

BOARD OF ZONING APPEALS MEETING
FEBRUARY 21, 2017
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order by Joe Ramirez at 7:00 p.m.

II ROLL CALL

Members Present: Carmen Daniels, Holly Emerson, Carolyn Ghantous, Dave Nienaber, Joe Ramirez, Meghan Sullivan-Wisecup

Members Absent: Michael Wilson

City Staff Present: Gregg Taylor, Building Official; Jeff Forbes, Law Director's Office; Anne McBride, City Planner

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JANUARY 17, 2017

Mr. Ramirez: Members, before us now are the minutes from the January 17th meeting, and please note that these are summary minutes due to a glitch in the recording. We need someone to make a motion to approve those.

Mrs. Sullivan-Wisecup motioned to approve; Mrs. Ghantous seconded the motion and the minutes were approved as published with a vote of 6-0.

V CORRESPONDENCE

Mr. Ramirez: Correspondence from the audience, we do not have any.

VI REPORTS

A. Report on Council

Mrs. Ghantous reported on the February 1st, 2017 meeting on City Council. A new patrol officer, Jesse Morgan, was introduced. The City Administrator reported that everything is moving along well with the 2017 Capital Improvement Program. Work should begin in spring. The bids received were \$267,000 under budget. There was one Ordinance, 6-2017, amending various sections of the Codified Ordinances of the City of Springdale Zoning Code, and it was the first reading so no action was taken.

There was a second meeting on February 15th, 2017. There was a presentation from the Center for Addiction Treatment regarding their new facility and a donation request. No decision was made and it will be discussed again at the meeting on March 1st. Ordinance 6-2017 had its second reading and it passed with a 7-0 vote. Ordinance 7-2017, entering into a contract with Adleta Inc. for the 2017 Street Program Rehabilitation, passed with a 7-0 vote. Ordinance 8-2017, entering into a contract with Strawser Construction for the 2017 Street Program Maintenance, passed with a 7-0 vote. Ordinance 9-2017, authorized the City to borrow money for a fire engine, passed with a 7-0 vote. Ordinance 10-2017, authorizing the City to purchase a fire engine from Vogelpohl Fire Equipment Inc., passed with a 7-0 vote. Information was provided on Spruce Up Springdale. A meeting will be held on Thursday, March 2nd.

B. Report on Planning Commission

Chairman Ramirez provided a report on the Planning Commission meeting from January 31st, 2017. Ridgeline Property Group presented a proposal for a major modification to a PUD on 15 acres of property on Northwest Boulevard. This revision was approved with a 7-0 vote. Cincinnati Center for Autism at 305 Cameron Road presented regarding an expansion for conditional use. There was not enough information provided, so the matter was continued.

VII OLD BUSINESS - None

IX NEW BUSINESS

Chairman Ramirez presented a statement regarding the Public Hearing and provided a swearing in for City Officials and members of the audience who wished to speak.

A. GDBM Properties, Bret Bodecker President, 1250 Century Circle North, Springdale, Ohio, Administrative Appeal for the Zoning of the property (Application #31650)

Mr. Bodecker: (Off mic) I've never done this before, so if I'm doing something wrong, steer me in the right direction please.

Chairman Ramirez: That's fine. Please state your name and address.

