

**RECORD OF PROCEEDINGS**  
**Danbury Township Board of Zoning Appeals**

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

June 15,

2016

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by Chair, Carol Robertson, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following present: Ms. Carol Robertson, Mrs. Loretta Grentzer, Mr. Brad Bauer, Ms. Sherry Roberts, and Alternates Joseph Fetzer and Sharon Michael. Mr. Bill Smith was excused. Also present were Kathryn Dale, Zoning & Planning Administrator, Cheryl Harmsen, Administrative & Zoning Assistant. Visitors present were Peter Corrado, Daniel Dudley, Mike Savona, Michael and Diane Wright.

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 #2016-074**  
**9198 E. Bayshore**

**BZA-2016-074 9198 E. Bayshore Road. Request for a Conditional Use in accordance with Section 3.1.10.C.iii. to enlarge & convert an existing commercial building into a two-family dwelling with an Area Variance from Section 3.5.9 to allow more than one (1) residential structure on the property. Michael and Diane Wright, Owners/Applicants.**

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing, there were none.

Mrs. Grentzer made a motion to open the public hearing, seconded by Ms. Roberts. All were in favor and the motion carried.

The Chair asked Ms. Dale to give an overview of the case. Ms. Dale stated Michael Wright had come before this board earlier this year with a similar request, yet this is substantially different in that the proposal is to enlarge the existing building to eliminate the need of a variance previously requested and subsequently denied. The applicants would like to convert the building that was formerly a hair salon into a second dwelling unit by constructing a 262 square foot bedroom and loft addition to allow the building to meet the ground floor 600 square foot minimum requirement for a one and a half story residential dwelling. A variance is necessary to allow more than one residential structure on the property since this currently detached from the home. In addition to the former commercial activity, the property contains a single-family dwelling and shed. In September 2010, the Wrights purchased this property and this building continued to be utilized as a commercial space until October 2015. Even though this property is zoned R-C, the R-3 High Density Residential District development standards apply but a two-family has to be reviewed as a Conditional Use. All Development Standards requirements are met with the proposed addition.

Michael and Diane Wright came forward and were sworn in. They reviewed the documents and attested that the paperwork the Board received was what they submitted to the Board.

Mr. Wright stated they want to change the proposed building to be less traffic intensive. Going from a commercial hair salon to a rented single-family dwelling provides for less vehicle traffic and more quiet.

Mrs. Grentzer asked if the rental would be month to month or weekly. Mr. Wright stated it would be month to month and they would like to have the income from it. Mrs. Grentzer asked for clarification on the number of stories. Mr. Wright replied it will be a story and a half, the second floor being a loft. Mrs. Grentzer asked the applicant to review the setbacks. Mr. Wright provided setback information that indicated the building is inside the allowed setbacks for the R-C Zoning District.

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

Mr. Bauer moved to close the public comment segment portion of the hearing. Seconded by Mr. Fetzer. All were in favor and the motion carried.

The Chair asked for a motion to recess into executive session for the purpose of deliberating the merits of the case. Mrs. Grentzer made the motion. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Ms. Roberts - yes. The motion carried and the Board recessed at 6:50 pm.

Mrs. Grentzer moved and Mr. Bauer seconded the motion to reconvene. The roll call vote was as follows: Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Ms. Roberts - yes. The motion carried and the Board reconvened at 7:02 pm.

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The Chair asked Mr. Harmsen to read the Findings of Fact for BZA Case # 2016-074.

