

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

Minutes of

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

May 15, 20 19

The Danbury Township Board of Zoning Appeals was called to order at 6:32 p.m. by Chair, Sherry Roberts, at the Danbury Township Hall. The Pledge of Allegiance was recited. A moment of silence was held for Mr. Brad Bauer who was a regular member of the Board whom passed away May 8, 2019. The roll call showed the following members present: Ms. Sherry Roberts, Mr. Joseph Fetzer, Mrs. Loretta Grentzer, Ms. Sharon Michael and Alternate, Mr. Clyde Shetler. Alternate, Ms. Cathy Bertovich was excused. Also present were Kathryn Dale, Zoning & Planning Administrator. Visitors present were Peter Corrado, Jeff Kmet, Keith Addy, Adam Weaver, Jennifer Lenthe, Jerry & Jane Piechocki, Gregory Richard.

Ms. Dale read the rules of order for the meeting proceedings. At the conclusion of the meeting proceedings, Ms. Dale shared that only 4 members are present this evening. The case this evening will need majority vote (3-1) for a decision to be made. Should a vote result in a tie (2-2), then the application will automatically be placed on next month's agenda. Ms. Dale offered the applicant the option to continue on their own accord before the meeting proceeds. The applicant indicated they wished to move on this evening.

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

**Adjudication Hearing**  
**Case BZA #2019-056**  
**9400 Northshore Blvd.**  
**Otterbein Northshore**

**Request for a Conditional Use in accordance with Section 3.1.3.C.iv & Section 4.6 for approval of Phase IV to allow for a 10-bed Continuing Care Retirement Building as part of a previously approved Conditional Use.**

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. Fetzer moved and Ms. Michael 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 this application. Ms. Dale stated Continuing Care Retirement Communities are Conditional Uses in the "R-2" Suburban Residential District and according to the Danbury Township Zoning Resolution, Conditional Use approvals are valid for one (1) year. Otterbein was initially approved in 1994. A condition placed on the project at that time was that this initial approval was for Phase I only and each additional Phase would have to come back to the Township's Board of Zoning Appeals. In 1998 approval was given for Phase II and Phase III in 2005. In 2006 approval was given for this particular building and the other building like it (AKA Jane Baker House) that did end up getting constructed in 2006. While the plan hasn't really changed in 13 years, the approval period has far expired.

Ms. Dale reviewed the most applicable sections of the zoning resolution for this proposed building.

- 40' side setback from boundary lines of development site. (Satisfied)
- 6-9 additional parking spaces required. 21 spaces to remain and adding 17 more. (Satisfied)
- 35' max. building height (TBD – applicant had architectural drawings with them)
- 20' building separation (Satisfied – 49.2' proposed)
- Parking and traffic circulation plan: The plan was shared with the Fire Chief. The only concern he has is maneuverability of the ladder truck around the cul-de-sac, but is otherwise believes access is sufficient. If the need ever arose, the ladder truck would be able to remain on Mansperger Way as well.
- Exterior Lighting shall be shielded to direct light only on the property and focused away from all adjoining property and shall be a maximum height of 35 feet. According to the lighting notations on these plans, the details are included in the Architectural plans. The height of the lights can be verified during the permit review, but it appears there would only be 2-3 new poles around the cul-de-sac parking area. There are 3-4 homes along Erie Beach that directly abut this building area. Effort should be made to ensure that wall-pack lighting or other light fixtures on the rear of the building do not have an outward shine.

Ms. Dale concluded by reviewing the decision criteria the Board would be considering for this request.

Jeff Kmet, Vice-President & Agent, Otterbein Northshore, 580 N. SR 741, Lebanon, Ohio came forward and was sworn in. Mr. Kmet reviewed the paperwork and stated it was as they submitted. He distributed the building elevations drawings to the Board. Ms. Dale stated this would be entered in

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as Applicant's Ex. 2 and consists of 2 sheets, A201 and A202. Mr. Kmet said the building is really unchanged from what they had proposed back in 2006. There will be very similar finishes to the building as the Jane Baker House. He said they are just now having the need and demand to build this building for skilled nursing residents. Ms. Michael clarified that there are no changes, everything is on schedule for what they planned before. Mr. Kmet said that was correct. He said they had planned to build two buildings, but built one and would now like to build the second building in the same spot that it was previously planned. Ms. Grentzer asked for clarification on location. She asked about another building shown on the master plan on the west side of the property. Mr. Kmet said that will not be built at this time and that is still a future, potential building.

