

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

March 16, 2016

The Danbury Township Board of Zoning Appeals was called to order at 5:00 p.m. by Chair, Carol Robertson, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following present: Mrs. Carol Robertson, Mrs. Loretta Grentzer, Mr. Brad Bauer, Ms. Sherry Roberts and Alternate Mr. Joseph Fetzer. Mr. John William Smith was excused. Also present were Kathryn Dale, Zoning & Planning Administrator, Cheryl Harmsen, Administrative & Zoning Assistant, Jeffery Stopar, Township Legal Counsel, and Marie Fresch, Court Reporter. Visitors present were Peter Corrado, Richard Rospert, Jeff Rospert, Sheldon Miller, Dr. Alice Randolph, Gordon Wahlers, Tom Kihlken, Riney Robertson, Becky Kerzee, Wilma Hastings, Thomas Fetter, Dianne Rozak, Paul Burlie, DJ Swearingen, Bill Coburn, Dennis Patthoff, Leo Monroe, George Wilber, Esq., Carolyn Adams, Bill Brown, Bree Brown, Mary Ann Behlke, Ron Latie, Beth Kaltenbach, Ryan Cook, John Marsh, Mike Ratcliffe, Dean Talip, Robert Spittler, Dennis Feltner, Daniel Noll, and Michael Prosser.

Swearing-in of Members

First item on the agenda was the swearing-in of Sharon Michael as an Alternate Member. Ms. Dale stated Ms. Michael is excused from this meeting and would be sworn in next month.

Ms. Dale read the rules of order for the meeting proceedings.

The Chair asked Mrs. Harmsen if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Harmsen to introduce the first case of the evening.

Adjudication Hearing
Case BZA #2016-010
5831 E. Harbor

Continuation from 02.17.16:

BZA-2016-010 5831 E. Harbor. Request for a Conditional Use to allow for a 26 unit Condominium Development in accordance with Section 3.1.10.C.iii and Section 4.3. **Larry & Linda Beerman, Owner in Contract w/ Rospert Enterprises, Inc. William & Bree Brown, Agents.**

The Chair stated this case was previously opened and closed at the last meeting, held February 17, 2016. Previously sworn in were Richard Rospert, William "Bill" Brown, Bree Brown, Gordon Wahlers, Russell Wahlers and Sheldon Miller at that hearing and are still under oath. Members present were Ms. Robertson, Ms. Grentzer, Mr. Bauer, Ms. Roberts & Mr. Fetzer. The hearing was continued per the request of the Board asking the applicants, based on their testimony that it was their intention to complete this development in phases; The Board asked that the applicants submit documentation by March 4, 2016 on the number of phases they were proposing as well as the timeframe they anticipated completion of each phase.

Ms. Dale provided the Board with a Staff Report Addendum, which includes the applicant's submission, marked Applicant's Ex. 2, about the phasing and timeframe for completion.

The Chair asked that one of the applicants share what has been submitted to the Board. Jeff Rospert, 3751 Delwood Road, Port Clinton, came forward and was sworn in. Mr. Rospert stated they plan to construct half the units within two years and the second half of the units within four years. Mrs. Grentzer asked if this plan is firm and Mr. Rospert replied it is their best estimate of time. Ms. Roberts asked Mr. Rospert if this was a realistic estimate. Mr. Rospert replied the estimate is based on a stable real estate market. If this market has a major slow down, this project will take longer to complete.

Ms. Dale stated Phase I will be units 1,3,5,7,9,11 and 13 for 14 units located along the water side of the property. Phase II will be the remaining 12 units located closer to SR 163. Ms. Dale reviewed the first four conditions presented at last month's hearing and suggested the Board considers conditions 5-7 be added as a result of the new phasing. These included:

- 5.) That, Phase I as identified herein, which includes oddly numbered buildings along the waters edge, 7 buildings (14 units), is completed by May 1, 2018. A copy of the Certificate of Occupancy for each unit and the structure shall be filed with the Zoning Office prior to the release of any permits for Phase II.
 - a. "Completion" shall also include the identification on-site of the reserved docks for these condominium units.

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Ms. Dale explained she extended the cut-off date to the 1st of the month even though their decision sheet would be signed April 20, 2016 because it's only a 1½ week longer and will make it easier to remember the deadline for expiration should the Board approve the request.

- 6.) That, Phase II as identified herein, which includes evenly numbered buildings along the south property line, 6 buildings (14 units), is constructed and completed by May 1, 2020. A copy of the Certificate of Occupancy for each unit and structure shall be filed with the Zoning Office.
- 7.) That, it is the intention of this Board to approve this Conditional Use as a phased development with the approvals extending as outlined above, which the applicant has indicated is a reasonable expectation for completion. Per Section 6.2.3 of the Danbury Township Zoning Resolution, should the Applicant request their maximum 1-year allowable extension of the approval of this Conditional Use during Phase I, each subsequent phase would be pushed back accordingly by 1 year. Should the Applicant request additional extensions, the Board shall reopen the case publically for consideration of the extension request. It is not the responsibility of the BZA or Zoning Staff to remind the Applicant of upcoming expirations. If at any point an expiration has occurred and an extension request has not been filed within 1 month of that expiration date, the Applicant will be required to file a whole new application.

The Chair stated that all testimony provided February 17, 2016 is still part of the record. Mr. Bauer made a motion to open the Public Comment segment session and seconded by Mrs. Grentzer. All were in favor and the motion carried.

The Chair asked if there was anyone who wished to speak that had new testimony to present. Tom Kihlken, 2863 S. Waterside Court, Marblehead came forward and was sworn in. Mr. Kihlken stated that since moving back to his great-grandfathers farm, the only remaining view of East Harbor from 163 would be gone and no longer available for residents and tourists if this development is approved and he was requesting that the Board denies this request because this would be a loss for the Township forever and a loss for every resident.

Mrs. Grentzer asked Mr. Kihlken if he was knowledgeable the Zoning code details how the land can be used even though the beauty will be lost, he replied that he was aware there is a zoning code for the Township.

Mr. Gordon Wahlers came forward and had previously been sworn in. Mr. Wahlers stated this is the only undeveloped East Harbor waterfront land and as previously stated wish to purchase this land to leave in its current state. He asked that the Board says "no" to this request.

The Chair asked the Rospert's or Bill and Bree Brown if they wished to reply to the testimony. Ms. Brown they did not wish to speak.

The Chair asked for a motion to close the public comment segment of the hearing. Ms. Roberts made a motion to close the public comment segment of the hearing and seconded by Mr. Bauer.

Ms. Roberts moved to recess into executive session for the purpose of deliberating the merits of the case. Mrs. Grentzer seconded the motion and the roll call vote was as follows: Ms. Roberts – yes; Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes, Mr. Fetzer - yes. The motion carried and the Board recessed at 5:22 pm.

Ms. Roberts moved and Mr. Bauer seconded the motion to reconvene. The roll call vote was as follows: Ms. Roberts – yes; Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer -yes. The motion carried and the Board reconvened at 5:53 pm.

The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-010:

With regard to Case # BZA-2016-010, being a request for a Conditional Use to allow for a 26 unit Condominium Development in accordance with Section 3.1.10.C.iii and Section 4.3, on approximately 7 acres of 5831 E. Harbor Road (PIN # 0141148615367000):

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township land use plan because the land use plan on page 12-13 calls for "undeveloped land that adjoins developed land, attain a blend of business and residential activities that enhance the day to day life of the residents and businesses and make the community more attractive for everyone."
2. The Conditional Use **will** be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use **will not** change the essential character of the same area because there are a variety of housing styles to the west and east of this site including condominium units.

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3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses because the proposed condominium development is well below the permitted density and adjacent to similar condominium housing.
4. The Conditional Use **will not** be detrimental to property in the immediate vicinity or to the community as a whole for the same reasons as stated in #2 and #3 above.
5. The Conditional Use **will** be served adequately by essential public facility and services because public utilities are available to the site and will be required to install any extensions to current industry standards of the Sanitary Engineer.
6. The Conditional Use **will** have vehicular approaches to the property which **will** be designated so as **not to create** an interference with traffic on surrounding public/private streets or roads because ODOT will require that the property has vehicular approaches which will be designated so as not to create an interference with traffic on SR163/ E. Harbor Road.
7. There **are not** special circumstances or conditions applying to the building or land in question which are peculiar to such lot or property and do not apply generally to other land or buildings in the vicinity and were not created by the applicant.
8. The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve a convenience to the applicant.
9. The authorizing of the Conditional Use **will not** impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience, or general welfare of the inhabitants of the Township.
10. Other relevant factors, if any, considered include; None provided.