**With regard to Case # BZA-2016-074, being a request for a Conditional Use in accordance with Section 3.1.10.C.iii. to enlarge & convert an existing commercial building into a two-family dwelling with an Area Variance from Section 3.5.9 to allow more than one (1) residential structure on the property, for the property located at 9198 E. Bayshore Road:**

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 calls for the property and surrounding area on the south side of E. Bayshore Road to be used in a Recreational-Commercial capacity.
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 structure is existing, residential in character and has contained a more intense commercial business than the proposed 2-family use.
3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses for the same reasons stated previously.
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 stated previously.
5. The Conditional Use **will** be served adequately by essential public facility and services because all the utilities are existing.
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 all vehicular approaches will remain the same and are adequate to serve an additional residential dwelling.
7. The granting of the application is **not** necessary for the preservation and enjoyment of a substantial property right and not merely to serve a convenience to the applicant because they could continue to utilize the subject structure in a commercial, more intense way.
8. 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.
9. The property in question **will** yield a reasonable return or **can** be used beneficially without the variance because the owners could continue to utilize the subject structure in a more intense commercial capacity and also maintain the single-family home.
10. The variance is **not** substantial because but the structure is existing, residential in character and has contained a more intense commercial business than the use proposed.
11. 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 structure is existing, residential in character and has contained a more intense commercial business than the use proposed.
12. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.)
13. The property owner **did** purchase the property with knowledge of the zoning restriction.
14. The property owner's predicament **can feasibly** be obviated through some method other than a variance because they can revert to utilizing the property in a commercial capacity. However, they cannot obviate other than a variance for the use they are requesting due to the space being located in a pre-existing structure.
15. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because there would be a substitution of a more intense, commercial use to a more residential-type living arrangement and allows the owner to continue to utilize a viable building on their property.
16. There were no other relevant factors considered.

Mrs. Grentzer 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 Conditional Use criteria of Section 6.2.2 of the Danbury Township Zoning Resolution and after considering and weighing these factors, the Board also finds that Area Variance Decision Standards(s) (2) (11) (15) weigh more heavily to show that:

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- 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: Ms. Roberts.

Roll Call Vote was as follows: Mrs. Grentzer – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Ms. Robertson – yes; Ms. Roberts–yes. Motion passed 5-0.

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

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

**Adjudication Hearing**  
**Case BZA #2016-086**  
**320 Second Street**

**BZA-2016-086 320 Second Street. Request for a Use Variance in accordance with Section 7.8.2.C.ii to allow one (1) Mobile Food Cart within Lakeside gates for the 2016 season. Dan Dudley, CFO & COO of Lakeside, Owner/Applicant.**

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 open the public hearing, seconded by Mrs. Grentzer. 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 allow one food truck, mobile vending site at the SE corner of the Hotel Lakeside parking lot behind Lakeside Laundry from June 18 to September 5, 2016. This is the only location a vendor would be allowed to set-up. Prior to the Lakeside conferences in early June, Dan Dudley contacted her to discuss his concern for a shortage of places to dine because Sloopy's was closed due to the fire last fall. Mr. Dudley first wanted approval for a three week period and then the question became would they be allowed to have a food truck the entire season. Ms. Dale stated the conferences bring in hundreds of people, it is a special event and because of these circumstances, they were granted a temporary, three-weekend permit and it was explained that to continue with the food truck would require the granting of a Use Variance because since 2012 mobile vending has been prohibited in Danbury Township by the Trustees. Recent media reports indicated Sloopy's has reopened as of June 3<sup>rd</sup> and she had recently noticed it was open while in Lakeside for another inspections. The Zoning Commission recently added standards to the Zoning requirements related to Temporary Structures. The Lakeside Zoning District does not list Temporary Structures as a permitted use. What is being requested is prohibited in the Zoning Resolution.

Ms. Dale reviewed what the Ohio Revised Code states about unnecessary hardship and how the Zoning Resolution defines a Use Variance and the decision criteria for the Board.

