

Auburn Township Administration Building

1424033 Washington Street

October 1, 2024

Held

BZA-2024-13c

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

MEMBER ABSENT: DAVID PARKER, DOUG HOGAN,

MEMBERS HEARING THE CASE:

Stewart, Varley, Ford, Tomsic, Timmons

CASE FILE: The case file for BZA-2024-13c is included as part of the official record, along with the Auburn Township Zoning Resolution

BZA-2024-13c—a request for a Conditional Use Certificate, submitted by **Cleveland Warehouse, Clark Miller**, for retail sales in completely enclosed buildings, per Article 4A.05(c)(1) of the Auburn Township Zoning Resolution, located at **18885 Auburn Road**, Auburn Township OH 44023, in an **I-1** zoning district.

BZA-2024-14v—an appeal requesting a variance for a proposed event/party center, submitted by **Cleveland Warehouse, Clark Miller**, from the Auburn Township Zoning Resolution, **Article 5.05(a)**, any use not specifically listed shall not be permitted for a proposed event/party center located at **18885 Auburn Road**, Auburn Township OH 44023, in an **I-1** zoning district.

The meeting was called to order by Chairman Robert Ford at 7:00 PM.

Roll call was taken. Members present were Brian Stewart, Lewis Tomsic, Robert Ford, Michael Varley and Ben Timmons. Members absent were David Parker and Doug Hogan.

Frank Kitko, Auburn Township Zoning Inspector; Jane Hardy, BZA Secretary were present. Fire Chief John Phillips and Assistant County Prosecutor Kristine Rine were also present.

The Pledge of Allegiance was recited.

Mr. Ford welcomed all that were in attendance. He also asked that anyone who was planning on testifying to be sure they had signed in. He swore everyone in who was planning on testifying. He also indicated that if anyone was going to testify that they needed to give their full name and address. He also indicated that if any decision was going to be made tonight that the decision would not go into effect until thirty (30) days after the date that the meeting minutes were signed.

Mr. Ford announced the meeting protocol. He indicated that the applicant and/or their legal representative and architect would be presenting their case to the Board of Appeals for their Conditional Use permit. Next the Board will hear testimony from the Fire Chief and Zoning Inspector. The Board of Appeals would then ask questions. After that there would be comments from the contiguous property owners and then comments from the general public.

Chairman Ford 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.

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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.

Mr. Ford also commented that the official record of these proceedings will be the Board of Zoning Appeals meeting minutes and the case file for this case is part of the official record.

Mr. Ford announced and confirmed that BZA-2024-14v was withdrawn by the applicant, Clark Miller.

Mr. Ford read the appeal requesting a variance for a proposed event/party center, submitted by **Cleveland Warehouse, Clark Miller**, from the Auburn Township Zoning Resolution, **Article 5.05(a)**, any use not specifically listed shall not be permitted for a proposed event/party center located at **18885 Auburn Road**, Auburn Township OH 44023, in an **I-1** zoning district.

The Millers and their attorney all confirmed that the use variance request BZA-2024-14v was officially withdrawn.

The meeting moved on to the next item for new business, which was:

BZA-2024-13c—a request for a Conditional Use Certificate, submitted by Cleveland Warehouse, Clark Miller, for retail sales in completely enclosed buildings, per Article 4A.05(c)(1) of the Auburn Township Zoning Resolution, located at 18885 Auburn Road, Auburn Township OH 44023, in an I-1 zoning district.

Attorney Eric Walter indicated that he represented the legal side of the request for the Millers. He again confirmed that the Millers were withdrawing the variance request. Attorney Walter also had eight (8) pictures of the Miller property that were introduced and shown to the Board members but were not identified with Exhibit numbers. The eight pictures are in the Miller case file for BZA-2024-13c.

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He indicated that the intent of the retail sales is covered in Article 1.03. They are allowed to promote the property per 4A.01(c) (d). They are allowed economic develop. He indicated that his clients took an eyeshore of a property and have made it “a beacon for the community.” He indicated that many sections of the zoning resolution allow for manufacture uses, trade areas and to operate and do what they want to do; 4A.02(f) (I-1 zoning district) allows for manufacture. 4A.05 general business; Mr. Walter indicated that there is not a definition for general business, 4A.05 a conditional use; 2.02; 6.05(e) (1); 6.05 b-5; 6.01 b-5 c-5; 3.01 and 5.13 they comply; 5.03 (t); 3.05; 3.02; 3.01 allows them to operate.