Mr. Bodecker: (Off mic) Bret Bodecker, 1250 Century Circle North, Springdale (inaudible) The building at 1250 and 1270 Century Circle North is across from the Vineyard Church, and I moved there from Sharonville. I bought the building; it was a repossessed building which I am currently trying to improve the appearance of. I worked on the roof last year just to seal it. It was kind of in bad shape. I want to do new windows and paint, but the windows are quite expensive. They're \$30,000, and without the rent from Elevate Functional Fitness, these improvements will be delayed or eliminated. I'm a small businessman, so it would be tough for me to get that done. Prior to moving here, I was looking a lot of other places to purchase a building and I heard Springdale was very accommodating to small businesses and that played a big part in me deciding to move here. I looked at other places and wanted to be in the Springdale area, the Tri-County area with the roads and everything. Joe, who owns Elevate Functional Fitness, is a personal fitness teacher. He works a lot with the elderly and they have exhausted their insurance options and he pretty much teaches them to perform daily functions at a reduced cost. Basically, people that have exhausted their insurance and they won't pay for anymore, and need more help, he kind of fills that gap for them. He helps them understand their mental, dietary, and physical needs so they can provide for their own well-being. Elevate Functional Fitness is not a Planet Fitness-type business where somebody pays ten dollars a month and a whole bunch of people show up there. At most there's 8-10 cars in the parking lot at one time because it's all one-on-one with each person, and I assume that the Zoning restrictions were intended to keep a large membership-type gym from occupying a warehouse and drawing in large amounts of traffic and people to an industrial location. That's not at all what the Elevate Functional Fitness is about. In the Zoning Code, it says it's acceptable to train dogs, dog training, and that type of things, but we're trying to, he's trying to train fitness and health to senior citizens so they can lead an independent life and remain productive members of society and stay in their own homes. To me it doesn't make sense that you can train dogs but you can't train humans. I don't know how else to state it. Next door we have a union hall which teaches welding and plumbing. They have welding classes there. Down the street there is a training facility that teaches life skills to the mentally disabled and stuff down there too. I do have letters from the neighbors saying we're not impacting them

at all. They're happy with us being there and I also thought that the Zoning that we have there, the industrial Zoning, would be the most liberal-type Zoning that would exist in an area. I'm surprised in some senses that we're even at this hearing. I'm not sure, I mean I can understand a Planet Fitness-type thing not being allowed, but like I said there's not many people there at any one particular time. I feel that we should be provided the same opportunity to teach and serve the community as the other businesses there are afforded. So, we want to be a part of the Springdale community, and also the people that Joe has come purchase products and eat lunch and dinner and that type of thing in the Springdale area, and help all the other businesses there. That's pretty much all I have.

Chairman Ramirez: You'll have a chance to speak again. You'll have another opportunity to speak again if you like. If you would just stay there, we're going to have the Staff give their comments and their reasoning. So at this time

Mrs. McBride: Did the other gentleman want to speak too at this time?

Chairman Ramirez: Somebody else speak?

Mr. Bodecker: Joe, would you like to speak?

Mr. Becerril: (Off mic) Actually I'd like to wait until the end to hear what you guys have to say.

Chairman Ramirez: That's fine.

Mrs. McBride provided Staff comments.

Chairman Ramirez: At this time, sir, if you would like to come up and give us comments that you might have, please state your name and address.

Mr. Becerril: My name is Joe Becerril. I live at 11963 Ida Drive, and that's in Springdale. We went over the uses that was allowed there. I believe secondary education was one of them. Am I mistaken on that?

Mrs. McBride: That's correct.

Mr. Becerril: Is it? Okay. I think to me it comes down to semantics in the way it's how you guys are going to view it. You have a job to do, and I guess technically it's not zoned for the purpose, but honestly what I do is, I wake up about four in the morning. I'm in the gym by five, and I spend all day long teaching people. I teach people how to eat better. I teach them how to take care of themselves. I teach them how to navigate a process that goes from being not in good shape, not in good health, to better health. I work with, I have a client that has M.S. I have another one with Parkinson's. I have a lot of people that are post-rehab, older couples that have everything replaced from knees to hips and everything else. I know that I add to the environment and the community that I'm in and I guess at the end of the day what I'm asking for is a little bit of mercy in the way that you guys view what I do for a living. I'm a single dad. I put everything into this business. I've been open since 2013. We moved to this location four months ago. It's a larger place. Business has been good. Obviously, a move like that, everything coming out of my pocket, took a lot out of me. It would take a lot for me to have to go do it again. I really didn't think that there was any way that this was going to be an issue. Part of the point that you had made about with the GI is noise being an issue other places. That's one of the issues I ran into at my previous location, is we were in more of an office-type area and yeah, there's equipment and there's working out going on. There's people that are working, and not have to worry about the volume is a big deal to us. I think it's a really good marriage between Bret and myself, and we've gotten along very well to this point. I think we both have the same things at heart and at the end of the day, I think that Springdale is

