RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held 11455 Washington Street June 10, 2025 20 1

FINAL

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

MEMBER ABSENT: DAVID PARKER

MEMBERS HEARING THE CASE: BRIAN STEWART, MICHAEL VARLEY, ROBERT FORD, LEWIS TOMSIC, DOUG HOGAN

CASE FILE: The case file for BZA-2025-05cu is included as part of the official record, along with the Auburn Township Zoning Resolution

Old Business:

BZA-2025-04zi--appeals alleging Zoning Inspector error for the following:
Determination #2—Use variance request can be submitted...within twenty (20) days of receipt of letter...Applicant appeals because it does not need a use variance;
Determination #3—Application is incomplete 6.01(c);
Determination #4—Article 3.05(c)(1) ZI has no authority to request a Storm Water Management plan;
Determination #5—Article 3.05(d)(1) ZI has no authority to request compliance with State & Federal Regulations;
Determination #6—ZI has no authority to require lot consolidation on a development plan ...for granting of a zoning certificate;
Determination #7—Proposed use, bldg ht, lighting, parking, setbacks and lot coverage cannot be verified without structure prints is an error.

New Business:

BZA-2025-05cu--an application for a Conditional Zoning Certificate, submitted by Ron Dinardo, Authorized Agent for 44 East, LLC, for an Auto Service Station, and Restaurant to be located on the following four (4) parcels: 17845 Ravenna Road [01-095800], 01-029380, 01-029370, 01-117664, Auburn Township OH 44023 in a B-3 zoning district.

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

Roll call was taken with the following members present: Doug Hogan, Brian Stewart, Michael Varley, Lewis Tomsic, Ben Timmons and Robert Ford.

BZA Members hearing the case were Hogan, Stewart, Varley, Tomsic and Ford.

Frank Kitko, Auburn Township Zoning Inspector and Jane Hardy were also present.

The Pledge of Allegiance was recited.

Mr. Ford verified that everyone in attendance had signed in.

Mr. Ford then proceeded to swear everyone in who was planning on testifying.

Chairman Ford read the following opening statement for the record:
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.

Mr. Ford commented that the official record for this meeting will be the minutes of the Board of Zoning Appeals Secretary.

Mr. Ford also noted that the case file for BZA-2025-05cu is part of the Official Record

There were late arrivals to the meeting, Ken Ashba and Ralph Spidalari.

Mr. Ford swore in the late arrivals.

Chairman Ford moved to the next item on the agenda which was the request to withdraw BZA-2025-03v. Mr. Ford explained that the withdrawal was at the request of the applicant, 44 East LLC.

Mr. Ford explained for the record that BZA-2025-03v was an appeal requesting an area variance, submitted by Ron Dinardo, Authorized Agent for 44 East, LLC, from the Auburn Township Zoning Resolution, Article 4A.06(c) Maximum Lot Coverage (2)c Buildings and Parking: 40% allowed, 60% proposed for an auto service station with restaurant and fueling for semi-trailers with no overnight amenities to be located on the following four (4) parcels: 17845 Ravenna Road [01-095800], 01-029380, 01-029370, 01-117664, Auburn Township OH 44023 in a B-3 zoning district.

Motion by Robert Ford to withdraw BZA-2025-03v, at the request of the applicant. The motion was seconded by Doug Hogan. Vote: Ford, yes; Hogan, yes; Tomsic, yes; Stewart, yes; and Varley, yes. The motion passed.

The meeting proceeded to the next item on the agenda. Under New Business was the following:

BZA-2025-05cu--an application for a Conditional Zoning Certificate, submitted by Ron Dinardo, Authorized Agent for 44 East, LLC, for an Auto Service Station and Restaurant to be located on the following four (4) parcels: 17845 Ravenna Road [01-095800], 01-029380, 01-029370, 01-117664, Auburn Township OH 44023 in a B-3 zoning district.

Attorney Jordan Berns re-introduced himself to the Board on behalf of the applicant 44 East LLC and Ron and Mark Dinardo, principals in the LLC.

Mr. Berns further commented and explained that he is also following up on the previous discussions that were held at the May 13, 2025, BZA meeting.

He explained that 44 East LLC has now applied for a Conditional Use Certificate for the use of an auto service station and a restaurant in the B-3 zoning district. Mr. Berns also commented that the Auburn Township Zoning Resolution, Article 4a.02(d) explains what the B-3 zoning district is for—a highway-oriented business.

He also commented that the definition of an auto service station, which is in the Auburn Township Zoning Resolution, was explained at the May 13, 2025, BZA meeting. He further commented that an auto service station is an establishment where liquids used as motor fuels are stored and dispensed into the fuel tanks of motor vehicles.

