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 July 8, 2025 1 20

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

Older 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.

Old 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.

New Business:

BZA-2025-06v--an appeal requesting a variance, submitted by **Dino Capito,** from the Auburn Township Zoning Resolution, **Article 4.03(h) Maximum Building Heights: . . , and no accessory building shall exceed a height of eighteen feet (18')** for a proposed twenty-one (21') accessory building to be located at **9955 Waterford Trail, Auburn Township OH 44023** in an R-1 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, Fire Chief John Phillips, Kristen Rine, Geauga County Assistant Prosecutor 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 whole case file for BZA-2025-05cu is also part of the Official Record.

Mr. Ford indicated that tonight's hearing was a continuation of the June 10, 2025, BZA meeting for 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.

Mr. Ford swore everyone in who was going to testify.

A discussion took place about Old Business.

The attorneys for 44 East LLC summarized what the proposed project was and that they were asking for a Conditional Use Certificate.

Kristen Rine, Geauga County Assistant Prosecuting Attorney who represents Auburn Township, suggested that they address the Conditional Use request, but that their other tabled requests need to be officially addressed also.

A discussion took place regarding which "Old Business" should be heard first.

Motion by Doug Hogan to finish the Conditional Use request first. The motion was second by Brian Stewart. Vote: Hogan, yes; Stewart, yes; Ford, yes; Varley, no; and Tomsic, yes. The motion passed.

The meeting continued on with the recessed case BZA-2025-05cu.

Jordan Berns introduced himself to the Board and indicated that he is representing 44 East LLC and Ron and Mark Dinardo who are the principals in the 44 East LLC.

He indicated that the proposed development is in the B-3 Zoning District, which is retail motor services and the zoning district was created to allow for highway motorist services.

He also commented that the restaurant part of the project is permitted by right in the zoning resolution.

The attorney reiterated, what had been discussed from the previous meetings, the definitions of an auto service station which is an establishment where liquids used as motor fuels are stored and dispensed into the fuel tanks of motor vehicles… and the definition of "vehicles" which is anything that is or has been on wheels.

He further commented that that it is their opinion that an auto service station can dispense fuel to any type of vehicle.

Mr. Berns commented that there is no plan to stay overnight on the site. He indicated that was a concern that was expressed at the previous meetings.

He indicated that the current application is for a conditional zoning certificate and there are proposed conditions that were listed in the application to control concerns regarding the trucks being on the property.

He again indicated that there is no plan to stay over on the site.

Mr. Berns started to discuss the conditions that were reviewed during the June 10, 2025, BZA meeting. These were proposed conditions that were listed as "Requested Relief" on the application for a conditional use certificate dated May 23, 2025,

It was noted that these proposed conditions would help to control the tractor trailer use at the proposed auto service station.

He again indicated that there would be no overnight tractor trailer parking and no other tractor trailer amenities. He stressed that they do not want to operate the facility with the concerns that have been expressed.

Mr. Berns stressed that if the facility is used differently that with what is proposed, the Township can shut it down.

He explained that the facility is not going to have dozens of trucks lined up; there are just five (5) spaces for parking tractor trailers. He explained that this would allow the drivers to be able to stop and eat; it will not be where truckers can line up.

There was a new list of revised conditions as follows.

1. No overnight tractor-trailer parking or other provided amenities i.e. showers, weigh station, Wi-Fi, a dedicated driver lounge, laundry services, and tractor-trailer maintenance shops, etc.

2. Maximum 2-hour day-time tractor-trailer parking and no overnight parking. Signage indicating that it is patrolled by the Geauga County Sheriff's Department and enforced.

3. Written ODOT approval of ingress/egress onto State Route 44 to be submitted to the Zoning Inspector before project commences.

4. Complete full-stamped architectural and engineering drawings need to be approved by all authorities of jurisdiction, which includes the Zoning Department, including site engineering drawings, stormwater management plan/erosion and sediment control plan to be provided before project commences.

5. Zoning permits from the Zoning Department will need to be obtained for all proposed structures, with all zoning fees being paid, including the canopy over the pumps, before the project commences.

6. An updated Development Plan to show all four lots consolidated into one before Conditional Zoning Certificate is issued by Zoning Inspector. Final permanent lot consolidation will be submitted to and handled by the Geauga County Planning Commission with a new deed and deed restrictions submitted to the Zoning Department and recorded at the Geauga County Recorder's Office.

