

RECORD OF PROCEEDINGS

Minutes of

AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Auburn Township Administration Building

11010 Washington Street

January 10, 2023 1

Held

BZA-2022-13c

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MEMBERS PRESENT: DOUG HOGAN, BRIAN STEWART, MICHAEL VARLEY, ROBERT FORD, LEWIS TOMSIC, BEN TIMMONS

MEMBER ABSENT: DAVID PARKER

MEMBERS HEARING

THE CASE: Hogan, Tomsic, Stewart, Ford, Varley

CASE FILE: The case file is included as part of the official record, and also includes the Auburn Township Zoning Resolution

BZA-2022-13c--a request for a conditional use certificate submitted by Crash Champions, LLC, for an auto body repair garage located at 9967 Washington Street, Auburn Township, OH 44023, in a B-1 zoning district.

The meeting was called to order by Chairman Doug Hogan at 7:03 PM. Roll call was taken with the following members present: Mr. Ford, Mr. Hogan, Mr. Stewart, Mr. Tomsic, Dr. Varley, and Mr. Timmons. Mr. Parker was absent.

Fire Chief, John Phillips, Frank Kitko, Auburn Township Zoning Inspector and Jane Hardy, Assistant Zoning Inspector were also present.

The Pledge of Allegiance was recited.

Mr. Hogan swore everyone in who was planning on testifying.

Chairman Hogan read the opening statement as follows:

The BZA is a quasi-judicial body and as such, its role is similar to a judge in a court case. The Board will hear evidence and testimony that is factual and will make decisions based upon the facts, which are presented, the rules as set forth in the resolution and principles of law.

The Ohio Revised Code Section 519.13 requires that any Township that has adopted a zoning resolution, which Auburn Township has, appoint a five-member Board of Zoning Appeals and 2 alternate members. This Board is empowered to hear and decide appeals and to authorize variances from the strict terms of the zoning resolution where the variance will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the resolution will result in an unnecessary hardship or practical difficulties. The BZA is also permitted to authorize variances where the spirit and intent of zoning is upheld and substantial justice will be done.

With this being stated, the Board's proceedings are relatively informal; but, in order to conduct an orderly meeting and allow all parties of interest, mainly contiguous property owners, or their legal representatives, the opportunity to present the evidence, certain procedures need to be followed:

All interested parties must be sworn in. The applicant will be asked to present evidence to support the requested appeal, the Board will ask questions, and then all interested parties (contiguous property owners) may present evidence concerning the appeal and ask questions regarding previously presented evidence.

It is the applicant's burden to produce evidence to support the application. The Board will not make the applicant's case for them. In order to prepare appropriate meeting minutes, each person, who speaks, will need to state, for the record, his/her full name and address. The meeting may be continued by either the applicant or the Board.

The Board must base their decisions upon facts and not on expressions or concerns or non-factual matters. The action of the BZA does not become final until 30 days, after the date of the meeting that the minutes were approved.

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Mr. Hogan also commented that the official record for this hearing, BZA-2022-13c, will be the minutes recorded by the Board of Zoning Appeals Secretary and also as part of the official record, is the case file and the Auburn Township Zoning Resolution.

Mr. Hogan proceeded with the agenda item under Old Business. It was noted that the Martins had submitted a letter officially withdrawing both their variance requests (BZA-2022-11v and BZA-2022-12v) and their withdrawal letter is located in their case file.

Mr. Hogan continued the meeting to New Business which is as follows:

BZA-2022-13c--a request for a conditional use certificate submitted by Crash Champions, LLC, for an auto body repair garage located at 9967 Washington Street, Auburn Township, OH 44023, in a B-1 zoning district.

Representing Crash Champions for the meeting was Greg O'Brien from the law firm of Taft, Stettinius, and Hollister, in Cleveland, Ohio. Mr. O'Brien introduced himself to the Board. Mr. O'Brien indicated that he is under the impression that the fire and safety issues from the other conditional use permit that Crash Champions has were taken care of and he is sure that the same safety measures will be implemented on this new building.

Mr. O'Brien also recognized that parking at the Rad Van Complex has become an issue and indicated that it is his understanding that Crash Champions has leased some temporary additional parking from the neighboring Pond Ice Rink, which is located to the east of the Rad Van Complex.

Mr. O'Brien also explained that Crash Champions has more available parking at their other two locations in the Rad Van complex. He explained that there are sixteen (16) additional spots for a total of 42 spaces for employee vehicles.

Frank Kitko, Auburn Township Zoning Inspector explained that in the original agreement for the Rad Van Complex that there are exclusive parking areas that are for the all the businesses at Rad Van. The leased parking at the Pond Ice Rink is for Crash Champions employees and construction workers and that Crash Champion's employees are parking in areas reserved for those other Rad Van businesses.