better for the people that we have coming through our doors, and if the rent is helping him be able to make the building look more appealing, I think that it's a win-win for everybody. So that's my two cents on that.

Chairman Ramirez: Thank you.

Mr. Becerril: Yes sir.

Chairman Ramirez: Please, we may have questions for you.

Mr. Becerril: Oh yeah, sure.

Chairman Ramirez: Board members, any questions for the applicant?

Mr. Nienaber: Let me first address a question to Mrs. McBride. When the Zoning Codes were being all reconstructed, is there ever any intent that they cascade from the fanciest and least possible uses down to the industrial use so that, I guess what I'm asking is, is it unreasonable to think that if you're running a facility like his, that it'd be allowed to exist in an industrial district?

Mrs. McBride: No, typically those types of facilities, and when I say that, personal services in general, if you think about that, where do you see hair salons, nail salons, barbershops, the Massage Envy places, the shoe repair guys, all of those types of uses that you would consider personal services are typically found in strip centers or as part of a mall or on an out lot. Those types of things are typically not mixed in within a general industrial district, because quite frankly, you don't always to mix those types of traffic and uses. The GI district is designed for more heavy type uses as I indicated with the purpose statement.

Mr. Nienaber: A question for you gentlemen then. Who chooses the identification of your business? Who identified it as one that didn't fit that location?

Mr. Bodecker: I do sir.

Mr. Nienaber: Okay.

Mr. Bodecker: I didn't even know exactly what he did when I did the application, because I didn't understand it totally at that point. If I may make another comment, if that's okay. The retail space that Anne is talking about, I understand part of that, but 6,000 square feet, the cost would be totally prohibitive. The other things that she's talking about require very small spaces, and he requires a larger space, so there would be no way that he could be in business and get 6,000 square feet of retail. It wouldn't exist. That's why he needs to be in an area like this, otherwise it would not exist. So I'm not sure!

Mr. Nienaber: My question involved description of the service you provide.

Mr. Becerril: I mean it's my business.

Mr. Nienaber: Yeah.

Mr. Becerril: So it's my, you know, and it's evolving as time goes on. I just, the more research that I'm doing, the more into my craft that I get. The epidemic is ridiculous with our health right now. I think the last numbers are 35-50% of all kids born after 2000 are going to be diabetic or pre-diabetic in their life at some point. It's completely eye-opening, and the sad thing is, 85% of the grocery store is not good for you. Eating out anywhere is not good for you, and it really is, it's not, I need to make a couple of tweaks to my diet to get in better shape. We need to blow the whole thing up and start from scratch again and get back to basics of eating real food and food that

our bodies can process, so on and so forth. So as time goes on I want to continue to make a difference, and that's really why my pricing is indicative of that. I've been in the industry about seven years, and I charge about half of what I can or what I should, honestly. I'm okay with that. I like the volume because that means my clients can come more often. I can make more of an impact on their life. I'm okay with making less money today so that I can make a bigger impact tomorrow.

Mrs. Emerson: I have just a couple questions. To the owner did you purchase this property and then try to rent it out, or did you know what the plan was when you purchased the property?

Mr. Bodecker: I am in 8,500 square feet of the property myself, and I had a partner in the property that did electrical, commercial electric work. That gentleman ran into financial problems and I had to buy him out. So I did that in the past six months, and so that opened up that side and to be honest I could hardly afford for somebody to not be in there.

Mrs. Emerson: Were you aware of the code when you brought him in?