Dan Dudley came forward and was sworn in. He reviewed the documents and attested that the paperwork the Board received was what they submitted to the Board. Mr. Dudley stated they have been working on the Sloopy's situation since last November and later there was an arson indictment that slowed the project to restore Sloopy's. Lakeside has three major restaurants, six total, Sloopy's being one of the three. In general people that are visiting Lakeside, tend not to leave because it is difficult to find a parking spot. It is not feasible to start up a new restaurant because of the time of year. There is a list of people who want to open restaurants, there is no space available. Mr. Dudley gave an update saying Sloopy's is not fully open yet and operating as a take-out establishment for now. The kitchen is operational and they have temporary permits but the dining room is still being repaired therefore the restaurant is carry-out only at this time. It should be fully operational in a few days. The owner has made bail and has hours where he is restricted to his home. There are several hearings coming up related to the Sloopy's fire in which the outcome could affect whether this restaurant is open or not. This request protects Lakeside in-case one of the three major restaurants closes. When additional opportunities at other locations in Lakeside come along, the existing established restaurants will be asked if they want to participate. Because of this food truck trial, a

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space has been created in the middle of a block that Lakeside owns. An electric outlet has been added to the rear of the laundry building to avoid the noise of a generator. The basis of this request is for a back-up plan incase Sloopy's closes.

Mr. Bauer asked if Lakeside is renting the space to the food cart. Mr. Dudley replied Lakeside is receiving fees based on a percentage of sales just like the other restaurants.

Mrs. Grentzer asked if the food cart would be out every day for the entire season. Mr. Dudley replied that he is not planning to do that. Mrs. Grentzer stated that not all the events are religious or philanthropic, and Mr. Dudley concurred. Mr. Grentzer asked why it is so difficult for the visitors to leave Lakeside and frequent any of our other restaurants in the Township. Mr. Dudley replied that it depends on how you're dealing with the renters [visitors], for instance people can park at Danbury High School and then be shuttled in and out of Lakeside to and from parking. Mrs. Grentzer asked how these revenues from the food sales benefit Danbury Township. Mr. Dudley stated he didn't know the answer to the question but if the vacationers visiting Lakeside have a bad experience, they may never come back again.

Ms. Roberts stated that does not hold up to what he said, she reiterated that what she hears him saying is they don't leave Lakeside, therefore there is no revenue benefit to Danbury Township. Mr. Dudley stated they have Ohio State University working on an economic activity study, looking at the vacationing guests to Lakeside spending tens of millions of dollars on this peninsula and there are different tax revenues.

Ms. Roberts asked for clarification, if Sloopy's is open, this food cart would not be allowed. Mr. Dudley agreed. Mrs. Grentzer asked when this would extend to, Mr. Dudley replied Labor Day. Mr. Bauer stated this is just a contingency plan for if Sloopy's closes and if they remain open, the food cart will not be used. Mr. Dudley agreed. Mrs. Grentzer asked if the food cart requires inspection. Mr. Dudley replied the Department of Health inspects them every year and a yearly permit is needed. Ms. Roberts asked who they would use as a food cart vendor. Mr. Dudley replied that he has only used Jimmy G's out of Fremont. There are a few others that could come from out of the area.

Ms. Robertson asked what restrooms are provided. Mr. Dudley stated this location is right by the backside of Hotel Lakeside and the public restrooms are immediately inside the East doors. Ms. Robertson asked if the Methodist Men have been contacted to utilize their food cart. Mr. Dudley replied that they were contacted and are doing an event later this year. The issue with them is they can only get a one day permit from the Ottawa County Health Department ten times a year. Ms. Robertson asked if the other business owners have been talked to regarding this matter. Mr. Dudley stated they are not thrilled which is why this is only a backup plan.

Mrs. Grentzer stated other pizza restaurants could deliver to Lakeside residents. Mr. Dudley stated he didn't know how often that happened during the Sloopy's closure. Mrs. Grentzer asked about the sales the food truck generated. Mr. Dudley replied sales went very well over Memorial Day weekend, although most of the restaurant owners said they also did well. The West Ohio Conference last weekend had less attendance than in the past, and the food cart didn't do as well.