Mr. Kitko also indicated that he met with Ed Radick, who owns and is responsible for the Rad Van Complex. Mr. Kitko further explained that there is an agreement that had been reached for Crash Champions to lease some additional space directly from Radick Landscaping. Mr. Kitko further explained that this additional parking is behind the original Crash Champion building (9935) that Crash Champion is currently leasing from Bill Collins.

Mr. Kitko further commented that it has been three (3) weeks since this was agreed to between the two parties but Crash Champions has yet to act on anything. Mr. Kitko indicated that it appears Crash Champions are dragging their feet and they need to get this new lease for parking finalized, "get the document ready and get it done."

Bob Battisti, whose company is involved in the project, by overseeing the construction of the new replacement building, indicated that Auburn Township is bending over backward to accommodate this project.

A discussion took place.

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Mr. Battisti also explained that there is a written lease with The Pond Ice Rink for the additional parking. He indicated that he spoke to Elise the owner of the Pond Ice Rink. Mr. Battisti indicated that Elise [owner of the Pond Ice Rink] confirmed that other than two weekend high school events, the parking at The Pond Ice Rink delegated for Crash Champions will not be problematic. Elise is aware that this parking area will be more transient parking and she is ok with it.

Jeremy Holmsy introduced himself to the Board. He indicated that he is representing Radick and that there are concerns with the parking at the complex. Mr. Holmsy indicated that there are cars parked upfront, on the north side parking area in the complex, that are just junk vehicles and they have been there longer than they should have been. He also commented that Crash Champions are making the whole complex look “junky” because of all the damaged cars parked everywhere.

Mr. Holmsy further explained that not all the parking in the complex is in a common area for Crash Champions to use. He further commented that all the Rad Van parking is designated for each separate building and business that is located in the complex. He also explained that all the assigned parking to the individual buildings/businesses is outline in the original covenants and restrictions for when the complex was set up.

Mr. O’Brien asked Mr. Holmsy for a copy of the original documents, if they were available.

It was noted that the new building construction trailer is taking up eight to ten parking spaces, those parking areas will be available once the new building is completed.

Mr. Stewart noted that it appears that there will be adequate parking, if Crash Champions agrees to the new forty-two (42) spaces that will be leased directly from Radick.

Mr. Kitko also noted that part of the problem at this location, is that when a car is towed to the location there is no control on where the driver unhooks the car. Mr. Kitko explained that there needs to be a designated area for the towing companies to drop off the towed vehicles.

Mr. Hogan indicated that he wants to clear up this parking issue so the Crash Champions business does not impact the other businesses located at Rad Van.

Mr. O’Brien indicated that the new building that will be constructed, is the same building at the same location as the building that was destroyed by the fire. He indicated that Crash Champions leases the other two buildings.

Mr. Stewart asked what the intent currently is for the new building. Mr. Stewart also commented that initially the intent of this building was to have a drive through area, minor detailing and office space and there was not going to be repair work on cars or lifts in this building.

Mr. O’Brien indicated that the work will be the same; and that the business is a permitted conditional use. Mr. O’Brien also commented that there will be a fire alarm system that will be approved.

Mr. Hogan asked for a comment from Fire Chief John Phillips. Chief Phillips indicated that this is a commercial area and life safety is the issue that his Department is concerned with.

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Mr. Hogan again stressed the concern that there is about blocking other customers and other businesses and he wants to be sure that this parking situation is resolved and that there are provisions in place before moving on with the request.

Mr. O'Brien commented that the cars can be moved in the back of the complex behind the other Crash Champion building, so they cannot be seen in the front.

Mr. Hogan indicated that he wanted to recess this request until the parking uncertainties are cleared up to the satisfaction of the Zoning Inspector. Mr. Hogan is hoping for an executed copy of a lease agreement between Radick's Landscaping and Crash Champions, approved designated areas for car drops offs shown on a site plan and that the cars are not be stored at this location for more than thirty (30) days.

It was also noted that Auburn Township needs to be provided with local contact telephone numbers for when there is a problem that the Zoning Department or Fire Department is not having to call Crash Champions home office in Chicago, with no results, but can call someone locally to rectify any problems.

Motion by Douglas Hogan to recess BZA-2022-13c. The motion was seconded by Brian Stewart. Vote: Hogan, yes; Stewart, yes; Varley, yes; Tomsic, yes; and Ford, yes.

The meeting moved on to the next agenda item.

Minutes submitted by

Minutes Approved on:

Jane Hardy, BZA Secretary

February 7, 2023

Doug Hogan, Chairman