Mr. Bodecker: I was not. I hired a real estate person who I paid \$6,500 and he brought me this gentleman, and I would have made the assumption that he knew what he was doing. He owns a whole bunch of property in the area, so I didn't know. I plead ignorance.

Mrs. Emerson: Okay, my other comment is we commend you for the work you do. I'm in healthcare; I'm a nurse, so I understand the importance of it. The question is, does it belong where you have it?

Mr. Becerril: I completely get that.

Mrs. Emerson: No one is arguing with what you do. I think it's fantastic and I think it needs to continue. The question is, does it belong here? So that's what we're looking at here. It's not what you do.

Mr. Becerril: I get that. I get that. I know you guys have a job to do. I respect that. I just, if there's a way to once again view this in a manner that's not going to open a can of worms for you guys but allow me to continue to stay there and continue this relationship, I feel bad if I have to leave. This gentleman, I mean everything I asked him to do moving in with the carpet and making some adjustments inside, he's done. I put \$4,000 worth of a plywood floor in with (inaudible) that is stuck there now, so there's just so things that would not be good thing if I had to. But once again, I understand you guys have a job to do and you've got to protect Springdale, so I get it. I get it.

Mr. Bodecker: In turn, I spent \$15,000 and gave him two free months of rent to get him in there because he signed a four year deal with me, so if he moved, it's (shoo) and I'm trying to better the building as much as I can. But anyway just trying to be a good citizen for Springdale and keep my place up as best I can.

Mr. Becerril: It was probably partly my fault for not look I had no idea. The first place that I was in business, it was never an issue. I never had, I mean three years, or thirty-nine months there, not a question about that. I didn't even know that it could possibly have not been a good spot. I walk in and I see like a perfect environment because it's business up front. There's a couple offices up there. It's a nice place to say hi and a nice waiting room, and then an open area in the back that we can apply our craft. It's actually a perfect set up, so I just once again had no idea that this was going to be an issue. It definitely wasn't trying to get around the code. I didn't even think about looking at it, honestly.

Mr. Bodecker: One thing also, if I could add. There is ten offices in the front and there is no showers. There's nothing like that there. There's just a men and a ladies bathroom. There's no showers. It's not a gym at all. It's not that. There's no showers, no locker room, no nothing like that.

Mrs. Sullivan-Wisecup: I have a couple things. Number one, I understand what you're saying about no showers and things like that, but the showers weren't even taken into consideration when we were looking at is it a public facilities district, because a lot of these places don't have showers or things like that. It's just the code. I have a question for Mrs. McBride. If this were to be approved, what does that mean for the code going forward with people who have a similar business as them? Does that mean that they get to slide in under this as well?

Mrs. McBride: No. The applicant has asked you to make the determination that Mr. Taylor was incorrect in reading the code. I personally don't think that he was. Aside from that, what it would do if other folks wanted to come and locate in the GI district, then they could make similar arguments to you, I would suppose. This isn't a use variance; this isn't a zone change. They are alleging that we are in error in reading the code.

Mrs. Sullivan-Wisecup: Yeah. I just wanted to make sure I was correct in what I was reading, that this would be where we would say that for some reason the personal training would fall under one of these on the two pages that are listed of items that are actually in the GI code.

Chairman Ramirez: You know, I looked at this myself, and looking in all the categories, I believe Mr. Taylor was correct in his assumption that it did not fit the zoning for that area. I looked and looked and I was trying to find a way to fit in what you do into one of these categories, and I think if we can't come up with that I don't believe we have a cause to approve it. So, you know, what I'm looking at is, I see you also do massages. I saw that on your window; you do massages which would fall under personal services as well so that would not fit, but you know under conditional uses I see things like you mentioned animal training and certainly it's not going to fit under that one as well. Maybe rehabilitation. I think there's a facility right near you that does some rehabilitation.