Michelle Miller introduced herself to the Board and indicated that they have a huge investment in this property; they support the schools, the sports programs; they have a partnership with Auburn Career Center and in addition they pay a lot of taxes on all their properties and those tax dollars benefit the community. She indicated that they have spent a half million dollars to renovate this investment and they were surprised by their neighbor’s lack of support comments.

Clark Miller commented that he just loves the building, “it is a great building” and that is why he moved on it when the building became available. He explained that the showroom gives his clients the opportunity to come in and see their pieces and get a feel for what the business is doing. He explained that he has a huge following in this area and wants to utilize that showroom space and show off what the business can do.

The attorney read a section of Frank Kitko’s letter of June 14, 2025, and that the Miller’s proposed use is permitted per Auburn’s zoning.

Architect Steve Ciciretto explained that the property is 3.5 acres and other Industrial areas are half the size of the Miller property. He further explained that there is half day employee parking for when they bring people in. He further commented that they plan on entertaining in the showroom which is about 2000 square feet; since there is 18,000 square feet for manufacturing; so the display area is approximately 11% of the manufacturing square footage. He indicated that the showroom will be for art and their display.

He also explained that their clients will have dinner in their showroom. Mr. Ciciretto had a paper showing the distances of the Cleveland Warehouse structure to either of the neighbors dwellings and the distance was 150’ from the property line.

Mr. Stewart asked Mr. Ciciretto when he was commissioned to do the work. Mr. Ciciretto indicated that he was contracted on June 10th. Mr. Ciciretto was asked how far along was the building renovation and he indicated that they were cleaning the area up and the mezzanine was started to be installed.

Mr. Stewart indicated that he felt construction was started without approval. He explained that the Millers should have applied and been given a building and electrical permit, he indicated that construction was started without permits.

It was noted that this was an oversight on the Miller’s part.

Mr. Stewart indicated that there is a concern with this construction for life safety without having inspections completed on the work. A discussion also took place whether the electric in the building is up to code. Clark Miller indicated that the electric is up to code and that it was updated previous to his purchasing the property.

Mr. Tomsic indicated that for health purposes, he was concerned that the septic was not up to code and it would be problematic adding the additional usage to it. He also indicated that part of the whole process is to have the septic evaluated and if necessary to have it upgraded. He indicated that this is especially important since there would be more people. Mr. Tomsic indicated that this should be done before the conditional use is issued.

Mr. Ciciretto indicated that this could be one of the conditions for the conditional use permit.

Mr. Tomsic indicated that no improvements should have been done to the structure before the septic was evaluated and approved by the Geauga County Health Department.

Mr. Tomsic indicated that septic systems with single tanks have not been installed in Geauga County for over fifty (50) years. Mr. Tomsic further commented that with all the ground disturbance on the property, he indicated that the property soils need to be evaluated, before the soils are disturbed anymore, to determine what upgrades are required.

A discussion took place whether the previous owner had an issue with the septic. It was noted that the previous owner was not adding additional uses to the property. Mr. Ciciretto indicated that the property is a 3.5 acre lot and certainly there should be room on the property for an updated septic system, if it is needed.

A discussion took place whether this property’s septic could support the additional activity and still allow for proper sewage disposable.

Another discussion took place. It was noted that \$500,000 has been put into the property by the owner and that the whole idea of this meeting was to set conditions first, so a building permit could be obtained and the septic could be evaluated.

The attorney commented that “why would a property owner invest and then find out that he could not do what he wanted to do on the property”. The attorney and the architect again indicated that they could not go to the Building Department without obtaining the zoning permit first.

It was explained by the Zoning secretary that a zoning permit had already been issued in July for this showroom and mezzanine area project, [that was built without permits and inspections] and that paperwork [zoning permit] was to be submitted to the Geauga County Building Department and the County Health Department by the Millers, so the after-the-fact inspections could be done and the project approved for health and safety.

Therefore, the claim by the attorney that the Millers need the conditional use permit to proceed with the Building and Health Department is not accurate. Frank Kitko confirmed this statement.

A discussion took place regarding the order that the Millers addressed the whole process for their project. It was explained that manufacturing their product is a permitted use in an I-1 zoning district.

The issue is, that the business opened, had a grand opening event without getting permits and or confirming that the work done in the building was completed to code requirements, which opens Auburn Township up for liability for not addressing known health and safety issues.

Mr. Ford commented that the Township does not even know if the building is safe yet.

Mr. Miller apologized for “putting the cart before the horse.”