Mr. Fetzer moved that the Board adopts the findings of fact as read by the Recording Secretary and further moved that the Board has given due regard to the nature and condition of all adjacent uses and structure; the influence of the request on adjacent properties, neighborhood and community, the uses specifically mentioned in the "R-C" Recreational Commercial zoning district and after considering and weighing these factors, the Board finds that Decision Standards(s) (1) (2) (5) (7) weigh more heavily to show that:

- a. The request is consistent with the Conditional Uses specifically mentioned in the "R-C" Recreational Commercial Zoning District and the intent and purpose of the zoning resolution; and
- b. There is a preponderance of reliable, probative and substantial testimony and evidence that **supports** the applicants request for the Conditional Use;

Therefore, the requests should be accordingly **APPROVED WITH THE FOLLOWING CONDITIONS** the request. The conditions for approval, if any, include:

- 1.) That, no zoning permits are issued until the necessary platting and condominium declarations are recorded with the Ottawa County Recorder's Office and proof of the recording shall be submitted to the Zoning Department.
- 2.) That, at the time permits for each unit are applied for, the plans shall show the building separation requirement being met, which is 20' from the nearest point of one (1) building to the nearest point of the adjacent building, and is considered to be overhang to overhang.
- 3.) That, the Trash Receptacle Area is moved to either the west side of Building 13 or to the southeastern side of the property, so as not to be in the front center of the development or directly in front of any particular unit or eliminated.
- 4.) That, an Alternative Vehicle Storage Area is identified on the site plan, if such amenity is to be provided. Said site plan illustrating this location, along with a screening plan for said area, shall be submitted to the Zoning Inspector.
- 5.) That, Phase I as identified herein, which includes oddly numbered buildings along the water's edge, 7 buildings (14 units), is completed by May 1, 2018. A copy of the Certificate of Occupancy for each unit and the structure shall be filed with the Zoning Office prior to the release of any permits for Phase II. "Completion" shall also include the identification on-site of the reserved docks for these condominium units.
- 6.) That, Phase II as identified herein, which includes evenly numbered buildings along the south property line, 6 buildings (12 units), is constructed and completed by May 1, 2020. A copy of the Certificate of Occupancy for each unit and structure shall be filed with the Zoning Office.

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- 7.) That, it is the intention of this Board to approve this Conditional Use as a phased development with the approvals extending as outlined above, which the applicant has indicated is a reasonable expectation for completion. Per Section 6.2.3 of the Danbury Township Zoning Resolution, should the Applicant request their maximum 1-year allowable extension of the approval of this Conditional Use during Phase I, each subsequent phase would be pushed back accordingly by 1 year. Should the Applicant request additional extensions, the Board shall reopen the case publically for consideration of the extension request. It is not the responsibility of the BZA or Zoning Staff to remind the Applicant of upcoming expirations. If at any point an expiration has occurred and an extension request has not been filed within 1 month of that expiration date, the Applicant will be required to file a whole new application.

Motion Seconded by: Ms. Roberts.

Roll Call Vote was as follows: Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Roberts – yes; Ms. Robertson – yes; Mr. Fetzer–yes. All were in favor and the motion passed.

The Chair stated the case has been Approved with Conditions and the appellants may pick up their permit following the April 20, 2016 meeting.

The second case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-011
5401 Maritime Shoreway

Continuation from 02.17.16:

BZA-2016-011 Request for a Conditional Use to allow for a 32 unit Condominium Development in accordance with Section 3.1.10.C.iii and Section 4.3. **West Harbor Marina, LLC (William Brown), Owner, Bree Brown, Agent.**

The Chair stated the public hearing portion for this case was opened but was not closed at the previous meeting February 17, 2016. Members present were Ms. Robertson, Ms. Grentzer, Mr. Bauer and Mr. Fetzer. Ms. Roberts recused herself from the hearing and did so again for this continuation.

William “Bill” Brown, Bree Brown, Dr. Alice Randolph, Sherry Roberts, and Brandon Lundgard were sworn in at that hearing. Attorney’s George Wilber & Julie Perkins also testified during that hearing. All those who spoke are still under oath. All testimony provided at the February 17, 2016 hearing as well as exhibits are carried over and still part of the record.

The hearing was continued due to the time of the meeting nearing 12:30 a.m. The Applicant’s indicated that they wish to counterclaim/cross examine after all public testimony has been received. The Chair explained that they would continue down the list of those who were signed in at the February hearing and then go down the list for those who wished to speak this evening.

Carolyn Adams, 5630 Windjammer, came forward and was sworn in. Ms. Adams questioned the accuracy of the measurements and incompleteness of the drawings for this project. There are no dates or version indicators on the drawings. There are 52 middle dock boat slips owned by the West Harbor Marina Boataminium, only 51 are on the drawings. Building measurements are inaccurate per the Staff Report. The legend for the parking is showing 51 spaces when there should be 52 spaces and does not account for the 11 West Harbor Landing Boataminium parking spaces. Not all parking spaces measure 100 s.f by 200 s.f. therefore the number of spaces is wrong. The cul-de-sac not shown on the plans is owned by West Harbor Cove Mobile Home Park. It appears there are buildings being proposed on land that is not owned by the applicant in this cul-de-sac area. The streets are not all identified within this project. Maritime Shoreway and Ash are shown, and there are arrows shown on the proposed development, but no streets are identified. The pre-cast concrete structure has weight restrictions not noted on the site plan. It appears the area to the west where these pre-cast concrete structure are located are being double calculated in to the open space and the setbacks for the vehicular parking. There is a swim up bar shown, although swimming is not allowed in the boat channel where there are over 200 boat slips needing to navigate through this area. There is a 4’ fence near the pool but it is unclear how much of the property will be enclosed by the fence. There is a bridge feature over the pool that is not defined of where that will be located. Ms. Adams stated that while the Board is considering Condominiums, there is a substantial amount of commercial shown and the plans and do not differentiate what of this pool and other commercial items are to be part of

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the condo restrictions or not. Not sure if they will continue to be able to use the boat lift because of how the structures and parking are shown.

Ms. Grentzer asked if the boat lift is the only way people can get their boats in and out of the water, another words there is no ramp. Ms. Adams said correct, it is part of the marina unless they drive down to the State docks. Mrs. Robertson asked the board if they had anything more for Ms. Adams. There were no further questions. Ms. Dale stated Ms. Adams statement she read from and handout submitted will be marked as Adams Exhibit #1.

The Chair asked Mrs. Brown if she wanted to ask questions of Ms. Adams. Ms. Brown stated she would reply, once all testimony has been presented.

The Chair called upon the next person signed in. Mary Ann Behlke, 1633 Trader Crossing, came forward and was sworn in. Ms. Behlke stated this condominium development does not comply with the Danbury Township Zoning Resolution and are incomplete and inaccurate. First, it is unclear who will own the property such as the pool, restaurant, free standing public bathroom, commercial marina and 14 docks are all part of the condominium development or are owned by a separate entity. She stated she feels the south setback per Section 4.3.2.D should be a rear setback of 25' and is not being met. Additionally this setback is including the roadway access to the condos and includes parking spaces. A valid computation of 10% required open space consisting of natural areas including grass, trees and the like and shall not include submerged lands or required parking areas, cannot be determined from these plans. It has not been determined if the trash receptacles will be adequate for a commercial business and the additional condominium units. Code mandates for alternate vehicle storage and is particularly concerned that it does not accommodate for golf carts. Feels this is a mandate, not an option, thus it has not been met since an alternate vehicle storage area has not been shown. The plan does not show streets or routes for traffic and emergency vehicle access and the pre-cast concrete bridge-like structure will not support a fire truck. The number of required parking spaces is under-computed because each space shall contain 200s.f. and they only show 176 s.f., if the scale is accurate. There are no spaces shown for the condominiums other than their garages. She stated she feels the parking area is required to be setback 15' from any lot line per Section 5.2.D.iv. and particularly along the southern property line the parking is shown right up to the property line. Ms. Dale stated that the handout Ms. Behlke presented is entered as Behlke Exhibit #1.

Leo Monroe, 1810 Forester, came forward and was sworn in. Mr. Monroe stated he is the President of the West Harbor Marina Association and this association owns the 52 center docks. He stated his main concerns are access to the docks and easements for the parking for those docks. He stated he understands that while it's not a zoning issue, their attorney did received an email or letter last week concerning or questioning the registration of those easements from Atty. Bree Brown. He stated it was threatening in tone that since these easements had not been filed or recorded correctly they would or could restrict our access to our docks. Our Association's Attorney, Kaman & Cusimano is currently looking into this matter.

Mrs. Grentzer asked for clarification on the location of the access for the 52 docks and stated she visited the site and was afraid to drive onto the concrete platform. He said that, that is the only access to these docks. Mr. Monroe stated it is safe for cars and regular trucks to drive across but not safe for a fire truck or heavier trucks to drive across. Mr. Stopar asked Mr. Monroe to verify an email dated March 9th, 2016 at 1:38 pm and stated this letter will be entered in as Monroe Exhibit #1.