7. Zoning compliant lighting requirements to be included with architectural prints.

8. All zoning violations from the current development plan dated 5/14/2025 will either need to be corrected with a new plan submitted and approved by the Zoning Inspector or variances will need to be obtained before the Conditional Zoning Certificate is issued.

9. Lot coverage calculations need to be verified by a professional surveyor and submitted to the Zoning Inspector.

10. The following written approvals must be received before the Conditional Zoning Certificate is issued: from Auburn Township Volunteer Fire Department; Geauga County Health Department (for the restaurant); Water Resources for sewer tie-ins; and the Ohio EPA.

11. On the application for a Conditional Zoning Certificate, dated 5/23/2025, Item I needs to be officially amended to remove the following verbiage: ***"This use shall include services consistent with the definition of "motor vehicles" as set forth in Section 4501.01 of the Ohio Revised Code, Title 45, and may also encompass other related classifications of motor vehicles as defined in additional sections of the ORC, where applicable."***

12. All listed conditions must be met and formally approved, within twelve (12) months from the date that the minutes are approved.

13. All above listed conditions and the conditions in Article 5.03(i), 3.01 and 3.02 for an auto service station must be met before any work can commence on the site.

The revised conditions were discussed.

The first condition discussed was regarding overnight parking, who would enforce it.

A discussion took place regarding the fact that the sheriff's office could not enforce it with 400 miles of roads in Geauga County and only five officers on duty and it is also on private property. A resident living at 11685 Landcaster indicated that the Sheriff's office is short staffed and that there is a maximum of four officers on duty.

Mr. Hogan commented that if it is not enforced by the County then it will fall back on the owners and that is not what this community wants.

Mr. Hogan also commented on "overnight" and what is the meaning of "overnight"? What are the hours for overnight, is it 5:00 pm, 9:00 am, is it sunset, is it two hours or is it three hours.

A discussion took place regarding truckers over-hour limitations and sleeping in their trucks.

A discussion also took place regarding the listed amenities. They wanted Wi-Fi-included for the employees. They also did not want "etc" listed in #1 because that may restrict other amenities.

Item #2 was read out loud as follows: Maximum 2-hour day-time tractor-trailer parking and no overnight parking. Signage indicating that it is patrolled by the Sheriff's Department and enforced.

Mr. Berns commented that two hours is problematic and does not give the opportunity for a truck driver to have a relaxing lunch or dinner. He also commented that allowing three hours does not turn it into overnight parking.

Item #3, a discussion took place regarding ODOT approval. Krissy Rine questioned what entails "project commencing". It was noted that ODOT approval must be obtained prior to the Conditional Zoning Certificate being issued. There is to be no onsite construction without an ODOT permit.

Item #4 and #5, a discussion took place regarding the architectural and engineering drawings and obtaining the zoning permit for the actual proposed structures.

A discussion took place regarding the previous zoning concerns expressed by the Zoning Inspector. Mr. Hogan suggested that a zoning permit be obtained for the project first and also any needed variances.

Mr. Ochner, another attorney representing 44 East LLC, indicated that the intention is to comply with the height requirements. He also indicated that they would not be automatically entitled to a variance because they would have to make their case.

A discussion took place because the current plans show numerous non-compliances.

Mr. Kitko indicated that he wanted the plans corrected or the variances obtained. He explained that this is a conceptional plan and does not meet zoning, and since it involves a Conditional Zoning Certificate, all parts of zoning must be met and this plan does not meet zoning.

Kristen Rine commented that that the Township needs to see that all zoning requirements are met, what is presented is a conceptual plan, it is a difficult plan to figure out what could happen, and the Township does not have everything in front of them. She indicated that the Township has been put in a difficult spot.

Mr. Berns disagreed and indicated that if they stray from the plan that the Zoning Inspector can enforce the Conditional Zoning Certificate.

Mr. Ochner indicated that the consolidated lots will legally be recorded when they are consolidated.

It was noted that there could have been an updated Development Plan showing that the lots were consolidated on the plan.

A discussion took place about proceeding with the project "by the book" and doing it correctly.