Mr. Becerril: A lot off

Chairman Ramirez: Are these folks that come in healthy people?

Mr. Becerril: No, not all of them. A lot of them are post-rehab. Typically, what will happen is, you know, you'll get injured. You'll have rotator cuff surgery or you'll have a knee surgery. You'll get prescribed to go to physical therapy for a while. A lot of times, people don't take that to heart. My mom has both her knees replaced. She got full recovery back in one, and she blew off her recovery in the other one and she can't bend it. So, a lot of times people will do that and then they don't function properly after that, so it's coming in and trying to recondition and get past that. A lot of times also the PT or the insurance will run out before they've actually completed the program. A lot of what we do, if you noticed, I don't know if you have pictures of the facility. There's not a lot of equipment in there. There's a lot of open space because we use a lot of resistance bands and things like that, which is basically what physical therapists do for that last stage of recovery. If you've ever had an injury, you know you do band exercises, so on and so forth. So, a lot of what we do deals with that as well, like in the beginning, because most of the people that walk in the door honestly there is something wrong with them: hips not lined right, one arm is bigger than the other and that causes issues, or they're stronger in their back than in the front of their core and that causes other types of issues, so a lot of what we do in the beginning is very rehabilitative.

Chairman Ramirez: Thank you.

Mr. Bodecker: Also sir, we have, he teaches basically, and right next door to use we have the union hall that does teaching, and then right around the corner we have the mentally disabled being taught life skills around the corner. I don't know how we can distinguish different teaching of different things, when they're teaching welding and they have classrooms next door and they're hands-on also and then around the corner they are also hands-on. So, that's kind of what I'm looking at as a similar type of thing.

Mrs. McBride: Just a couple of things. I want the board to know that Mr. Taylor and I did meet with the property owner and we were sympathetic, and we think that it is a really good thing that this gentleman is doing, but I racked my brain and went through every one of these uses trying to figure out how it could be interpreted as one of these uses. I have thirty-five years of representing people like this, and I couldn't make the pieces fit. I'm sorry, but I couldn't. The second thing is relative to the welding school. The facilities providing post-secondary education in fields of study related to any principally permitted use in the zoning district in which it is located. So, welding uses are permitted within a GI district, so education to further your welding skills would be a permitted use within the GI district. The other instance that you mentioned there, the OB Office business district kind of winds through that area. It's possible, I don't know exactly the property that he is referring to, but it's possible that that property may be zoned differently than the subject property that we're considering.

Chairman Ramirez: The property with the rehabilitation of the patients, the mentally disabled, would that category fall if they were to offer those same types of services in their situation? Such as, I'm looking at some of these, again I was trying to find a way to make this work, like playgrounds. Okay, playgrounds are one. If they didn't have instruction and he has, I don't know what's in there, ropes and tires and things like that, could that loosely be called a playground?

Mrs. McBride: If there was not a definition for personal services, and it didn't so directly fall within that definition, maybe swinging on the swing, but unfortunately our new code is very specific and it does contain a very good definition for personal service uses. I think unfortunately this use does fall within that category and it is not permitted in this district.

Chairman Ramirez: So how do we address the conditional uses of animal training such as, I'm sure that's a service of some sort that people teach the animals behavior.

Mrs. McBride: It could be service dogs or whatever that are taught, so that's a conditional use that's permitted in the GI district, and somebody would make an application to our Planning Commission to allow that specific use on that specific piece of property, and Planning Commission would consider that use then and all of the things that went with it, surrounding uses, surrounding properties and so forth. Then they could, they have the ability to approve that specific use on that specific piece of property with conditions, okay? So, it's a very specific application tied to that use to that property.

Mr. Nienaber: This is really difficult.

Mr. Becerril: I know, I appreciate it. And I can tell you guys are trying to work with us, and I really appreciate that. I do have one quick questions. So, because there is the mentally challenged facility right down the street, would it make a difference if I were to go talk to them tomorrow and set up a program where they brought the people in and I did some work with them a couple times a week for free? Would that change that?