Becky Kerzee, 5675 Windjammer, came forward and was sworn in. She stated she is a resident of this neighborhood and is in the Marina Association. Ms. Kerzee gave a handout to the Board members reviewing the Conditional Use decision standards. She stated she wanted to reiterate some of what is driving their [the Board's] decision and the negative impacts and review why the development does not meet the standards. She stated the project is not required to be in compliance with the Danbury Township Land Use [Plan] and it suggests that undeveloped land should be developed with mixed use, but the property is already a commercial marina so there is nothing gained by adding more commercial use. The project is not harmonious with the general vicinity and changes the essential character of the same area because there are no other three story homes or condominium units in the area, therefore it is not harmonious since most dwellings in the area are one story. She stated that even if the condominiums are compared to those across the Harbor on Catawba, the proposed units are much smaller containing only 800 s.f. whereas the Catawba units could contain anywhere between 1,500s.f.-2,800s.f. It looks very overcrowded and the greenspace they shared last month really doesn't seem to be there and she doesn't see the ability to provide it. The other thing she is concerned about the most is that the streets are maybe 25' [wide] and her street is at least 35' wide and that allows for parking and golf carting. It is hazardous and disturbing to existing or future neighboring uses because the planned bar has 77% of its space outdoors and there is concern about noise that carries across the water, it will affect the neighborhood considerably. The plan states that the bar would be able to accommodate 115 to 120 people at a time, potentially 1,000 people a day coming into an area with limited parking space. The likelihood that that would happen may not be

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there, but the potential of that happening is a real concern because of the egress and the amount of vehicles back in this small area. Restaurants are very busy with wait times to be seated in the summer and the extra parking needed to accommodate this need is not shown on the plan. The boat launch, chemical tanks and mechanical lifts appear to be a safety hazard and there is concern the children will get hurt. She stated the last thing she wanted to talk about is that the project will be detrimental to the property in the immediate vicinity and to the community as a whole because the noise, insufficient parking, narrow streets, poor traffic routes for the boat launch and for trucks servicing the commercial area are extremely detrimental to the community. The area is crowded and unsightly now and while it's had some improvements, it's taken several years, but the actual marina part is an eye-sore. The bottom line is the dollars & cents for those of us in the community would absolutely be damaged if all of this were added.

Mrs. Robertson asked the Board if they had any further questions. Mr. Bauer stated he understands the concerns about noise and traffic, but questioned Ms. Kerzee about the probability of 1,000 patrons a day to the bar and whether that was overinflated. Mr. Bauer asked if what she was saying was that the bar would have to be 90% full ten hours a day. Ms. Kerzee replied that was correct, but when reviewing such situations, the potential should always be taken into consideration. Mr. Bauer said he would agree with that statement. Mrs. Grentzer stated the possibility, not the probability.

Beth Kaltenbach, 1750 Merrimac, came forward and was sworn in. Ms. Kaltenbach stated she too is a resident of the community and would like to make some additional points to enhance what has been said and reiterate the fact that they are very concerned about this development. She stated that she and her husband purchased their home in 2011 and retired here full-time in 2013 and now are concerned about the ability to enjoy the community involvement and the sense of community they will have with this type of commercial development. She said in essence, all the traffic will be going through their community to get to this development. This development will take away the dream of being close to nature with the preserve and State Park nearby and the enjoyment they dreamed of will be severely damaged and missed. She stated she was picking up where Ms. Kerzee left off and that the Fire Chief has enumerated several objections to this project regarding safety from a fire prevention perspective. There is a letter that was presented at the last meeting that indicated the Fire Chief would not approve this project as submitted. As stated by Mr. Monroe and others, there are concerns about the width of the streets to get a fire truck down and not being able access the area through the Lagoons area; getting across the bridge and the access to that area of the marina and the Fire Chief stated his concern about not being able to turn the fire truck around and turn into that area of development. Another safety concern is there is no area of significance set aside for trash receptacles especially when a restaurant and bar, 75 boat slips and 32 condominiums are utilizing them. Water, sewer and storm drainage plans are not included, raising safety concerns about how construction runoff will be handled. The streets are not identified in front of the condos vs. internal circulation and no driveways are shown on the plan. The construction traffic will overwhelm Maritime Shoreway and will be damaging to the road because of the heavy equipment that will need to come through there to build this development. As stated before there are load limits on the pre-cast concrete structure of ½ ton truck and cars. There is an immediate concern to needing an engineering study done to determine the static and moving load limits that would be expected to come across that structure. The project is on property not owned by the applicant and must be maintained and unencumbered for the safety plan of West Harbor Cove and that includes the water traffic. Phase II has docks in the channel and boats in the slips on the east side of the center pier that can't safely maneuver. There are a lot of safety concerns here and a lot of maritime traffic coming in and out for this restaurant and bar. We don't know and are very concerned that the patrons of the bar will be using our docks or coming down our channels. The 14 docks they have designated for the transient use for bar customers are not separated from the private docks raising trespass and security concerns. The current property has been under construction since 2012 and to-date no occupancy permits have been found in the Township records, and the existing hotel which is just over 2,200 s.f., still is not completed after four years. When the owner was asked to finish siding the outside of the existing building he replied he could not for 3 years because it would cost \$10,000. There is concern that this building is incomplete and under construction for years. There is great concern that this same thing will happen with this development. The residents are skeptical of the owner's ability to complete the project and suggest that a completion bond should be proffered. The Associations' representing the 200 homeowners in this vicinity oppose the granting of this conditional use. The owner has had ample opportunity to use this parcel as its currently zoned "R-C". Because our safety, property values and quiet enjoyment are directly, negatively impacted by this development as it is proposed, we are asking you to deny this application. Parenthetically, we question this proposal and how its presently insufficient information for the BZA to even make a decision. Ms. Dale stated that the handout distributed before Ms. Kerzee spoke will be entered into the record as Kerzee-Kaltenbach Exhibit #1

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because they split sharing the information in that handout and the document has been marked on who spoke regarding which topics.

Ron Latie was called upon by the Chair but he did not acknowledge he was present. The Chair asked if there was anyone else present who would have standing that hasn't spoken or wasn't signed in. There was no one else who indicated they wished to speak.

Sherry Roberts [Sworn at previous hearing] spoke out that there was something she wanted to say and in the case prior to this one, the Board had allowed a gentleman who had spoken before to speak again. Ms. Robertson ask if she had new information because if it was more of what they have already heard...Ms. Roberts said she did and she would make it brief.

Ms. Roberts said she understands the Board can give approval of a Conditional Use when there are still issues pending such as engineering, building permits, EPA...but she cannot see the Board making a decision when the Fire Chief has already stated that he would not approve this project based upon the application that has been put before the Board and they have a letter to that effect. She said the Chief even said; she stated she had a conversation with him this week, that he was going to write a letter, and she was sure if this is denied the Board could get the letter, but he said he would not even approve the idea of what he signed-off on last year when that was presented to him. Mr. Brown represented by his attorney at the last meeting said they wanted to do what was best for the community and they stated they wanted to finalize their financing. It is clearly apparent that the community doesn't support this project. Additionally, in denying this Conditional Use, the Board is not denying Mr. Brown his right to use his property to its fullest use. Mr. Brown can, after obtaining the necessary permits, can put up a hotel. He has been very clear with everyone he has spoken too, and she suggests the Board let him do that. Lastly, she said this is where she will repeat some of the information, but directed her question to Mr. Bauer regarding a comment he made about all the thousands of people [at the restaurant/bar] would be unrealistic. Mr. Bauer stated he didn't even think that number was close to what would actually happen. Ms. Roberts said she didn't care, and Mr. Bauer said he did. Ms. Roberts said she cares that her home is less than 100' from a 3,000 s.f. deck with outside music and 600s.f. of that is a kitchen, the rest is an outside deck with music. She stated she would ask each and every one of the Board members if they would want to live 100' from that deck.

Dr. Alice Randolph spoke out that she had one more thing that she would like to add too. She shared that she just wanted to show a subdivision plat that shows the vicinity of the area and the highlighted yellow part is the land that the Browns intend to put all of this entire project on. When we talk about overcrowding and being out of the character of the neighborhood, this pretty much says it. Mr. Stopar stated that if she's referring to that, it will have to be entered into the record. Ms. Dale stated it would become Randolph Exhibit #2 because she submitted a prior exhibit at the February meeting.

Mr. Wilber stood up to speak again and Mrs. Robertson stated she said previously that Dr. Randolph was going to be the last one. Ms. Roberts spoke out that he represents 2 or 3 associations. Mrs. Robertson said this will be it and anyone who wants to talk better figure it out because they are going to allow the Brown's an opportunity to speak and rebut everything that has been presented up to this point. Mr. Wilber said it was fine and he was not here to repeat himself because he had submitted his letter that made many of his points, but what he wants to do is summarize the zoning text that the Board may impose conditions and safeguards it deems necessary to for the general welfare of the community and also for the individual property rights of the people, and for ensuring that the intent and objectives of the resolution would be observed. The Board is also to give due regard to the nature and condition of all adjacent uses that are in the area. In this situation there is that evidence before you and we just want you to take that information into consideration when you look at what requirements are being imposed when you make a decision to grant or deny this Conditional Use application. Also, the parallel to what you decided in the prior case, this condominium is proposed in phases and there is no guarantee that one phase or another will ever be completed or even that it will be completed in its entirety. So conditions, if you are looking to approve this should be such that each phase has to meet the requirements for the condominium. It has to have the proper open space, proper setbacks, proper parking, loading zones, whatever else may need to be there and each phase has to do that. As they move from phase to phase, if there are minor deviations and those continue to build, that's something that should come back before this Board, not just a blanket consent to something that's based on a site plan that's not very detailed, that's partial and doesn't give dimensions of the access ways or the parking access into and out of these condominium driveways. They also show a swim up bar, which if that is related to the pool, isn't that additional square footage and public area that would have to be looked at separately for requirements of parking and safety? Finally, the area of the cul-de-sac was shown to the Fire Chief a year ago but is not shown now with this application given to the Board. And again, this is area that is not owned by the applicant and any

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setbacks should be from the outside of the cul-de-sac and that should be the requirement of any permit that would be granted.