The attorneys commented that the lots, if consolidated and their plan was rejected, it

would deprive the applicant of using his property, since they are non-conforming lots. It was again pointed out that the lots could at least be shown on the Development Plan as being consolidated.

Mr. Hogan suggested that the lots get consolidated before construction begins and summarized that if the lots are not consolidated, the project cannot start.

Item #8 regarding the zoning violations was addressed. Mr. Berns suggested that the verbiage "violations" not be used and referencing it as "non compliance". Kristen Rine suggested that it be referenced at non compliance.

Item #9 lot coverage calculations are to be verified by a professional surveyor, since the lot coverage is in violation of the Auburn Township Zoning Resolution.

Item #10 required written approvals from the Geauga County Health Department, the Auburn Township Fire Department, Geauga County Water Resources for the sewer tie-ins and the Ohio EPA.

Fire Chief John Phillips indicated that the Fire Department was interested in Life Safety and would have to approve the prints.

A discussion took place regarding Item 11, to amend the CZC application for Item I on the application to remove the verbiage "This use shall include services consistent with the definition of "motor vehicles" as set forth in Section 4501.01 of the ORC. It was explained that the reason being that the Resolution has a definition of motor vehicles and it does not need to be supplemented.

Mr. Hogan again stressed that tractor trailers, including fueling, are currently only allowed in the I-1 zoning district, per the Auburn Township Zoning Resolution, Schedule of Uses.

Item #12. A discussion took place regarding a timeline of twelve months from when the minutes are approved would for all the conditions to be met. It was noted that this requirement is too limited of a schedule to follow. A discussion took place about potentially reapplying for an extra six months, if needed and maybe this work should have been accomplished before applying for the conditional zoning certificate.

At this point in the meeting, Mr. Ford asked for Public Comment.

Dave Mast, 10925 Stella Lane, asked what the operating hours would be and what brands were going to be offered at the station, Pilot, Flying J?

Mr. Dinardo indicated that he did not know.

Jason Wein, 17346 Ravenna Road, commented about the noise from Jake brakes from the semi-trucks, the additional traffic on State Route 44, especially those travelling from I-90 to I-80 and that State Route 44 does not have the infrastructure to handle it.

Diane Belew, 1709 Messenger Road, was concerned with the tractor trailer parking.

Josh Myer 11590 Ascot was concerned about mandated sleeping for truck drivers, not legally allowed to move and the infrastructure needed to set the project up. He was also concerned that more parcels could be consolidated for the plan. He also indicated that drivers are mandated stop driving and not legally allowed to continue driving.

John Clark, 10749 Bartholomew indicated that he had a CDL for 29 years and has driven for 27 years. He explained the Federal law regarding tractor trailers and that a trucker is not allowed to move his truck if they are up to their hours and how there is mandated required parking. He also commented on the difficulty it will be to control parking at this facility. Mr. Clark also commented on the residents' investment in the community and if this is allowed it is a disservice to every taxpayer in the community.

Darlene Diehl, 11700 Lancaster has lived in the community for forty years. She commented that a truck stop is an environmental and safety concern for the entire community. She commented on diesel fuel safety and the environmental impact on the community.

A resident from Taylor May Road commented on the ingress and egress concerns. A discussion took place regarding ODOT and the ingress and egress on the proposed property. A discussion also took place regarding the enforcement.

Mr. Berns indicated again that the permit can be revoked. Mr. Hogan commented that enforcing and revoking a conditional use permit is a very long process and that compliance should be in place before the permit is issued.

Deb Stanley commented on the hours that the Trustees and BZA have spent on this. She commented that this whole procedure and project sounds like children. Basically, the proposal is "we are coming in to do this" because that is what they want. She further commented that this is going to bring crime, traffic, noise pollution and should not be allowed.

Lynn Fagerholm indicated that her grandfather and family has had property in Auburn Township for a long time. She indicated that there are issues with 400 gallon containers of gasoline that can contaminate the wells. She was concerned that it can be open 24 hours a day, there will be sounds, noise from idling engines, the quality of life will be diminished as will the property values. She further commented that it is not zoned for truck services therefore it should not be allowed.

A resident from Bartholomew Road commented on the silence of who will be operating the facility, the fact that there is no ODOT permit for access onto 44, and questions that are not being answered, the creditability of this project is not there.

