Case #BZA-08-19 until the August 12, 2019 BZA meeting to allow the applicant time to put together a site plan. Mr. Steven Russell seconded the motion. Motion carried and passed 5-0.

Case# BZA-09-19

Case# BZA-09-19 was initiated by Jeff Trimbach, 3096 Woodhaven Dr., Franklin, OH 45005. The applicant is requesting a Conditional use permit under Article 22, Section 2203(M) to allow for outdoor storage/sales for a construction supply business in the “B-4” Business District. The property is located at 3255 N. Dixie Dr., Harrison Township, Montgomery County, Ohio.

Staff states that the property is located at 3255 N. Dixie Dr. The property is located on the southwest corner with Berwyck Ave. The property is currently zoned “B-4” Business. The surrounding zoning is “B-4” Business to the north, south, east and west. The surrounding land use is commercial. The property is currently vacant. Access to the property is off of both N. Dixie Dr. and Berwyck Ave. Article 22, Section 2203(M) lists “Outdoor Storage/Sales” as a Conditional Use in the “B-4” Zoning District. Article 22, Section 2204 (A-K) lists eleven requirements that must be met in order to obtain a conditional use permit for outdoor storage/sales in the “B-4” Business District. Article 4, Section 406.05 lists the general “Standards for Conditional Use.

Discussion:

Below are the criteria for granting a conditional use permit:

A. Drive-in window for pick-up or delivery shall be located on and accessible only from the premises & shall be provided with adequate drive-way space for waiting vehicles. N/A
B. All business shall be of retail, service, or recreational character.  
**Appears to meet this requirement**

C. No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods on the premises.  
**Appears to meet this requirement**

D. Exterior lighting shall be shaded wherever necessary to avoid casing direct light upon any property located in a Residential District or upon any public street.  
*Surrounded by “B-4” district, but there is a residential district nearby on Berwyck Ave.*

E. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking area, the grounds shall be planted and landscaped.  
*Surfaces are pre-existing, some repair is required for damaged area.*

F. Where the property lines separate a Business District from a Residential District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:

1. An evergreen hedge used with a chain link fence. Such hedge shall not be less than three feet in height.

2. A solid fence of a non-deteriorating material.

3. Masonry wall.  
*N/A*

G. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.  
**Applicant must address this to the board.**

H. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property, or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.  
**Applicant must address to the board.**

I. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Montgomery County Health Department. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, or other acceptable means.
Applicant must address this to the board.

J. There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines.

Applicant must address this to the board.

K. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

Applicant must address this to the board.

 Standards for Conditional Use 406.05

A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.

Appears to meet this requirement.

B. Adequate utility, drainage and other such necessary facilities have been or will be provided.

Applicant must address this to the board.

C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in the public streets and alleys.

Appears to meet this requirement.

D. All necessary permits and license for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.

Appears to meet this requirement.

E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.

Applicant must address this to the board.

F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

Applicant must address this to the board.

G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that
the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.

**Applicant must address this to the board.**

H. The Conditional Use desired will not adversely affect the public health, safety and morals.

**Applicant must address this to the board.**

**Recommendation:**

Staff’s only concern is the condition of the paved or otherwise impervious surfaces. Repair to the asphalt should be required, an adequate storm water retention plan approved by the Montgomery County Engineer’s office must be submitted prior to approval of the Certificate of Zoning Compliance.

Staff recommends the Board take into consideration all of the factors presented in this material and presentation by staff and applicant.

The applicant, Jeff Trimbach, 3255 N. Dixie Dr., was duly sworn and stated that he doesn’t not currently own the proposed location but is interested in the 10,000 sq. ft. building for his business, and would like to put a 6 or 8 ft. chain link fence with a raised wire around the top, around the back part of the business for storage of construction materials such as rebar, mesh, construction lumber, and some delivery trucks. Mr. Trimbach say that the primary portion of his business is delivery and doesn’t anticipate much traffic flow outside of his delivery trucks. He then stated that he had no currently plans to do anything to the asphalt in the proposed outdoor storage area. Mr. Trimbach stated that he has not yet put in a bid for the building as he would like to know if the Conditional Use would be approved first, and if approved, the hours of operation would be 7:00 am until 5:00 pm Monday through Friday and some occasional hours on Saturdays. When asked about lighting, Mr. Trimbach states that the lighting would be placed at the southwest corner of the building facing away from the residential area.