Bill and Bree Brown came forward. Mrs. Brown stated that while they understand there are concerns with the proposed project and respect those concerns, however, most of the concerns voiced by the opposition are regarding the use and condition of the property, which honestly its already a commercial property so we feel that many of those concerns are irrelevant because of how we are currently allowed to use the property. She stated that they are working on the property and they want to make it clear that while they have had it for 4 years, they have put a lot of money into the property and are continuing to put a lot of money into the property. She stated they want it to be top notch, but it's not going to happen overnight and they continue to put money into the property and have not taken a dime out of it yet. As far as the commercial uses are concerned, it's presented in a way that if this is granted, we are allowed to do all of these commercial uses, but she wants to be clear that they are allowed to do these same commercial uses now. One of the biggest concerns seems to be parking related. Obviously there are 2 questionable easements that are out there. One, she said they acknowledge does exist, however its inadequate, that was at the last meeting where Mr. Lungard presented for West Harbor Landings about the 11 spaces. There is an easement for 11 spaces, but its only 17.32 feet wide. Which is not an adequate easement to get into a space and get around other cars and get back out. It's just an inadequate, improper easement. However, they have never stopped people from getting in there. While the parking easements are not a zoning issue, she wants to make it clear that they have never stopped anyone from parking on the property and they want to work with them to allow them access to their docks, but they're using that in opposition to this and it's really not suitable. As far as the other easements, she said there is nothing in their chain of title that has been produced at this point that shows that easement for the 52 docks on our property. Again, we don't stop people from parking there and we want to make proper areas for them to park, but the letter Mr. Monroe referenced which was an email from me to the Attorneys, that was not a threat, it was simply saying we might have to change the positions or areas or rules regarding the parking depending upon the development of our property. We are not trying to inhibit their parking by any means, we want them to have access. We are not going to put a big gate up, it's just not reasonable. Mrs. Brown said she feels their plan offers a better option for the parking than what they have now. Its gives both the Landings and the Boataminiums parking that they really don't have right now, not on paper anyway.

Mrs. Brown went on to say there were concern about them finishing the project and the overall appearance, again, they've been working on it for 4 years and it is a work in-progress, but when they bought the property it was a dump. She wasn't sure if any of the Board members had seen it prior to 2012 but it was junk and there was junk everywhere and it's taken a lot of time and money to get it to where it is today and she admitted that there are still things that need to be finished, but their working on it every day. She stated that they have done two other large projects in the area, both finished. One is Harbors End Condominiums and the other was South Passage Condominiums and those, they believe, were top notch condo projects. As far as fire access is concerned, everyone has said there is an issue with getting fire trucks, but the fire trucks...there has been some discussion with the Chief, even though we don't have anything in writing yet, but it seems to be mainly for Phase III part where the units might be out on the pier, there doesn't seems to be any concerns about the units on the mainland side of the parking lot. The discussion was, and Bill might be able to explain better, but that the fire trucks would be able to shoot their hoses across even if they can't drive up. There are developments in our area that don't have cul-de-sacs that are new developments that fire trucks can't get down. There is also the boataminium pier, with the 52 docks – how is a fire truck going to get to that other than shooting their hose across. There are ways, they are not that concerned because they know there are ways to get fire access, as needed, and they are currently working with West Harbor Lagoons as well to work out an access, as needed, for that. As far as the whole project goes and what they would like the Board to go away with is the Conditional Use would actually restrict their use. She said she can't say it enough that they have a commercial use now and are able to pretty much do all the negative commercial things that people think of. She stated they are actually asking the Board to restrict them and a condo project would do just that because they want to sell units, and homeowners aren't going to buy a unit that isn't presentable or restricted in some way. The proposed use would be less dense than the current use, and they can continue commercial operations and/or put up a hotel. The hotel in theory, as presented in the exhibit from the last meeting [referring to Applicant's Ex. C], it would be more dense than what they are presenting here. It would also enhance the greenspace because the condo project requires so much, but they are not required to do that now. She stated she had nothing further to add.

Ms. Grentzer asked if they could ask questions of the Browns. Mrs. Robertson said yes. Ms. Grentzer asked about Mrs. Brown's comments about a hotel being denser, but she hasn't seen any plans for a hotel so she has no idea. She asked why they say it would constitute more density when a hotel is not something, that if filled all the time to its full capacity, compared to selling

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condominiums. Mrs. Brown stated that they would be allowed to put more building footprint or structures. Ms. Grentzer clarified that this would be both in the parking lot and on pilings on the west side of the property. Mrs. Brown confirmed. Ms. Grentzer said it would be 2 hotels then. Mrs. Brown said no, it would be a very similar plan as this, but there would be more structures. Mr. Brown stated they would also have a lot more traffic. Ms. Grentzer asked how many more people they would accommodate with a hotel vs. the condos. Mrs. Brown said the amount of people would probably be about the same, there would just be different people in and out all the time. She clarified that how they were considering density was that there would be more footprint or buildings, not so much the people. She said she thinks they planned on one additional building on each side of the property. Mr. Brown stated there were 3 more units on the pier side. Mrs. Brown referred to the Zoning Verification Letter they submitted at the February meeting [Applicant's Ex. A], it had a plan attached to it that they could review and it has shown more units than what the condos are proposing. Ms. Grentzer said then the hotel would generate more traffic. Both Mr. & Mrs. Brown said yes, it would be expected. Mrs. Robertson said that people could be staying one night, two nights, or a whole week, but there would be people in and out a lot more. Mrs. Grentzer stated they would not have boats. Mr. Brown said that a lot of people bring boats when they stay at their place now, so they do bring boats. Mrs. Robertson said they can't restrict cars though because 4 people could come in 4 cars. Mr. Brown said correct. Mrs. Robertson said they can't limit how many cars. Mr. Brown said no.

Mr. Brown said he want to make a comment about the plan and they were done by Mayer Architects, which is a professional architectural group out of Vermillion and everything on the plan is to scale and if they don't have the scaled plan he will gladly provide it to them to take a look at. Ms. Grentzer asked Ms. Dale if the Fire Chief's letter is still within their purview. Mr. Stopar said it is before them. Ms. Grentzer asked the Browns how they would respond to the Fire Chief's letter and some of his concerns because you have said you spoke to him. She stated what she would like to know is how they would respond, or how they would change, or what they would do to make sure that the Fire Chief's concerns were answered. Mr. Brown stated that when he spoke to the Fire Chief last week that they had discussed putting in a hydrant in between the two properties and putting a gate in and putting a fire lane in on the neighbor's property. Mrs. Brown clarified that it would be with West Harbor Lagoons. Mr. Brown said that West Harbor Lagoons is looking into it and they are supposed to respond to him yet this week. Mrs. Robertson asked if it was because it would be something they would use also. Mr. Brown said yes because they can access...the Fire Chief wants a fire hydrant down there now, so he's asking that if we did something down there if we could put a hydrant in to serve both properties because right now they [fire dept.] don't have any access. Even if a boat were to start on fire at the end of the pier they have the right to bust through a fence to go put a fire out, but they can also stretch hoses too. Mrs. Brown stated that she wanted to clarify that the Fire Chief's concern in the letter and as far as they know, is related to the Phase III. Even if they had to come back to zoning for approval, they would have no problem doing that and they would expect that. Mrs. Robertson said that because they are phasing it, they would have to come back each time and as the Board did for the first case this evening, Ms. Dale isn't going to release anything for the next phase until they complete the prior and we would have to make sure everything is lined up before the start of the third phase, correct? Ms. Dale said there would not be another hearing for each phase - there is not a separate hearing for each phase, so what they are presenting is the total plan right now, phased out. The conditions the Board places on the project would be her responsibility to enforce before issuing the next permits to the second phase. Mrs. Robertson said correct, they could not start Phase III unless the conditions put in place were met. Ms. Dale said that was correct.

Ms. Grentzer said the other thing she would like to ask about of the community of the 52 docks, was how they would get to their docks. Mrs. Brown said they allow them access now and they don't prohibit or inhibit that in anyway and they have offered to work with them to get the appropriate easements in place but they have not received responses from either of the attorneys or other representatives. Mrs. Brown said they are presenting them a plan that offers them that access, but it's not a legal easement or adequate easement compared to what they have unless we negotiate that. We are not going to stop them from having access. Our biggest issue is that they say they have 52 parking spaces, there is nothing that says we have to provide them 52 parking spaces. Our plan says 38 and of course that is surrounded by commercial parking spaces, so they would have 52 spaces in essence if they needed them. But based on zoning calculations, we've provided them 38.

Ms. Grentzer said there were a lot of concerns about safety and would you assure those residents that all safety procedures would be met in processing the construction of your buildings. Mrs. Brown said most definitely. Ms. Grentzer asked how they would do that, would they go to the associations and confer with them in terms of the processes or procedures they would be using for construction. Mr. Brown said he thinks concerns on a project like this is run-off and he has to go get an EPA permit to do the project and the EPA will require certain things regarding the construction on the site.

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Mrs. Robertson asked the Township Attorney, Jeff Stopar if he had any questions for anyone. He stated he did not.