Mr. Berns stated that there is not a definition in the Auburn Township Zoning Resolution for motor vehicles, but that there is a definition of "vehicle" and that definition is "anything that is or has been on wheels, runners or tracks".

Mr. Berns again reiterated what he explained during the May 13, 2025, BZA meeting and based on this definition that trucks are included in the definition of a motor vehicle.

He further stressed that there is no question what is being proposed in this conditional use application falls within the definition of an auto service station. He also commented that this definition would even cover skateboards to an 18-wheeler. Additionally, he noted that there is a broader definition of motor vehicles in the Ohio Revised Coded.

Mr. Berns again commented that there are some ambiguities in Auburn Township's Zoning Resolution regarding truck fueling and where fueling would be permitted.

Mr. Berns continued by clarifying some of the concerns that were raised during the May 13, 2025, Board of Appeals meeting. He commented that one of the concerns was overnight parking of tractor trailers at the location.

Mr. Berns explained that those concerns that were expressed at the last meeting "were taken to heart."

He commented that his firm has specified in a letter to the Township's attorney the conditions that 44 East LLC wants imposed on their project through the conditional use permit. He also indicated that those proposed conditions will restrict the property from overnight truck parking.

He continued by explaining to the Board of Appeals that it is within the Board's power to set the conditions on the project to impose these restrictions.

Mr. Berns also commented that all of the lots will be consolidated. He further explained that if they did anything different than what the conditions allowed, "we would be in violation of the law," that are imposed by the conditions.

He also commented that if something were to change with the proposed project, that they would come back before the Board of Appeals with the changes. He further stressed that they are doing everything they can to restrict their use to only what is permitted.

Mr. Berns also commented that what is submitted in the letter to the township's attorney is a very detailed plan on how their project will be confined; he also felt that they have provided a plan that will assure the Township that all their proposed conditions will be met and that they will comply with the zoning code and meet all the requirements.

It was also noted that based on the current 44 East, LLC Development Plan, there are numerous variances that are needed. A discussion took place regarding some of the needed variances; an example that was given for variances was the canopy for the gas pumps and the gas pumps being located in front of the main structure for the gas station; the canopy height, and others.

Frank Kitko, Auburn Township Zoning Inspector, also noted that on the submitted Development Plan, there were several dimensions on the Development Plan that were missing.

Ron Dinardo approached Mr. Kitko with a copy of the Development Plan in hand and asked for clarification of what dimensions and setbacks Mr. Kitko was even talking about.

A discussion took place.

Mr. Dinardo confirmed that the figures Mr. Kitko referenced were missing for the various setbacks of the proposed structure. It was noted that the missing data would be corrected on the Development Plan. Mr. Kitko also pointed out that the parking spaces have no dimensions shown, so compliance could not be verified.

Mr. Tomsic questioned whether the lot coverage was in compliance with Township Zoning, especially since that previous variance request was withdrawn without being addressed.

A discussion took place.

Mr. Hogan asked about the environmental concerns on the front lot on the proposed plan that are actually written on the deed for the lot (1.6 acres). He also asked why that lot was not combined with the other three lots on the Development Plan. Ron Dinardo commented that they were not aware of any deed restrictions on the front property.

A discussion took place regarding the total lot consolidation on the Development Plan that was submitted with the Conditional Use application and why all four lots that were included in the project were not shown combined on the Development Plan.

Mr. Berns indicated that the four parcels could, in theory, be sold individually. He also explained that by combining the lots now would not be fair to the Dinardos, if the project does not move forward.

Mr. Berns further noted that before the proposed use is implemented on the property, that they would apply for a consolidation for all four properties.

Mr. Ford explained that an auto service station is a conditional use in this B-3 zoning district but that the Board wants to be sure it moves forward in the right direction.

Mr. Ford also commented that there are questions that need to be clarified by the Township's legal representative, before moving forward.

Mr. Ford indicated that the Board will now review the applicants requested conditions included in the application, one at a time.

Mr. Ford noted that the proposed conditions were listed starting on Page 7 of the Board of Zoning Appeals application, dated May 23, 2025, and are as follows:

1. There will be no overnight tractor trailer parking. Signage will be provided to state this.

For the first item, Mr. Berns indicated that there would be no overnight tractor trailer parking. A discussion took place about how difficult that would be to enforce. Mr. Tomsic explained that there is 400 miles of roads in Geauga County with only four (4) sheriff's cars on duty and that would be problematic for enforcement.

Mr. Ford indicated that the manager of the facility might be the first to approach the violators, then possibly get the Geauga County Sheriff or State Troopers involved. A discussion took place regarding the enforcement.

It was noted that there would be a risk of the termination of the conditional zoning certificate if violations were not corrected.