Ms. Grentzer said there were comments about the lighting. She said more than anything she would like on record that they will ensure that the lighting will be shielded and will not be a problem for any of the nearby residents. Mr. Kmet said that would be correct. He said that there are 3 existing lights on the road that will be relocated with the access and parking change. He clarified that they are not adding any additional street lights. He said there will be lights on the back of the building for security purposes, but they are usually motion detected/activated. He said those fixtures are proposed to be dual-head and similar to what some of the Board members may have on their own home that can be purchased at Walmart, Home Depot or Lowes.

Ms. Grentzer asked how many residents will be in this new building. Mr. Kmet said they would have 10. She asked if it will be similar to the main building. He said it would be skilled nursing, long-term care. He said in the back area they have independent living homes. Ms. Michael asked how many independent homes they have available. Jennifer Lenthe started to answer, Ms. Roberts asked her to come forward and be sworn in.

Jennifer Lenthe, Executive Director of Otterbein Northshore location, 9400 Northshore Blvd, Marblehead, Ohio came forward and was sworn in. She stated they have 34 independent patio homes, 24 independent living apartments that are connected to the main building. There are 37 assisted living units and then the Jane Baker House with 10 beds in that building which is skilled nursing and rehab center. Ms. Michael asked if they have plans to fulfill more of the master plan. Mr. Kmet said every 3-5 years they reassess to determine the supply & demand needs.

The chair went thru the sign-in sheet to see who would like to speak. Keith Addy was called upon and did not wish to speak. Adam Weaver was called upon and was with the applicant with the civil engineering firm; he had nothing more to add and did not wish to speak.

Jerry Piechocki, 9435 E. Miami Avenue, Marblehead came forward and was sworn in. He said that he and his wife are Trustees of the E. Miami Property and Road Association. He stated there are some concerns are of the Riley Ditch that runs north and south and then swings to the west by E. Miami Avenue. He asked if there have been other concerns raised about whether Otterbein will attempt do anything during construction to straighten out the flow of the water and drainage problems in that ditch. Mr. Piechocki said there is standing water all year-round in the ditch and it's starting to become a problem for insects breeding. He said he doesn't know if they plan on coming up to the ditch when they build this building. Overall, the water is not flowing to where it is supposed to go and he is just wondering if they are going to approach this problem.

Ms. Dale stated she can turn it over to them to rebut and answer if they have plans to do anything on their end, but zoning has no regulatory authority over ditches and drainage. She stated that he could possibly get in touch with the County Engineer's office because they do typically have some authority over ditches. She said she thought it would kind of depend on if there were any easements in place. In short, she said she can't answer his questions, but he should reach out to the County Engineer's office.

Mr. Kmet said that per the zoning, the building will be at least 40' away from that ditch, so they will not be encroaching into the ditch. Ms. Dale asked if they will be tying into the ditch at all. Mr. Kmet said they would for one downspout drainage, but nothing else. Ms. Dale said that would also be reviewed as part of their permitting process with the various County agencies and whichever department has regulating authority over it would have to sign off on their permit application. Ms. Dale suggested that the applicants reach out to those various departments before submitting for permits to know exactly what they are and are not allowed to do with regard to the ditch. Mr. Piechocki asked if those County agencies would be required to notify neighbors. Ms. Dale stated she did not think so, but that would be questions for County.

Jane Piechocki, 9435 E. Miami Avenue, Marblehead came forward and was sworn in. We know that when building has occurred there in the past they push all the dirt and store it there, on their own property. Its part of building, but it also changes the direction of water flow and if they do this here again, she's concerned it will cut-off where the water needs to go and it will continue to back-up until they get to the pile and remove it. Ms. Grentzer asked if she or Mr. Piechocki have ever reached out or gone to the Otterbein officials and complained or asked them for help to alleviate the issue? Mrs. Piechocki said no. She stated they have gone to them other times for other issues. She said it's not too

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bad right now, but they worry about the back-up. She said they do keep the property very lovely and they keep the lights as best they can. Mrs. Piechocki said they have very few complaints.

Gregory Richard, 248 Erie Beach Road, Marblehead came forward and was sworn in. Mr. Richard said we've had an exorbitant amount of rain and his yard has flooded twice because of the ditch. He said he helps take care of a few of the properties along there and makes sure the ditch is clear, which is the same general location that they propose to build, but further down there is a lot of overgrowth and leaves that have caused the back-up. He said that if they are building where he thinks they are putting this building, it's sort of swampy and he's sure they'll have to bring some fill in. He said he doesn't have a problem with the project, but with the weather we've had it is causing that ditch to overflow. Mr. Richard said the only question he had was that on the first building, they put a fence up behind it and he was wondering if they had plans to do the same for this building. Mr. Kmet said they did fence in the patio area at the Jane Baker House and would do the same with this building.