Ms. Roberts spoke out and stated that she would like to have an opportunity to counter what Mr. Brown, or his Attorney just said about Fire because that's a safety concern and thinks it's something the Board needs to look at seriously because what he said is not accurate. The Fire Chief has been very clear... Mr. Stopar interjected and said that the applicants have the burden of proof, and anything she has to say, which should be kept very brief, and since they have the burden of proof they will have the right to respond to anything that you say. Ms. Roberts said that she met with the Fire Chief right after Mr. Brown did and the Fire Chief said under no circumstances will he allow a Fire Truck to go up the Lagoons, which is not our property or his - doesn't matter whose property it was, he will not take a fire truck up there with a gate. And the reason being is because it's not their property, you don't know if a car is going to be on the other side of that property and there's no control over that. If a fire happens, it's gone. There's at least 52 boats from the Marina Boataminiums and they'll be gone in a minute. In addition to that, when they talk about using a hose, and you can't even use a hose for the first two phases and the reason being is there's a 35' high condo. You've got an ex-Fire Chief over here - ask him what it's going to be like to put out a fire. And when I asked the Fire Chief what he would do in the event of an emergency, and he said they would have to back their fire truck out. She said she told him that would be good because the fire would already be out, but what if someone is having a heart attack, and it's a health safety issue, and an ambulance is having to back out and there happens to be a car that comes up behind them, she wouldn't want to be the person having the heart attack. So what they're saying is its smoking mirrors and when they're talking about the hotel, don't buy it because the Fire Chief won't approve that either.

Mrs. Robertson asked if the applicant had anymore to add. Mrs. Brown said the Fire Chief's letter is on record and they'll rely on that.

Mr. Bauer made a motion to close the public comment segment of the hearing. Ms. Grentzer seconded the motion. All were in favor and the motion carried.

Mrs. Grentzer moved to recess into executive session for the purpose of deliberating the merits of the case. Mr. Fetzer seconded the motion and the roll call vote was as follows: Ms. Robertson - yes; Mrs. Grentzer - yes; Mr. Bauer - yes; Mr. Fetzer - yes. The motion carried and the Board recessed at 7:06 pm.

Mr. Bauer moved and Mrs. Grentzer seconded the motion to reconvene. The roll call vote was as follows: Ms. Robertson - yes; Mrs. Grentzer - yes; Mr. Bauer - yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 7:43 pm.

Ms. Grentzer made a motion to continue the case in consideration of the voluminous evidence that they have had presented and to obtain an additional report and/or testimony from the Fire Chief of Danbury Township. No other testimony will be accepted except for direct rebuttal to the Fire Chiefs testimony at the next meeting. Mr. Fetzer seconded the motion. All were in favor and the motion carried.

Ms. Dale stated that the agenda for April does not look to be too large so they will be able to start this continuation at normal time of 6:30p.m. at their next meeting April 20, 2016.

The Board took a brief recess to allow the room to clear out.

The third case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-006
Roche Point

BZA-2016-006 Lot 21, Plat II of Harbor Bay Estates (Roche Pointe Condominiums). Request for a Major Modification to a previously approved Conditional Use (BZA-2007-217) to replace 4 structures/8 condo units with 2 detached garage buildings, each containing 6 garage bays/units for the owners of Roche Pointe Condo units. Also requesting an Area Variance from Section 5.1.1.C.i to allow 24'6" tall garage structures (20' required). Dean Talip, Agent/Appellant, American Title Agency, Inc./ Owner.

The Chair asked that the record shows Ms. Roberts will be seated for the remaining cases on the agenda and asked if there were any Board members who would have a conflict and wished to

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abstain from this hearing, there were none. Mr. Bauer moved and Mrs. Grentzer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of the application. Ms. Dale stated the application is to construct 2; 60' x 112.5' (6,750s.f.ea./13,500s.f. total) detached garage buildings that each contain 6 garage bays/units in lieu of 4 duplex structures. The 2007 plan for the duplexes, each unit was supposed to contain 1,878 s.f of ground floor space (15,024 s.f. total for 8 units). The duplexes were initially proposed as 2-story structures at 29' high, but later the file mentions that the applicants wanted to make some of the remaining structures to be built as ranch-styled units, but no official plans were submitted indicating the height of the ranch-styled structures. This is being pointed out because what is being proposed is 1,500 s.f. less in building space. There were only 14 units of the proposed 32 that were built. Condominiums have generally been accepted as an acceptable use of the land through various Conditional Use applications in Harbor Bay/Marblehead Estates. Currently the condominium owners of Roche Pointe have been parking their boat trailers jet ski's etc. in a field across from the marina. The applicants is asking for the garage structures to be 24'6" high where 20' is typically required for detached accessory structures. In their narrative statement they point out that these garage structures will still be below the current condominiums height of 29' and the proposed 35' structures in Marblehead Estates adjoining Roche Point. Staff did not have the applicant list a variance on the size restriction because each bay/unit averages less than 1,200 s.f.

The applicant has stated that if they were to meet the 20' height requirement, they would have to put a flat roof on the buildings and false roof-like façade to give it a residential look. They prefer to construct a pitched roof to allow proper drainage and run-off. Additionally, the applicant stated a proper pitched roof will look more residential in character and fit-in better with the community. It is the intention of the owner to have the remaining 5 duplexes that have not yet been constructed, remain in their same locations as initially shown on their 2004 & 2007 plans. They would also like the record to show, that if the Applicant/Agent does not follow-thru with the construction of these garages, they would continue to market the property with 9 remaining duplexes to be constructed eventually. When reviewing the Zoning Code Requirements in Section 6.2.4.B, Modifications to a Conditional Use, comparing a Minor to a Major Modification, the overall density would be reduced, there will not be an increase in demand on public utilities and the boundaries overall for Roche Point are not changing by the proposal, there is a change in the appearance of the property, how it is used and the character and scale of garage structures compared to condominium duplexes that require the request to be considered as a Major Modification. Based on these requirements, there can be 32 units. As previously stated, 14 units to-date exist. 9 structures were proposed for the future, but 4 of those would be eliminated if these garage buildings are approved and built. The lot width and depth requirement is satisfied. The density is under the requirement. The 35' front yard setback is shown as being satisfied. There were no setback requirements along the private circular lane since this was completely within the development site in the 2004 & 2007 development plan. The maximum building height is 35', but these are accessory buildings and would follow the accessory requirements. The open space required is applicable to the duplex units but was not shown in the previous development plan within Roche Point's boundaries, but rather on property that now belongs to Marblehead Estates. If the additional units are developed, the owner has been made aware they will be required to provide documentation showing the location of the 0.47 acres of open space within Roche Point boundaries.

Dean Talip, 2905 Waterside Court came forward and was sworn in. Mr. Talip reviewed the documentation and confirmed it was as submitted. Mr. Talip stated the center circular area is used as a parking area. Several meetings have taken place amongst the property owners here to determine the best use of this area and came to the consensus the two storage buildings would best suit the needs of the development. He said they also took into consideration the height needed for the doors and roof clearance. There is a nearby development with 35' high flat roofs and complaints have been made that a flat roof is not harmonious to the surrounding development. The builders have stated they will not warranty a flat roof. Cedar shake siding and stone on these proposed buildings will match the existing buildings. Lack of parking and storage are the main concerns of the residents. 11 of the 14 residents have made commitments to purchase these units.

Ms. Roberts inquired about the height of the surrounding structures. Ms. Dale stated the Roche Point Condominiums are 29' high and the property to the North at Marblehead Estates has been approved to be 35' high for the future development.

Roberts Spitler, 131 E. Court Street, Bowling Green came forward and was sworn in. Mr. Spitler stated the stipulation he placed on this property when he sold it was that it could only be owned and utilized by the residents of Roche Point. Related to the flat roof, there is a safety issue, when it gets loaded with snow and the elements that causes weight to accumulate.

There was no one else with standing who wished to testify.

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Ms. Roberts made a motion to close the public comment segment of the hearing, Mr. Bauer seconded the motion. All were in favor and the motion carried.

Mr. Bauer moved to recess into executive session for the purpose of deliberating the merits of the case. Ms. Grentzer seconded the motion and the roll call vote was as follows: Ms. Roberts – yes; Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer - yes. The motion carried and the Board recessed at 8:21 pm.

Mr. Fetzer moved and Ms. Grentzer seconded the motion to reconvene. The roll call vote was as follows: Ms. Roberts – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 8:45 pm.

The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-006:

With regard to Case # BZA-2016-006, being a request for a Major Modification to a previously approved Conditional Use (BZA-2007-217) to replace 4 structures/8 condo units with 2 detached garage buildings, each containing 6 garage bays/units and an Area Variance to Section 5.1.1.C.i. for 24'6" tall garage structures (20' required) for the owners of Roche Pointe Condominium units, on Pt. of Lot 21, Plat II of Harbor Bay Estates:

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township land use plan because; the area is designated as "Recreational Commercial" but has been approved multiple times for high density residential and condominiums.
2. The Conditional Use **will** be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use **will not** change the essential character of the same area because; the applicant has indicated that the garage structures have been designed to replicate and coordinate with the existing residential condominium buildings.
3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses because; condominiums have been approved multiple times as an appropriate use for this overall development.
4. The Conditional Use **will not** be detrimental to property in the immediate vicinity or to the community as a whole because; Same response as stated above in #3.
5. The Conditional Use **will** be served adequately by essential public facility and services because all major utilities are already in place.
6. The Conditional Use **will** have vehicular approaches to the property which **will** be designated so as **not to create** an interference with traffic on surrounding public/private streets or roads because the street system is already in place and will continue be used by existing property owners. There will be no increase in traffic as a result of this request.
7. There **are not** special circumstances or conditions applying to the building or land in question that are peculiar to such lot or property and do not apply generally to other land or buildings in the vicinity and were not created by the applicant.
8. The granting of the application **is** necessary for the preservation and enjoyment of a substantial property right and **is not** merely to serve a convenience to the applicant.
9. The authorizing of the Conditional Use **will not** impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience, or general welfare of the inhabitants of the Township.
10. The property in question **will** yield a reasonable return or **can** be used beneficially without the variance because condominiums have been approved multiple times as an appropriate use for this overall development. With or without the height variance, the property is still permitted to have "Alternate Vehicle Storage Areas" and "Accessory Structures".
11. The variance **is** substantial but the height will be compatible with future buildings.
12. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance.
13. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all major utilities are already in place.
14. The property owner **did** purchase the property with knowledge of the zoning restrictions.