Frank Kitko, Auburn Township Zoning Inspector, was asked by Mr. Ford if he had any concerns. Mr. Kitko explained that he also had safety concerns since again the work was done at this facility without any permits and inspections. Mr. Kitko explained that he was especially concerned when they held the Grand Opening on June 28, 2024, with over 200 people in attendance and the severity of the safety involved; the structural changes made inside the building, the parking situation, the total disregard for the septic.

Mr. Kitko indicated that this is the second time that this has happened with this couple.

He also indicated that the showroom can hold up to 100 to 150 people and he questioned if there is enough parking for these numbers.

A discussion took place regarding the occupancy of the showroom and the previous issues the Township had with the Miller's with the old Westover Building on Washington Street.

Mr. Miller commented that he did not need permits for the siding and garage at the Westover Building and that Mr. Kitko stopped the Miller's plans for the proposed restaurant.

Fire Chief John Phillips was asked for his comment on the situation. Chief Phillips indicated that it was a life safety issue and that an occupancy permit has not been issued yet for the structure.

The Chief did disagree with a previous statement that he gave the Miller's permission for the open house. It was clarified that they were questioned on what was being done at the location.

A discussion took place about the misunderstanding about whether inspections were or were not done, having mass groups of people inside the building, allowing the grand opening to take place on June 28, 2024.

A discussion took place regarding the area separation firewalls that are or are not located at the building. Mr. Ciciretto pointed out on a drawing of the floor plan of the building where he thought there were firewalls.

Mr. Tomsic again commented on the safety aspect of the building and the area that was upgraded without inspections.

Attorney Eric Walter commented that his client wants to do the retail sales in conjunction with the show room and they need the conditional use for retail sales. This is part of the marketing strategy.

Mr. Ford asked if there were comments from the Contiguous Property Owners.

Attorney Hunter Covell indicated that he represents the Grey family at 18880 Auburn Road. He asked regarding the retail use of the property, what the hours would be.

Attorney Covell also presented a picture of how the building is lit at night and how obtrusive the lighting is for his clients and the neighborhood. The picture was entered into the permanent case file. He indicated that the Greys are not anti-business but excessive lighting and excessive noise are nuisance issues that occur on the property.

Mr. Miller discussed how they will use the showroom for entertainment. They may have twenty people fly in from Miami have dinner in their showroom from 7-10 and the Millers can promote their work and art pieces from the showroom during that time. A discussion took place.

Christina Gray commented that they do not want to hear any noise or any disruptive activity. A discussion took place regarding the Township's noise resolution.

Mrs. Gray was reminded that she purchased property across from an industrially zoned district and the business could operate 24-7 for manufacturing purposes.

Ben and April Misser, 18947 Auburn Road had questions regarding a conditional use permit. It was explained that conditional use permits do not stay with the property forever nor are they transferrable to the next owner and that the Township can review them periodically or revoke them.

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The Missers did express concerns regarding parking on Auburn Road and how dangerous it was.



It was noted by Clark Miller that that situation was just a one-time occurrence.

Steve Ciciretto commented that the maximum occupancy in the showroom is 100 people. Ciciretto also noted that the mezzanine occupancy is 100 people. It was explained that using the showroom is part of the marketing that is needed to expose their items to the public. He also commented that he is not even sure why retail sales is a conditional use because it is a commercial business and should be allowed in an industrial district.

Mr. Ford suggested that the meeting be tabled until the Board receives more information that the building is safe by county standards, including building permits, inspection reports, septic system upgrades (if required) and an occupancy permit. A discussion took place regarding how much time was needed to receive the required information.

It was noted that there is a possibility that the meeting will be continued on November 12, 2024.

Motion by Brian Stewart to table BZA-2024-13c. The motion was seconded by Lewis Tomsic. Vote: Stewart, yes; Ford, yes; Tomsic, yes; Varley, yes; and Timmons, yes. The motion was granted.

Motion by Lewis Tomsic to approve the meeting minutes from the September 5, 2024, meeting. The motion was seconded by Robert Ford. Vote: Stewart, yes; Ford, yes; Tomsic, yes; Varley, yes; and Timmons, yes. The motion was granted.

Next meeting will be October 8, 2024, for Crash Champions.

Motion to Michael Varley to adjourn the meeting. The motion was seconded by Ben Timmons. Vote: Stewart, yes; Ford, yes; Tomsic, yes; Varley, yes; and Timmons, yes. The motion was granted.

The meeting was adjourned.

Minutes submitted by

Minutes Approved on:


Jane Hardy, BZA Secretary

October 8, 2024



Robert Ford, Chairman