The meeting of the Harrison Township Board of Zoning Appeals was called to order at 7:00 p.m. on Monday, September 14, 2020.

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

Ms. Patty Larrick made a motion to approve the minutes from the Monday, May 11, 2020 BZA meeting. Mr. Russell seconded. Motion to approve was rescinded due to minutes not available for signature.

NEW BUSINESS
Case No. BZA-05-20
Case #BZA-05-20 was initiated by Sharon Zellner, 4617 Fayette Ct. Dayton, Ohio. The applicant is requesting a Variance to reduce the required minimum rear yard setback. The property is located at 4617 Fayette Ct., Dayton, Ohio, Harrison Township, Montgomery County, Ohio.

Staff stated that the applicant initially applied for a Zoning permit to enclose a patio in the rear yard. During the zoning report it was discovered that the rear yard setback could not be met and there was no evidence of any pre-existing Variance being granted. The property is zoned “R-2” and the existing patio is 272 sq. ft. The current rear yard setback is 21.2 feet and the minimum requirement is 40 feet, for that reason, a Variance is required.

Recommendation:
Staff recommends approval of the Variance due to the fact the lot was sub-divided pre the existing regulations, therefore, the circumstance requiring the variance was not created by the applicant. Staff also states that there are surrounding properties with out-buildings and accessory
structures that are much closer than the 40 ft requirement and that the enclosure would be an improvement to the property.

The applicant, Sharon Zellner, 4617 Fayette Ct. was duly sworn and stated that she also brought Mr. Bob Boyd, who will be doing the enclosure, with her. She also says that she is in agreement with Ms. Crow that the enclosure with only enhance the property. Ms. Zeller then presents the board with a letter of approval from one of her neighbors who was unable to attend the meeting. When asked, Ms. Zeller stated that she has lived at the property for five years. Staff then reads the letter from the neighbor.

There being no other to speak on behalf or in opposition, Mr. Waldron closed the public speaking portion of the case. After some discussion among the board, Mr. Russell made a motion to approve Case #BZA-05-20. Mr. Marlow seconded. Motion carried and passed 5-0.

Case No. BZA-06-20
Case #BZA-06-20 was initiated by Zeke and Iris Levi, 295 E. Whipp Rd., Dayton, Ohio. The applicant is requesting a Conditional Use to allow the expansion of a legal, non-conforming building or structure. The property is located at 2011 Maplegrove Ave., Dayton, Ohio, Harrison Township, Montgomery County, Ohio.

Staff states that this case is a request for an expansion of both a non-conforming use and a conditional use. The site is approximately 5700 square feet and is located to the rear of 4000 N. Dixie Dr. The site is a former residence that was damaged in the 2019 tornado and the applicant is requesting expansion of the Magnum Auto Sales service garage on to this site. Staff states there was also a zoning application submitted for an addition to the Magnum Auto Sales site to add an office where a trailer had formerly been. The proposed site is zoned “C/S-2” Commercial Service, which is the same zoning district as the 4000 N. Dixie site. Staff also says the applicant indicated that the proposed site would be an automobile service facility and did not request auto sales. Automobile service facilities are a permitted use for this area and automobile sales would be a conditional use, so further clarification is needed to see if there is a planned sales component to the proposed site, and would also like to have the landscaping and buffer issues addressed, along with submitting a plot and parking plan.

Recommendation and Alternatives:
Staff states that the boards options are to deny the expansion until complete site plans for both sites can be submitted with the application or conditionally approve the application contingent upon plans being submitted.

The applicant, Mr. Levi of 4000 N. Dixie Dr., was duly sworn stating that he owns 4000 N. Dixie but does not currently own 2011 Maplegrove and the owner was not able to attend. Mr. Levi says that the owner is willing to sell to him so that he can put an office there and prevent the vandalism and fires from continuing. Mr. Levi says that he’d previously been using a trailer as his office. The trailer was destroyed during the tornado and he replaced it, only to be told he could not have it and that is when he decided to try and buy the proposed site to put his office. He states that the property will not be used as a car lot.
When asked about the initial zoning application, Mr. Levi states that the original plan was to place the office at 4000 N. Dixie Dr. but has changed that plan and would like to purchase the proposed site and place the office there instead. He also states that he would be able to provide a drawing of the proposed plot and landscaping plans but does not want to pay for a professional plot plan and his application be denied. The applicant states that the proposed site will be for employee parking only and will not have any automobiles for sale. It will be for office use only for the business located at 4000 N. Dixie Dr.

After further explanation from staff on the requirements to conditionally approve, and additional discussion among the board, Ms. Larrick made a motion to conditionally approve Case #BZA-06-20. Conditions being:

1. Applicant must submit a plot plan which would include a full site plan, lighting plan, landscaping & buffer plan, pavement markings and parking schedule, and impervious surface calculations.
2. Submitted plans must meet the requirements as stipulated in Article 33

Mr. Steven Russel seconded the motion. Motion carried and passed 5-0.

Case No. BZA-04-20

Staff stated that Case #BZA-04-20, which is a case that was heard by the Zoning Commission in late July or early August 2020 for 235 Turner Rd., was originally to be on the agenda. The applicant applied for a Conditional Use, however the application was not complete. Staff states that she, along with Mr. McClintick and Ms. Spaugy have been working with the applicant for the last month to try and get everything in order for the BZA meeting, however, she did not get the application and site plan in time to review for tonight’s meeting. Therefore, there is no staff report to present to the board, but since the applicants are in attendance, would like to at least open the case and table it for the next BZA meeting.

The applicant, Mr. Matt Thompson, 1857 State Route 571, Greenville, Ohio was duly sworn and states that he went through a Zoning Commission hearing to have 235 Turner Rd. rezoned from a multi-family zone to “B-3” Business. He states that he was told that after the zoning commission hearing that he would have to apply for the conditional use and go before the Board of Zoning Appeals to present the plans for the property, and the Board would advise on how to proceed and what the stipulations would be. Mr. Thompson stated that the Conditional Use application was filled out and submitted. He says he was unclear on the timeline and worked all night on Friday and submitted the application Saturday morning. Mr. Thompson says he brought plans to the meeting with him, as he was told he would need to show where things would be stored and what the future plans are. He says at this point, all he is looking for is to get the Conditional Use approved. The business that he proposes for the site is a nursery/garden center. He says his business does a lot of work in the area and would like to have a property that he could park his trucks at that he could dispatch workers out of and maybe have an office space and also possibly store some small equipment and top soil. Mr. Thompson states that if the business became something that began to gain some traffic and some revenue, there might be an opportunity to begin selling mulch and things like that versus having to go to someplace like Home Depot.
After some further clarification from the Board on what plans are required, and additional discussion among the board members, Mr. Don Marlow made a motion to conditionally approve Case #BZA-04-20. Conditions being:

Applicant must submit site plan to include:
   1. Full site plan, lighting plan, landscaping & buffer plan, pavement markings and parking schedule, impervious surface area calculations
   2. Submitted plans must meet the requirements as stipulated in Article 21, Section 2103(H)

Ms. Larrick seconded the motion. Motion carried and passed 5-0.

There being no further business to discuss, Patty Larrick made a motion to adjourn. Mr. Russell seconded the motion. 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