Mike Savona at 724 Oak, came forward and was sworn in. Mr. Savona stated he is the owner of Ohh-la-la. As one of the three smaller restaurants, the concern is, the reality is, there are only so many pieces of the pie and if you increase the supply of restaurants, the brick and mortar businesses are going to suffer. As a child growing up, his family came to Lakeside on several occasions. Agreeing with Mr. Dudley, we came to stay and did not go outside of Lakeside. Now, as a permanent resident, he just wants to get out and usually goes to one of the restaurants in Marblehead or the surrounding area. As a business owner, he would like this to be worded that the only way the food cart can operate is if Sloopy's is not in operation. There is no question that they would lose significant revenue. The reality is Lakeside restaurants survive on ten to twelve busy days a season. Mrs. Grentzer asked how they were affected by the food cart. Mr. Savona replied that on the three days the food truck was there, their sales were down from previous years.

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

Mrs. Grentzer motioned to recess into executive session for the purpose of deliberating the merits of the case. Ms. Roberts seconded the motion and the roll call vote was as follows: Ms. Robertson - yes; Ms. Roberts - yes; Mr. Bauer - yes; Mr. Fetzer - yes; Mrs. Grentzer - yes. The motion carried and the Board recessed at 7:56 p.m.

Ms. Roberts 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; Ms. Roberts - yes; Mr. Fetzer - yes. The motion carried and the Board reconvened at 8:17 p.m.

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The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-086:

**With regard to Case# BZA-2016-086, being a request for a Use Variance in accordance with Section 7.8.2.C.ii to allow one (1) Mobile Food Cart within Lakeside gates for the 2016 season, specifically on the property located at 320 Second Street - Lakeside Laundry Rear:**

1. There currently are **not** special circumstances applying to the building or land in question.
2. 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.
3. The authorizing of the variance **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.

Ms. Roberts moved that after considering and weighing these factors, the Board should find that unnecessary hardship is **not** shown sufficient to warrant granting the Use Variance requested, the request is contrary to the public interest, the spirit of the zoning resolution is observed and the use requested is **not** consistent and harmonious to the existing uses.

Therefore the request should be accordingly **DENIED**.

Motion Seconded by: Mrs. Grentzer.

The roll call vote was as follows: Mr. Bauer – no; Ms. Robertson – yes; Mr. Fetzer – yes; Ms. Roberts – Yes; Mrs. Grentzer – yes. Vote 4-1 request is denied.

The Chair stated the case has been denied.

**Signing of Decision Sheets**

Mrs. Robertson asked if there were any corrections or modifications to the decision sheets. There were none.

- a. **BZA-2016-055 56 Woodwinds Way.** Request for an Area Variance from Section 3.1.3.D to allow for a new single-family home to encroach into the 35' required front yard setback (26' proposed). **Dennis & Jaime Bednarski, Owners/Applicants.**
- b. **BZA-2016-057 8620 E. Bayshore Road – South Beach Resort.** 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 wedding/special event tent. **Family Resorts & Marina, Fred Kolar, Owner/Applicant.**

Mrs. Grentzer moved to approve the Decision Sheets. Mr. Fetzer seconded. Voice Vote: All in favor. None opposed the motion carried.

**Approval of the May 18, 2016 Minutes**

Mr. Bauer made a motion to approve the May 18, 2016 meeting minutes, Mr. Fetzer seconded. All were in favor none opposed the motion carried.

**Old Business**

There was none.

**New Business**

There was none.

**Other Business**

Mrs. Harmsen stated Fiscal Officer Shelley Seamon asked her to distribute a Workers Comp form for them to review and then acknowledge with signature.

**Reports and Communications from Members and Staff**

There was none.

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Adjournment

Mrs. Grentzer moved to adjourn the meeting and Mr. Fetzer seconded the motion. All in attendance were in favor and the motion carried. The meeting was adjourned at 8:24 p.m.

Cheryl Larmsen  
RECORDING SECRETARY

Sherry Roberts

[Signature]

Leslie Grentzer

Carl Kobak

BOARD OF ZONING APPEALS