There were no further questions from the Board and there was no one else with standing who wished to testify.

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

Mr. Fetzer motioned to recess into executive session to deliberate the merits of the case. Ms. Grentzer seconded the motion and the roll call vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The motion carried and the Board recessed at 7:01 pm.

Ms. Grentzer moved and Mr. Fetzer seconded the motion to reconvene. The roll call vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The Board reconvened at 7:21p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2019-056:

**With regard to Case #BZA-2019-056 being a request for a Conditional Use in accordance with Section 3.1.3.C.iv & Section 4.6 for approval of Phase IV to allow for a 10-bed Continuing Care Retirement Building as part of a previously approved Conditional Use for the property located at 9400 Northshore Blvd, also known as Otterbein:**

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township Land Use Plan because the plan identifies this area as High Density Residential and encourages diverse and affordable housing options including expansion of senior housing options.
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 request **does not** change the use or density to a more intense use or density than previously permitted or approved in the original plan for the property.
3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses because the proposed building meets all setback requirements.
4. The Conditional Use **will not** be detrimental to property in the immediate vicinity or to the community as a whole because the property in general is appropriate for this additional building and has ample space to accommodate it. There has also been no change in this buildings proposed location or positioning and is not contrary to the intent of the original plan.
5. The Conditional Use **will** be served adequately by essential public facility and services because services have been planned for this development for some time, are available to the site and will be installed to current standards required by the County.
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 main entrance is pre-existing and the modifications to the parking will allow better access directly in front of this structure.
7. Other relevant factors, if any, considered include: None

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-3" High Density Residential zoning district and after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (4) (6) weigh more heavily to show that:

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- a. The request is consistent with the Conditional Uses specifically mentioned in the "R-3" High Density Residential 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.** Motion Seconded by Ms. Michael. Roll Call Vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mrs. Roberts – Abstained. Vote 3-1 the motion passed.

Ms. Dale explained that the Board would be signing the final decision sheet this evening as well.

**Signing of Decision Sheets**

The Chair asked the Board if they had the opportunity to review the Decision Sheets presented for the following cases. There were no corrections or modifications. Mr. Fetzer made a motion for approval of the decision sheets as presented for the following cases. Ms. Grentzer seconded the motion. All were in favor and the motion carried.

- a. **BZA-2019-033 Lighthouse Bluffs III & IV; Lighthouse Oval & Northshore Blvd.** Request for a Conditional Use in accordance with Section 3.1.4.C.v. & Section 4.7 to allow for a 47 site Single-Family Cluster Housing Community. **Lewis Land Professionals, Agent/Ken Cleveland & JakeJosh, LLC, Owner.**
- b. **BZA-2019-040 250 Margaret.** Request for an Area Variance to Section 5.1.1.A.ii. to allow for a 24' x 26' (624s.f.) addition onto an existing detached garage that will exceed the allowable size (1,200 cumulative s.f. allowed/ 1,488s.f. proposed). **David Gulau, Owner.**
- c. **BZA-2019-056 9400 Northshore Blvd.** Request for a Conditional Use in accordance with Section 3.1.3.C.iv & Section 4.6 for approval of Phase IV to allow for a 10-bed Continuing Care Retirement Building as part of a previously approved Conditional Use. **Otterbein Northshore, LLC Owner/Applicant.**

**Approval of April 17, 2019, 2019 Board of Zoning Appeals Meeting Minutes**

Mr. Fetzer made a motion to approve the April 17, 2019 meeting minutes, Ms. Grentzer seconded. All were in favor and the motion carried.

**Old Business**

There was none.

**New Business**

There was none.

**Other Business**

Cards were signed to send to Cathy Bertovich and for the family of Brad Bauer. Donations were also collected on behalf of the Board for the Bradley O. Bauer Scholarship Fund.

**Reports and Communications from Members and Staff**

There was none.

**Adjournment**

Ms. Grentzer moved to adjourn the meeting and Ms. Michael seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 7:30p.m.

RECORDING SECRETARY

*Sherry Golett*  
*Joseph R. Fetzer*  
*Annella Grentzer*  
*S. J. Michael*

BOARD OF ZONING APPEALS