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- 15. The property owner's predicament **can** feasibly be obviated through some method other than a variance because the applicant acknowledges that they could construct a building without needing the height variance, but due to the weather conditions we experience in this area they feel the structural integrity of the building would be better served with a pitched roof as opposed to a flat roof.
- 16. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance.
- 17. Other relevant factors, if any, considered include that the construction of these buildings would eliminate the need for Roche Pointe Condominium owners from having to store their items in an open field within the development that future occupants in future buildings would have to look at and the construction of 2 uniform buildings with multiple garage bays/units would be better than having multiple structures.

Ms. Roberts moved that the Board adopts the findings of fact as read by the Recording Secretary and further moved that the Board has given due regard to the nature and condition of all adjacent uses and structure; the influence of the request on adjacent properties, neighborhood and community, the uses specifically mentioned in the "R-C" Recreational Commercial zoning district and after considering and weighing these factors, the Board finds that Area Variance Decision Standards(s) (12) (13) (16) (17) weigh more heavily to show that:

- a. The request **is** consistent with the Conditional Uses specifically mentioned in the "R-C" Recreational Commercial Zoning District and the intent and purpose of the zoning resolution; and
- b. Practical difficulty **is** sufficient to warrant granting the Area Variance requested.
- c. There **is** a preponderance of reliable, probative and substantial testimony and evidence that **supports** the applicants request for the Conditional Use and Area Variance;

Therefore, the requests should be accordingly **APPROVED**.

Motion Seconded by: Mr. Fetzer.

Roll Call Vote was as follows: Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Roberts – yes; Ms. Robertson – yes; Mr. Fetzer – yes. All were in favor and the motion passed.

The Chair stated the case has been Approved and the applicants may pick up their permit, following the April 20, 2016 meeting.

The fourth case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-023
216 Plum

BZA-2016-023 216 Plum. Request for Area Variance to Section 3.1.5.D to allow for a 2-story addition to be setback 1'8" from the south property line (3' required). Terry & Patricia Tomlinson, Owners/ Dennis Feltner, Agent.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing, there were none. Mr. Bauer moved and Mr. Fetzer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of the application.

Ms. Dale stated the application is to construct roughly a 7' x 8'; 2-story addition (108s.f.) onto the SW, rear corner of the house. The addition will allow for an expansion of the kitchen/dining area on the 1st floor and a bedroom on the 2nd floor. The structure is a nonconforming structure due to encroachment of the original house into the south, side-yard setback and east, front-yard setback. The existing house is 1'8" from the southern, side property line and the proposed addition would align with the existing house. The total house encroachment is 1'4" or 45% of the required 3' setback. The applicant has not yet presented this plan to the Lakeside HP-DRB. This Board's decision is independent of Lakeside's and has no bearing on their decision.

Dennis Feltner, Architect/Agent, 1113 Franklin Street, Sandusky came forward and was sworn in. Mr. Feltner reviewed the documentation and confirmed it was as submitted. Mr. Feltner submitted a signed letter from the property owner to the south. Ms. Dale stated it would be labeled

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Applicant's Exhibit 3, Exhibit 1 is the application and Exhibit 2 is the refusal letter. Mr. Feltner stated they tried but could not find another location for this addition. This addition will provide more privacy for the neighbor and the owners of this property. The back of the home, on the second floor has two bedrooms, one being only 88" baring height and the other has a 71" baring height, which only allows for a single bed in each room making these bedrooms almost useless. With this construction, the shed roof over one of the bedrooms would be replaced with a new roof that is higher and also covers the new addition.

Ms. Dale stated if they do this expansion of 108 s.f., they would have 138 s.f. available for expansion in the future or they would have to get a variance to the 20% rule at that time.

Mrs. Grentzer asked for clarification on where the future expansion would be, Mr. Feltner replied on the south side.

No one with standing wished to testify.

Mrs. Grentzer made a motion to close the public comment segment of the hearing. Seconded by Mr. Bauer.

Ms. Roberts motioned to recess into executive session for the purpose of deliberating the merits of the case. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Roberts – yes; Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer - yes. The motion carried and the Board recessed at 9:06 pm.

Ms. Roberts moved and Mr. Bauer seconded the motion to reconvene. The roll call vote was as follows: Ms. Roberts – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 9:22 pm.

The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-023:

With regard to BZA-2016-023 a request for an Area Variance from Section 3.1.5.D to allow for a 2-story addition to be setback 1'8" from the south property line (3' required) for the property located at 216 Plum Avenue:

1. The property in question **will** yield a reasonable return or **can** be used beneficially without the variance because the property can continue to be used as a single-family residence.
2. The variance **is not** substantial because the proposed addition will match the character of the existing house and would be located no closer than the existing structure.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the proposed addition will match the character of the existing house and would be located no closer than the existing structure.
4. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.).
5. The property owner **did not** purchase the property with knowledge of the zoning restriction but the property owners' agent was aware that zoning restrictions applied.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because the bulk of the structure is pre-existing and the proposed addition is small and there would be no change in proximity to the property line. The original house foundation and the addition exterior walls are 2'5" from the side property line, but the overhangs place the closest point of the house 9" closer to the property line.

Mr. Bauer moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (6) (7) weigh more heavily to show that:

- a. Practical difficulty is sufficient to warrant granting the Variance requested.
- b. There is a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **supports** the applicants request for a variance.

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Therefore, the Variance should be accordingly **APPROVED**.
Motion Seconded by: Ms. Grentzer.

The roll call vote was as follows: Ms. Roberts – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – yes; Mr. Fetzner - yes.

The Chair stated the case has been Approved and the applicants may pick up their permit, following the April 20th, 2016 meeting.

The fifth case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-024
161 Laser

BZA-2016-024 161 Laser. Request for Area Variance to Section 3.5.7 to allow an awning addition to be setback 7'6" from the front property line (20' required). Daniel Noll, Owner/ D.J. Swearingen, Agent.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing, there were none. Ms. Roberts moved and Mrs. Grentzer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of the application. Ms. Dale stated The Applicant is proposing to add a 12' x 21' awning onto the front of the house, covering part of an existing patio area. The proposed setback from the western, front property line is 7.5' to the overhang (20' required). The existing single-family home structure is 20' from the front property line. The Applicant has submitted the average setback of all existing homes on the eastern side of Laser Lane, which averages a 19.3' front-yard setback requirement. 20% of the original, enclosed living space of the house (1,404 sq.ft.) is 280.8 sq.ft. of an allowed addition. The owner is proposing 252 sq.ft, thus this requirement is satisfied. The existing lot is 63w' x 53d' with a 1,404 sq.ft. house on it which equates to 42% and already exceeds the required 40%. The awning covering over the patio does not technically have to be included in the lot coverage because there is no indication that the owner intends to enclose this space. Should the covered patio ever be enclosed, then the owner would have to come before the BZA for an additional variance to cover 49.5% of the lot. The owners purchased the property in July 2014. In March 2015 they initially applied for this application and were denied, but did not take action on the refusal. They resubmitted their application in order to file the variance request.

Daniel Noll, 161 Laser and Attorney DJ Swearingen, 1414 Wayne Street, Sandusky came forward and were sworn in. Mr. Noll confirmed the paperwork was as submitted. Mr. Swearingen stated Mr. Noll and his family utilize this home as vacation home. Mr. Noll stated he has been visiting this area all his life and purchased this home when it became available. Mr. Noll went on to say, when vacationing last year, we measured the temperature in this area and it was 110 degrees, very hot and not enjoyable and added there is really no other location large enough to gather outdoors and the proposed awning would only cover a small portion of the existing patio. The children play on this fully exposed patio in the hot sun from 11:00 am to about 6:00 pm. Umbrellas blow away in the high winds and a more permanent overhead cover is necessary to withstand the wind and they do not consider it to be an option to ever enclose this structure. There are other homes on this street with the same type of awning additions.

Mr. Swearingen asked Mr. Noll to describe the layout of the property and why covering a portion of this patio is so important. Mr. Noll stated he has a 5 foot setback on the north side of the home and also 5 feet in the rear-yard and he thought 10 feet on the right [south] and 20 feet from the front. The front is the only place where there is enough space to place the awning. Mr. Swearingen asked Mr. Noll to describe where the children play. Mr. Noll stated they play on the front patio which runs the whole width of the house and the awning will cover a portion of the patio. Mr. Swearingen stated that obviously the intent of the awning is to mitigate the intensity of the sun and the heat that it generates a good portion of the day. Mr. Noll stated the patio was present when he purchased the property.