Claire Pickerton, 11515 Washington, testified that in the Auburn Township Zoning Resolution, Article 4A, the Schedule of Uses, B-3 motorist services, Tractor Trailer services are not permitted in the B-3 District, they are listed separately and are only permitted in the I-1 zoning district.

She also commented that for a common definition like auto services, if it is not defined, the zoning resolution instructs you to go to the Websters dictionary, auto means automobile, a passenger car, the definition of a motorist is one who drives a motor vehicle, not a truck.

She also testified that Great Lakes Cheese, east of LaDue Reservoir, will have a place for all their trucks to use, it is going to be a speedway and will be more dangerous each day, it will be an offsite truck spot for their trucks and will operate day and night and there will be traffic chaos. She further commented that truck drivers require a Federal mandate of 10-hours of rest time. Again, she commented that fueling of tractor trailers is not permitted in the B-3 zoning district.

A resident from 18685 Stafford Road, expressed concerns that there will be an increase in crime and drugs. A discussion took place. Mr. Hogan commented that that was his personal opinion and not an official position of the Sheriff.

There was no further comments from the Public.

Mr. Ford commented that a vote was going to be taken.

Motion by Robert Ford to grant 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, with the following conditions:

1. **No overnight tractor-trailer parking or other provided amenities i.e. showers, weigh station, a dedicated driver lounge, laundry services, and tractor-trailer maintenance shops.**
2. **Maximum 2-hour day-time tractor-trailer parking and no overnight parking. Signage indicating that it is patrolled by the Sheriff's Department and enforced.**
3. **Written ODOT approval of ingress/egress onto State Route 44 to be submitted to the Zoning Inspector before project commences.**
4. **Complete full-stamped architectural and engineering drawings need to be approved by all authorities of jurisdiction, which includes the Zoning Department, (for zoning compliance and building heights) including site engineering drawings, stormwater management plan/erosion and sediment control plan to be provided before project commences.**
5. **Zoning permits from the Zoning Department will need to be obtained for all proposed structures, with all zoning fees being paid, including the canopy over the pumps, before the project commences.**
6. **An updated Development Plan to show all four lots consolidated into one before a Conditional Zoning Certificate is issued by Zoning Inspector. Final permanent lot consolidation will be submitted to and handled by the Geauga County Planning Commission with a new deed and deed restrictions submitted to the Zoning Department and recorded at the Geauga County Recorder's Office.**
7. **Zoning compliant lighting requirements to be included with architectural plans.**
8. **All non-compliance with zoning from the current development plan dated 5/14/2025 will either need to be corrected with a new plan submitted and approved by the Zoning Inspector or variances will need to be obtained before the Conditional Zoning Certificate is issued.**
9. **Lot coverage calculations need to be verified by a professional surveyor and submitted to the Zoning Inspector.**
10. **The following written approvals must be received before the Conditional Zoning Certificate is issued: from Auburn Township Volunteer Fire Department; Geauga County Health Department (for the restaurant); Water Resources for sewer tie-ins; and the Ohio EPA.**
11. **On the application for a Conditional Zoning Certificate, dated 5/23/2025, Item I needs to be officially amended to remove the following verbiage: *"This use shall include services consistent with the definition of "motor vehicles" as set forth in Section 4501.01 of the Ohio Revised Code, Title 45, and may also encompass other related classifications of motor vehicles as defined in additional sections of the ORC, where applicable."***
12. **All listed conditions must be met and formally approved, within twelve (12) months from the date that the minutes are approved.**
13. **All above listed conditions and the conditions in Article 5.03(i), 3.01 and 3.02 for an auto service station must be met before any work can commence on the site.**

The motion was seconded by Lewis Tomsic. Vote: Varley, no; Stewart, yes; Tomsic, no; Hogan, no; and Ford, no. Motion denied.

The appeal period was explained.

RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held Adam Hall 11455 Washington Street July 8, 2025 9 20

Meeting minutes will be approved on August 12, 2025.

Kristen Rine reminded the Board to address the rest of Old Business on the agenda.

The attorney for 44 East LLC indicated that they were going to officially withdraw the remainder of the Zoning Inspector Error Determinations.

Motion by Robert Ford, seconded by Michael Varley to accept the withdrawal of the following:

> **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.**

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

The public dispersed and the Board moved on to the next item on the agenda.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

August 12, 2025

Robert Ford, Chairman