After some discussion among the Board, Ms. Patty Larrick made a motion to table Case #BZA-09-19 until the September 9, 2019 BZA meeting to allow the applicant time to prepare a plan for repairing the asphalt and providing an adequate storm water retention plan. Mr. Steven Russell seconded. Motion carried and passed 5-0.

**Case# BZA-10-19**

Case# BZA-10-19 was initiated by Marie’s House of Hope, Inc., P.O. Box 219, Dayton, OH 45405. The applicant is requesting a Conditional Use permit under Article 21, Section 2103(K) to allow for a residential rooming house in the “B-3” Business District. The property is located at 5408 N. Main St., Harrison Township, Montgomery County, Ohio.
Staff states that the property is located at 5408 N. Main St. The property is located on the east side of N. Main St. across from Erdiel Dr. The property is currently zoned “B-3” Business. The surrounding zoning is “B-3” Business to the north, south and east, and Single Family Residential to the west. The surrounding land use is commercial and residential. The property most recently operated as an HVAC repair business. Access to the property is off of N. Main St. Article 21, Section 2103(K) lists “Rooming House” as a Conditional Use in the “B-3” Zoning District. Article 21, Section 2104 (A-L) lists twelve requirements that must be met in order to obtain a conditional use permit for a rooming house in the “B-3” Business District. Article 4, Section 406.05 lists the general “Standards for Conditional Use”.

**Discussion:**

Below are the applicable criteria for granting a conditional use permit:

A. The business activity will be conducted wholly within a completely enclosed building, except for automobile service stations. (No outdoor dismantling, wrecking, or storage of automotive vehicles, parts, or accessories shall be permitted).
   
   **Does not appear to apply**

B. The business establishment shall not offer goods, service, food, beverages or make sales directly to customers in automobiles, except for drive-in window for pick-up or delivery and which will be provided with adequate drive-way space on the premises for waiting vehicles.
   
   **Does not appear to apply**

C. All business shall be of retail or service character.
   
   **Appears to meet this requirement**

D. No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.
   
   **Does not appear to apply**

E. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property located in a Residential District or upon any public street.
   
   **Applicant must address this to the board.**

F. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking areas, the grounds shall be planted and landscaped.
   
   **Applicant much address this to the board.**

G. Where the property lines separate a Business District from a Residential District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:
1. An evergreen hedge used with a chain link fence. Such hedge shall not be less than three (3) feet in height.

2. A solid fence or non-deteriorating material.

3. Masonry wall
   There are some plantings along the rear property line, applicant must address this to the board to determine if it is sufficient to meet this requirement.

H. No noise from any operation conducted on the premises, either continuous, or intermittent, shall violate the provisions of Article 44.
   Applicant must address this to the board.

Standards for Conditional Use 406.05

A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.
   The property is pre-existing and appears to meet this requirement.

B. Adequate utility, drainage and other such necessary facilities have been or will be provided.
   Applicant must address this to the board, however the property is pre-existing and appears to meet this requirement.

C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in the public streets and alleys.
   The property is pre-existing but appears to meet this requirement.

D. All necessary permits and license for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.
   Applicant must address this to the board.

E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.
   Applicant must address this to the board.

F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it
will be in harmony with the appropriate and orderly development of the district in which it is located.

**Applicant must address this to the board.**

G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.

**Applicant must address this to the board.**

H. The Conditional Use desired will not adversely affect the public health, safety and morals.

**Applicant must address this to the board.**

**Recommendations:**

Staff recommends the Board take into consideration all of the factors presented in this material and presentation by staff and applicant.