Mr. Swearingen asked Mr. Noll if there was another way to mitigate this problem. Mr. Noll stated he consulted with his friend that owns a patio enclosure business, and sells the type of awnings proposed, and he discouraged me from getting a retractable awning because the only purpose is to block the sun, yet the wind will destroy it. All four umbrellas I've tried, have been blown away by the wind. Mr. Swearingen asked if the awning would impede traffic in any way and Mr. Noll replied

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it will not affect the traffic view or prevent any vehicles from using the street and stated he was not aware of the zoning restriction when he moved into the home and the patio existed at that time. He then described the aluminum construction. Mr. Noll stated eventually, he wants to move his family here permanently.

Mr. Bauer asked for clarification on the setbacks.

Ms. Dale stated, let the record show that the applicant has submitted two pictures that are examples of the type of awning the applicant wants to install and will be labeled Applicant Exhibit 3 and Applicant Exhibit 4.

Mr. Swearingen stated in closing, Mr. Noll and his family want a comfortable place to gather outside. There are other homes in this area that have similar like structures with the similar placement and Mr. Noll cares about improving the neighborhood and community.

Ms. Roberts stated the only problem she sees is this would be the only house on this side of the street to have a structure like this that comes out that far. On the other side of the street there are one or two. Mr. Noll replied there is a home two doors down that comes out almost as far and went on to point out that at 179 Laser and 205 Laser have 16'6" setback and an 18' setback with fully enclosed room.

No one else with standing wished to testify.

Mrs. Grentzer made a motion to close the public comment segment of the hearing. Seconded by Mr. Bauer. Ms. Bauer motioned to recess into executive session for the purpose of deliberating the merits of the case. Mr. Fetzer seconded the motion and the roll call vote was as follows: Ms. Roberts – yes; Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer - yes. The motion carried and the Board recessed at 9:51 pm.

Mr. Fetzer moved and Ms. Roberts seconded the motion to reconvene. The roll call vote was as follows: Ms. Roberts – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 10:04 pm.

The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-024:

With regard to BZA-2016-024 a request for an Area Variance from Section 3.5.7 to allow an awning addition to be setback 7'6" from the front property line (20' required) for the property located at 161 Laser Lane:

1. The property in question will yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as a single-family residence.
2. The variance is substantial because the awning would encroach by 12.5' and is 62.5% of the required setback.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because upon entering the street, the road is very narrow (only a 20' ROW) and the houses sit very close to the front property line across the street, despite the average setback for the east side of the street being greater.
4. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.).
5. The property owner **did** purchase the property with knowledge of the zoning restrictions.
6. The property owner's predicament **can be** feasibly be obviated through some method other than a variance.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because while the request is to allow a permanent structure to encroach more than 50% into the required setback, however, due to the small lot size, placement of the house structure prior to the current owner, the only area to improve the property is towards the street, and no matter what the size of the improvement may be, a variance will be necessary.

Mr. Bauer moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (5) (6) (7) weigh more heavily to show that:

- a. Practical difficulty is sufficient to warrant granting the Variance requested.
- b. There is a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **supports** the applicants request for a variance.

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Therefore, the Variance should be accordingly **APPROVED**.
 Motion Seconded by Mr. Fetzer.

The roll call vote was as follows: Ms. Roberts – no; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – no; Mr. Fetzer - yes.

The Chair stated the case has been Approved and the applicants may pick up their permit, following the April 20, 2016 meeting.

The final case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-025
1530 S. Danbury N.

BZA-2016-025 1530 S. Danbury N./ SR 269. Request for a Conditional Use to allow for a Temporary Use/Structure in accordance with Section 3.1.10.C.ix. and Section 6.2 for a petting zoo at Monsoon Lagoon. First Bellevue Properties, Inc., Owner in Contract w/ William Coburn & Allan Jacoby, Michael Prosser, Agent.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing, there were none. Ms. Roberts moved and Mr. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of the application. Ms. Dale stated the application is to install a 100' x 120' (12,000s.f.) temporary tent from May 1, 2016 to November 1, 2016 at Monsoon Lagoon for the purpose of housing a petting zoo. The agent has indicated that this would be similar to the exhibit provided outdoors at Kalahari Resort in Sandusky. Ms. Dale went on to say a temporary building, structure & use is listed as a Conditional Use for the "R-C" Recreational Commercial zoning district, however Article 4 provides no additional use standards for this type of request for either a petting zoo or for tents. The underlying "R-C" site development standards and setbacks would apply and are all satisfied. The applicant indicated last week that were this to be approved, the animals would stay here 24 hours a day and not be moved. Danbury Police Chief has asked that an emergency contact person's name and number will be available 24 hours a day.

Agent Mike Prosser, 2542 N. E. Catawba Road came forward and was sworn in and stated he is representing William Colburn & Allan Jacoby who are purchasing Monsoon Lagoon. They intend to continue the operation of the existing waterpark and they currently operate the Kalahari Safari Petting Zoo in Sandusky. The animals are exotic, not endangered and most of them are smaller in size, none of them are dangerous.

Ms. Robertson asked Mr. Prosser to attest to the documentation they submitted. He stated it was the documentation they submitted. Mr. Prosser stated that most of the animals will be small and none will be dangerous or any more dangerous than some farm animals. He said there will be a giraffe but there will not be any tigers, lions or bears. Ms. Roberts asked about ensuring cleanliness for the water park since these are located next to each other. Mr. Prosser replied the owners are under the strict control of the USDA which has many regulations to keep it clean with regular inspections and this location would not be treated any differently than how Kalahari is handled. He stated the USDA regulations for cleanliness are probably stricter than the Health Department requirements.

Mrs. Grentzer asked if all the animals will be caged and kept in pens. Mr. Prosser submitted a picture of the area that is to be used by the petting zoo. Ms. Dale stated for the record, the picture will be labeled Applicant Exhibit 2. Mr. Prosser stated the Applicant is required to have two sets of fencing, one for the animals and a second that surrounds the perimeter of the area they will be located. Ms. Grentzer asked for clarification that people will be allowed into the pens. Mr. Prosser stated there will be certain animals that people will be allowed to get next to and pet but others will remain in their pen and fed from the outside. No different than what is found a county fairs. He stated if any Board members are familiar with the Kalahari operation, there are birds and fish, monkeys and different animals. He reminded them that the Kalahari operation is right outside the water park as well with hundreds of hotel rooms within 50' and is a good testament of how well they maintain their operation.

Mrs. Grentzer stated the winds can get very high and asked for explanation of how that will be addressed for the tent. Mr. Prosser replied that Ottawa County has guidelines in place, for tents that require the proper installation and securing of the tent to withstand 100 mile per hour winds. The

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tie-down requirements are much more stringent than the old "pound a peg in" that use to exist. Mr. Prosser stated on the drawing he just submitted, that the tent is shown and they can see where the perimeter fence is shown. There is also about a 50' area between the existing arcade building and the proposed tent and is left open due to a power line overhead. In this area is where they will store the feed and anything else associated with the operation. Point being is that there will not be cages or feed or straw all over the property, it will all be contained within the footprint of the perimeter fence. Mr. Prosser said the operating of the waterpark is very dependent on the weather and they are looking for another way to possibly attract people to the property.

Ms. Robertson asked for clarification that the feed, straw, bedding, cages would be stored within the footprint of the fencing and not within the footprint of the tent. Mr. Prosser stated some of these items will be stored outside the tent but within the footprint of the fenced area they intend to use.

Ms. Grentzer asked how the waste is going to be handled, because on hot summer days there will be a lot of flies. Mr. Prosser stated the USDA is very strict about that and they clean up multiple times a day. He said they plan to pave the area under the tent to make it easier to clean. Ms. Dale asked if the disposal area would be kept within the fenced in area as well. Mr. Prosser stated that will all be hauled off-site. She asked if it is hauled off each night, once a week... He said Mr. Colburn would have to come forward to answer further questions.

William Coburn, 1115 Martins Point, Sandusky came forward and was sworn in. Mr. Colburn said the Kalahari facility is fully accredited and is on the same level as the Cleveland and Toledo Zoo. There will be misters for fly control and fans. There will be a dumpster located at the back of the property and hauled away once a week for waste. Barnes Nursery takes and recycles it. They plan on having about 50 animals at this location. He stated they will have some giraffes, zebras, antelope, and parakeet. The animals are in a separated location from the water park and people who have visited the petting zoo will be changing their shoes before they go into the waterpark. We are looking to invest about 4 million dollars into the property over the next 3 years. The plan is to eventually put in a full zoo with aquariums and are expecting to employ 65-75 people. He stated there is 30 undeveloped acreage and the zoo will become the anchor and operate year round. The waterpark didn't do well because it's seasonal and only operates a few months out of the year. He stated he wants to make it a destination.

Discussion centered on Mr. Coburn's experience in setting up and running this type of operation. He replied he's been at Kalahari for 5 years and they built a location like this in the Wisconsin Dells and the location here in Sandusky and are opening one location in the Pocono's in the next two years. There have been no insurance claims to date and it has to be very safe. Two local veterinarians will provide care to the animals and stop in every two weeks. He stated last year at Kalahari, they had about 300,000 people come thru and many of them were going back and forth between the zoo and the waterpark. Ms. Roberts confirmed they wanted to do this year round. Mr. Coburn stated that just for now they just want to put up a tent to see how it goes, but in the future they would like to build a zoo year-round with an aquarium.

Ms. Dale asked for clarification on the perimeter fence. Mr. Coburn stated the fence itself is going to be 8 feet tall and the attached bamboo covering will be 6 feet tall. The bamboo covering is only going to be located along the parking area and is not serving any security, just decorative. It will be a 9 gauge, 4" square wire fence that will be temporary.