Mrs. McBride. No. Sorry.

Mr. Becerril: No? Okay.

Mr. Nienaber: Pardon me. We find this really difficult because I admire what you're doing. I certainly see a point to it, but at the same time, we just got through hammering a new Zoning Code into place and the last thing we want to do is start chopping it up again, because then it just makes everything more difficult. AS I look through all the potential uses there, again, wishing I could find a way to fit, the only one I see would be calling it a non-profit and you don't want to do that.

Mr. Becerril: No.

Mr. Nienaber: If there were any way to fit this, I think we all would want to. I think you can tell that from the questions we're asking. The difficult part is I really can't disagree with Mr. Taylor and Mrs. McBride that it doesn't fit the zone.

Mr. Becerril: Having said that, you brought up non-profit. I have worked in the past, I went downtown and worked at the drug court. I worked with a women's group and a mixed group before, and I also had a program going at my other facility for a while dealing with people coming off heroin. I don't understand how that's not part of the prescription when we're trying to get people off of drugs into a different lifestyle, why eating better and doing something positive is not. If I were to go that direction, would that allow me to then continue business as usual and do that on the side, or would that not be considered?

Mrs. McBride indicated no.

Mr. Becerril: It would have to be 100% that direction.

Mrs. McBride indicated yes.

Mr. Becerril: Yeah? Okay. Fair enough.

Mrs. Sullivan-Wisecup: I was just going to say that in that case, you would actually have to be a non-profit organization, correct? You'd have to have your 501.3(c)?

Mr. Becerril: I don't want to have to go and do all of that, but I didn't know if I could do that while running a business also. No. Okay.

Chairman Ramirez: Any other questions for the applicant? I just think as a note that, we are trying to find a way here. Mr. Taylor in my determination was correct. We cannot find a place to fit what you do into that zoning area. So at this time would somebody like to create a motion?

Mr. Nienaber made a motion to allow the applicant to, in violation of the code, remain at his current location.

Chairman Ramirez: Now as I understand, we would have to find a use for that, not given a variance to this violation. Is that right, Mrs. McBride?

Mrs. McBride: This board does not have the power to do that. What this board has the power to do this evening is to either affirm Mr. Taylor's decision or to find that Mr. Taylor was in error in issuing the order that they had to cease operations there. Those are unfortunately the only two options that are open to this board.

Mr. Nienaber: Thank you.

Mr. Nienaber amended his motion to confirm Mr. Taylor's determination; Mrs. Sullivan-Wisecup seconded the motion. There was some clarification as to whether a

yes or no vote supported Mr. Taylor's determination. Mr. Taylor's determination was confirmed with a vote of 6-0.

Chairman Ramirez: Sorry, sir. The vote is 6-0 against approving Mr. Taylor's opinion, or approving that he was correct. Thank you.

Mr. Becerril: Yes sir.

Mr. Bodecker: AM I able to appeal to the City Council at this point?

Mrs. McBride: No. If you wanted to appeal this board's decision, it would have to be, I believe, to Common Pleas Court. That would be based on the testimony that was presented this evening.

Mr. Bodecker: I have one more comment, and it might be a little out of place, but I find it odd that this didn't pass and a sexually oriented business can go in there, and this can't. It's very disheartening.

Chairman Ramirez: I noticed that as well, and I agree with you. Good luck to you.

B. Denrick Properties LLC/ Gilhart Enterprises, Inc., 11711 Princeton Pike, Springdale, Ohio, Administrative Appeal regarding the removal of the pole sign (Application #31741)

Chairman Ramirez: Yes, sir. Please state your name and address.