Mr. Todd Gindelberger, 615 Woodside Dr., Englewood, OH was duly sworn and stated that his architecture firm has been working with Mr. Irvin McDonald, the proposed tenant. He says the property was most recently and HVAC business and they would like to use the property to house approximately 5 individuals, ages 18-21 years old that are aging out of the foster care system, and assisting them with finishing high school or entering a trade school or college and that the facility would be residential in nature. He also says there will be two “house parents” who are employees of the organization that will be running the facility and they will be on a rotating schedule 24 hours a day.

Mr. Irvin McDonald, 1423 Verna Ct., Dayton OH, was duly sworn and reiterated that the residents of the proposed facility are 18-21 year olds that are emancipating out of the foster care system who will be finishing high school, and will be required to have a job. There will be staff on site 24 hours a day, and that staff is trained in crisis intervention, independent living skills, money management. He also states that there will be a structured curriculum and that he just applied for their accreditation. When asked, Mr. McDonald stated that the residents will have a 10:00 pm curfew, Monday through Sunday and they will not be permitted to have guests and they do not have vehicles. Mr. McDonald states that although he does have four group homes in Montgomery County, this proposed location will not be a group home.
When asked about the parking for staff, Mr. Gindelberger says that there are two parking spots towards the bottom of the parking lot and six spots across the front and should be sufficient enough spaces to allow for possible shift change crossing. Mr. Gindelberger states there is lighting at the entrances and would address any further lighting issues as the further develop the building plans. He also states that there is a chain link fence at the rear of the property.

**Opponents:**
Mr. Don Malone, 4156 Upham Rd., Kettering OH, was duly sworn and said that he has had the business at 5404 N. Main St. for 39 years and has concerns for the tenant (barbershop) of his property as well as the customers. He says he looked on the Marie’s House of Hope website and it indicates they take in children with chemical substance abuse, autism and mental health disorders and registered sex offenders and he does not want that type of environment next to him. He says although he believes these individual need a chance, he doesn’t feel that a business district should be where this facility should be allowed.

Mr. Keith Rihm, 3729 El Paso Ave., Dayton, OH, was duly sworn and stated he’s lived in the township for 43 years and feels that Main St. is where the township should be putting their best businesses and does not see how adding a rooming house would be an improvement to the area.

Mr. Matt Heidenreich, 3200 Little York Rd., Dayton OH, was duly sworn and stated that he doesn’t live nearby and has a business at 6601 N. Main his concern is for the resident he has in his rental property at 15 Homeview. She is a single woman with 3 foster children, and she has stated that she plans to leave if the rooming house is approved so he would be losing a tenant. He also agrees that this area is not the right area for this type of facility. He feels that there are not enough amenities nearby to provide sufficient work and/or leisure activities. He also has several safety and security concerns with regards to the rooming house and its residents and staff.

Mr. Randy Cloud, 3815 Addison Ave., Dayton, OH, was duly sworn and said he and his wife operate a quilting studio in the basement of Mr. Malone’s property also has security and safety concerns. He also questions the 2:5 ratio and wonders why two staff members would be needed if the residents are of adult age.

Ms. Melissa Johnson, 9140 Westbrook Rd., Brookville, OH was duly sworn and stated that she has been a tenant of Mr. Malone for 16 years and that she has had issues at her location with panhandlers coming in and asking she and her clients for money. She says that there is no recreation area and there is no yard at the proposed location. She also has questions between the difference in a rooming house, halfway house and group home.
Ms. Johnson also asked if the neighboring business would be notified if any of the resident of the proposed facility are on the registered sex officer list. She also asked if there would be any security cameras installed.

There being no other to speak in opposition, Mr. Waldron closed the public speaking portion of the meeting.

After final discussions among the Board, Ms. Patty Larrick made a motion to deny Case# BZA-10-19. Mr. Steven Russell seconded the motion. Motion carried and passed 5-0.

There being no further business to discuss, Ms. Patty Larrick made a motion to adjourn the meeting. Mr. Don Marlow seconded. Motion carried and passed 5-0.
Respectfully submitted,

Harrison Township
Board of Zoning Appeals

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Regina Moore
Administrative Assistant

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Charles Waldron, President

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Patricia Larrick, Vice President

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Steven Russell

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Jerry Barnes

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Don Marlow

Attested as to Signatures,

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Regina Moore, Administrative Assistant