No one with standing was present or wished to testify.

Ms. Roberts made a motion to close the public comment segment of the hearing. Seconded by Mr. Bauer. Ms. Bauer motioned to recess into executive session to deliberate the merits of the case. Ms. Roberts seconded the motion and the roll call vote was as follows: Ms. Roberts - yes; Ms. Robertson - yes; Mrs. Grentzer - yes; Mr. Bauer - yes; Mr. Fetzer - yes. The motion carried and the Board recessed at 10:40 pm.

Ms. Roberts moved and Mrs. Grentzer seconded the motion to reconvene. The roll call vote was as follows: Ms. Roberts - yes; Mrs. Grentzer - yes; Mr. Bauer - yes; Ms. Robertson - yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 10:54 pm.

The Chair asked Mrs. Harmsen to read the Findings of Fact for BZA Case #2016-25:

With regard to Case # BZA-2016-025, being a request for a Conditional Use to allow for a Temporary Use/Structure in accordance with Section 3.1.10.C.ix. and Section 6.2 for a 100' x

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- 2016 and shall be removed no later than November 30, 2016.
- 2.) That the proposed tent shall not exceed the underlying zoning district height requirement of 33'
- 3.) That, all ticket sales, animal crates, fencing, cages, feed, straw, bedding or other items ancillary to and related to this requested use are kept completely within the footprint of the fence.
- 4.) Any signage related to this use may be permitted and/or installed in accordance with Section 5.5, Signs of the Danbury Township Zoning Resolution.
- 5.) That, a copy of any State of Ohio and Federal USDA licenses and inspections related to the housing, keeping, transporting and exhibition of animals, issued to all individual

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120' tent to house a petting zoo at Monsoon Lagoon for the property located at 1530 S. Danbury N./SR 269:

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township Land Use Plan because Temporary Uses are not specifically mentioned in the Land Use Plan. The Land Use Plan does call for the property to be used in a commercial capacity, which is how it currently operates.
2. The Conditional Use **will** be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use **will not** change the essential character of the same area because the tent will be located towards the rear of the property and there is ample space for its location and operation.
3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses for the 6 month request, provided all required State and Federal inspections are conducted and passed.
4. The Conditional Use **will not** be detrimental to property in the immediate vicinity or to the community as a whole for the same reasons as stated in #3 above.
5. The Conditional Use **will** be served adequately by essential public facility and services because public utilities are available to the site and will be required to install any extensions to current industry standards of the Sanitary Engineer, Health Department and Building Department.
6. The Conditional Use **will** have vehicular approaches to the property which **will** be designated so as **not to create** an interference with traffic on surrounding public/private streets or roads.
7. There are special circumstances or conditions applying to the building or land in question, that are peculiar to such lot or property and would not apply generally to other land or buildings in the vicinity because the proposed use is for a very specific type of activity, including wildlife that is not commonly requested of temporary uses or tents.
8. The granting of the application is **not** necessary for the preservation and enjoyment of a substantial property right and is merely to serve a convenience to the applicant because the established use for the property is a waterpark resort and may continue to operate in that capacity with or without this temporary use.
9. The authorization of the Conditional Use **will not** impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience, or general welfare of the inhabitants of the Township, so as long as the additional conditions stated below are put into place.

Ms. Roberts moved that the Board adopts the Findings of Fact as read by the Recording Secretary and further moved that the Board has given due regard to the nature and condition of all adjacent uses and structure; the influence of the request on adjacent properties, neighborhood and community, the uses specifically mentioned in the "R-C" Recreational Commercial zoning district and after considering and weighing these factors, the Board finds that Decision Standards(s) (1) (2) (5) (7) (9) weigh more heavily to show that:

- a. The request is consistent with the Conditional Uses specifically mentioned in the "R-C" Recreational Commercial Zoning District and the intent and purpose of the zoning resolution; and
- b. There is a preponderance of reliable, probative and substantial testimony and evidence that **supports** the applicants request for the Conditional Use;

Therefore, the requests should be accordingly **APPROVED WITH THE FOLLOWING CONDITIONS** the request. The conditions for approval, if any, include:

- 1.) That, the proposed tent shall be installed no more than 45 days prior to opening May 1, 2016 and shall be removed no later than November 30, 2016.
- 2.) That, the proposed tent shall not exceed the underlying zoning district height requirement of 35'.
- 3.) That, all ticket sales, animal crates, fencing, cages, feed, straw, bedding or other items ancillary to and related to this requested use are kept completely within the footprint of the fence.
- 4.) Any signage related to this use must be permitted and/or installed in accordance with Section 5.5, Signs of the Danbury Township Zoning Resolution.
- 5.) That, a copy of any State of Ohio and Federal USDA licenses and inspections related to the housing, keeping, transporting and exhibition of animals, issued to all individual

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persons responsible for this operation, and for this location, are provided to the Zoning Office prior to opening May 1, 2016.

- a. Per 6.2.3.F of the Danbury Township Zoning Resolution, the Conditional Use Permit may be revoked if the use fails to meet or maintain the conditions of approval herein or poses a risk to the public health, safety & welfare (i.e. loose animals, collapsing tent).
 - b. If in the case the Conditional Use Permit is revoked for either of the reasons stated above, the removal of the tent and all ancillary items related to this request, within the tent, shall be removed from the premises immediately and the operation of the use shall cease.
- 6.) That, 24/7 emergency response contact information is provided to the Danbury Township Police Department prior to opening May 1, 2016.

Motion Seconded by Mr. Bauer.

The roll call vote was as follows: Ms. Roberts – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Robertson – yes; Mr. Fetzer - yes. The Chair stated the case has been Approved and the applicants may pick up their permit, following the April 20, 2016 meeting.

Old Business

Extension request for:

Approved w/ Conditions 03.18.15

BZA-2015-009 Harbor Bay Estates Lot 52 (PIN # 0140469406735071) & Lot 53 (PIN #0140469406735011) (To be Replated to Lot 52A & 53A on Plat V of Harbor Bay Estates). Request for a Major Modification to a previously approved Conditional Use (BZA-2013-042) to allow for a Condominium development, in accordance with Section 3.1.10.C.iii, 4.3 & 6.2 with different boundaries. Request also for Area Variance from Section 4.3.2.A regarding density, 89 units allowed/122 proposed. **Michael Prosser, Prosser & Associates as Agent, Harbor Bay Estates, LTD, Appellant.**

The Chair read the letter from Prosser & Associates requesting two consecutive 6 month extensions for Harbor Bay Estates. Currently the 6 units that received a zoning permit in 2014 are being completed. They anticipate starting a new building under this prior BZA approval within the next year.

Mr. Bauer made a motion to approve the 1-year extension to expire 03/18/2017. Ms. Roberts seconded the motion. All were in favor and the motion carried.

Signing of Decision Sheets

- a. **BZA-2016-002 8098 Rollie.** Request for Area Variance from Section 3.5.7 to allow a storage shed addition onto the existing house to encroach into the west, 5' required side-yard setback (10' proposed). **Peter & Linda Neura, Appellant/Owner.**

The Chair asked if there were any questions or modifications regarding these cases. Mrs. Grentzer stated she wanted to rescind her previous vote and allow the request on BZA-2016-002 at 8098 Rollie.

Ms. Dale stated the vote now is a tie vote, 2 to 2 and per the by-laws, a tie vote automatically puts this case on the next meeting agenda, scheduled for April 20, 2016. This case will be assigned a new number, will require another hearing with the same information and the full board of 5 will be in attendance.

Mrs. Grentzer made a motion to approve the decision sheet with her vote modified to be affirmative, resulting in a tie vote. Motion seconded by Mr. Bauer. All were in favor and the motion carried.

- b. **BZA-2016-007 518 Erie Beach.** Request for Area Variance from Section 5.8.1.B to allow a 12' x 25' inground pool in the side yard (3 sided front with no rear yard) to be 5' from the northern side property line (10' required). **Tom & Cathy Dearth, Appellant/Owner.**

Mr. Bauer made a motion to approve BZA-2016-007. Ms. Roberts seconded the motion. All were in favor and the motion carried.

- c. **BZA-2016-009 2109 Tecumseh.** Request for Area Variance from Section 3.5.7 to allow for the construction of a new home to encroach into the north, 20' required front-yard setback (11' proposed). **Don & Judy Kiser, Appellant/Owner.**

Mr. Bauer made a motion to approve BZA-2016-009. Mrs. Grentzer seconded. All were in favor and the motion carried.

RECORD OF PROCEEDINGS
Danbury Township Board of Zoning Appeals

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held March 16, 2016

Approval of the February 17, 2016 Minutes

Ms. Roberts made a motion to approve the February 17, 2015 Meeting Minutes, Mr. Fetzer seconded, and the motion carried.

New Business

There was none.

Other Business

There was none.

Reports and Communications from Members and Staff

Ms. Dale reminded the Board of the Zoning training on April 12, 2016 starting at 6:30 p.m.

Adjournment

Ms. Roberts moved to adjourn the meeting and Ms. Grentzer seconded the motion. All in attendance were in favor and the motion carried. The meeting was adjourned at 11:12 p.m.

Cheryl Harmsen
RECORDING SECRETARY

Carol A. Robertson

Laetia Grentzer

[Signature]

[Signature]

BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS
Danbury Township Board of Zoning Appeals

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

March 16, 20 16

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