The next item on the requested list of conditions was:

2. No overnight tractor trailer amenities will be provided like showers.

3. No overnight lodging. Mr. Hogan questioned if lodging is during the day, lodging/sleeping. He also questioned what is considered "overnight", is it sleeping in the car during the day could be someone's "overnight". Mr. Hogan noted that there are six available spots for truckers to stay and that needs to be talked about.

4. Full architectural and site engineering drawings, including a stormwater management plan/erosion and sediment control plan, will be provided to the Zoning Department at the same time they are submitted to the Ohio EPA, Geauga County Building Department, the Geauga County Soil and Water Conservation District and the Geauga County Health Department.

   Mr. Kitko suggested that Water Resources would need to be contacted and approval received for the sewers, as required in the Zoning Resolution. Mr. Dinardo indicated that they have two tie ins.

   Mr. Kitko also commented that the Auburn Volunteer Fire Department should be included in the review of all the drawings.

5. ODOT approval of the driveway and curb cut will be provided to the Zoning Department upon receipt. A discussion took place. It was noted that ODOT approval was in the works and they were anticipating approval. The project cannot move forward without ODOT approval.

6. Lot consolidation will need the Geauga County Planning Commission's approval.

7. A site lighting plan will be submitted to the Zoning Department for approval.

8. Project signage will be submitted to the Zoning Department for approval.

9. No earthwork will commence until approvals are received by relevant County and State Agencies.

10. It was again noted that there are variances that will be required.

A discussion again took place regarding ambiguities within the Zoning Resolution particularly the meaning of auto and automobile. It was noted that the definition of motor vehicle covers anything with wheels. A discussion took place regarding legal opinions of definitions.

Again, it was noted on the Development Plan, which has been revised numerous times already—the front lot "on paper" is still not combined with the other three lots.

Mr. Hogan asked again if the deed restrictions were why the front lot was not combined with the other lots.

It was explained that all the lots are proposed to be combined after the permit is issued and it is part of the process that the zoning permit needs to be obtained before going to ODOT and the other County Departments.

A discussion took place regarding the clarity of the ambiguity definition in law.

Mr. Ford asked if there were any other suggested conditions.

A discussion took place regarding Fire Department approval.

It was noted that there will not be a motion made tonight.

Mr. Ford opened the meeting for public comment.

Mr. Ford suggested that as the public speaks, to do so loudly when addressing the Board.

Ken Ashba introduced himself to the Board and indicated that north/south trucks traveling on State Route 44 will be a safety issue with ingress and egress onto the property. He further explained that semi-trucks are large vehicles and the trucks in and out are a safety issue. Mr. Ashba also questioned how the traffic study was being conducted. He noted that it is an expensive study. He further commented that this whole project will be up to ODOT'S evaluation, and all approvals are up to ODOT.

Resident Deb Stanley indicated that she has been following this project since it was presented at a Township Trustees meeting last year. Ms. Stanley is concerned that there is not an answer to the long-term plan and there are no schematics.

Ms. Stanley indicated that there should be a full disclosure for a project like this and there is no long-term plan and no answers are given. She also commented that there are no checks or balances. Ms. Stanley also commented that Auburn does not need a truck stop.

Mr. Ford commented that these are all good points brought up.

Mr. Ford indicated that the Board of Appeals will review the conditions and talk to the Township's legal representative; therefore, he noted that this request is being tabled for now.

Mr. Dinardo asked for another meeting to be scheduled promptly, so they did not have to wait another month for a meeting. It was explained that the logistics to schedule an additional mid-month meeting will need to be verified before it can be scheduled.

Motion by Robert Ford to table BZA-2025-05cu.

The motion was seconded by Doug Hogan.

Vote: Ford, yes; Hogan, yes; Stewart, yes; Varley, yes; and Tomsic, yes. The motion was passed.

Motion by Robert Ford to approve the meeting minutes for BZA-2025-04zi-Determination #1 an appeal alleging Zoning Inspector error for an Auto Service Station including restaurant, does not include tractor-trailer servicing per Article 2.02 Definition-Auto Service Station.

RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held 11455 Washington Street Adam Hall June 10, 2025 20 7

The motion was seconded by Doug Hogan.

Vote: Ford, yes; Hogan, yes; Stewart, yes; Varley, yes; and Tomsic, yes.

Motion by Robert Ford to approve Findings of Fact for BZA-2025-04zi Determination #1.

The motion was seconded by Doug Hogan.

Vote: Ford, yes; Hogan, yes; Stewart, yes; Varley, yes; and Tomsic, yes.

Motion by Lewis Tomsic to adjourn the meeting.

The motion was seconded by Brian Stewart.

Vote: Ford, yes; Hogan, yes; Stewart, yes; Varley, yes; and Tomsic, yes. The meeting was adjourned.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

August 12, 2025

Robert Ford, Chairman