Mr. Gilhart: Good evening, everyone. My name is John Gilhart Senior. I'm here representing Gilhart Enterprises, 11711 Princeton Pike, Springdale. This is my son, who is also representing Gilhart Enterprises. His name is John Gilhart II. Use the same address for him. We're here this evening to talk about some letters, some notices that we received, and I thought it best to try to summarize this and go through a timeline, a very brief timeline. Back in December, we submitted a concept plan application to the Building Department with the intention of redeveloping Princeton Bowl, the property in question tonight, owned by Gilhart Enterprises. We submitted that package for review for January, and in the interim before we got to present that to Planning Commission, we received a letter from Randy Campion from the Building Department, advising us that we are in violation of Section 155.0591 which states, it's only four sentences: "All exterior and interior signs shall be maintained in good repair. If any premises becomes vacant, the owner/operator shall cause all signs visible from the exterior which no longer apply to premises to be removed within six months and to restore the exterior appearance of the building to match the existing façade." To summarize, we sent a response letter, basically saying we've not vacated the premises. We're there. Gilhart Enterprises still owns the building and property. I still have my office there today. You're more than welcome to go down and visit us. We continue to sell parts, bowling pins, equipment, and we also currently rent the parking lot to Jake Sweeney Chevrolet for automotive storage. We have not vacated the premises. I sent that letter. To move on, we went ahead and presented our concept plan in January to Planning Commission. If I may, I'm kind of bouncing back and forth a little bit, I'm going to read the minutes from just two members of the Planning Commission, their statements. This is from Mr. Hawkins, and I quote, "I think it's safe to say that if the Planning Commission and Staff find everything else with regard to your submittal to be workable and viable, and it's going to get approved, the Commission and Council are not going to want to put you in a position where you're not going to be able to be successful, which you would not be able to be successful without signage out by the roadway." That's a direct quote from Mr. Hawkins. Mrs. Harlow went on to say, "We want you to be successful and we want to work with you, and we don't want to put road blocks up." So, we went through that. Everybody seemed generally acceptable. They liked the idea. We're going back again, I believe it's next month. Instead of a concept plan resubmittal, it's what we call a minor change to the PUD and

there is some question as whether it's minor or major. For this presentation, we are going back to Planning Commission submitting for that package. I have a copy of the package here and I'll pass it around in a minute. So that's the comment from Planning Commission. So we've got the Building Department telling us to take our signs down, and we've got the Planning Commission telling us that we like your idea and we want to work with you and we think you need signs. So then, after that, we received another letter from Gregg Taylor. I think it was on January 10th. Now they're citing another code Section, which is 153.462, specifically Section C of that code. We responded again, and you probably have a copy, Anne probably has a copy, and Gregg, of the letter, basically saying we've not left. We're still there. We have income. We pay real estate taxes. We pay insurance. We pay utilities, and of course we are in the process of trying to redevelop the property into something else. Now, I'm going to turn this over to my son just for a moment to address this Section, the last Section we received, 153.462(c). He's just got a couple comments about it. This is more of a technical legalese than anything else. But this is my son John.

Mr. Gilhart II: Good evening. Once again, my name is John Gilhart, and I'm a Florida Bar Attorney, and I just want to be clear that tonight I am here as a supporting family member and an investor in the Princeton project, and what we have planned. When I look at the code that they cited, 153.462(c), they've cited that "no non-conforming signs shall be allowed to remain for more than six months after the use of the land or building for which the sign relates, has ceased by discontinuance or abandonment." When I read "use of land or building has ceased", I don't see that it says a particular use. I don't see that it says the use for which the Princeton Plaza was originally for, or Princeton Pike. I see simply "use of land or building". The building is still in use. It's still the original owners. It has not abandoned and it has not been discontinued. That's all I have to say.

Mr. Gilhart: He is a stock holder too. A current stock holder. That's pretty much all I have to say. From my understanding from the last gentleman that was here, it's more that we're not contesting whether or not we find that Mr. Taylor made an accurate assessment and sent us the letter. Technically, we don't believe that to be the case, but putting that aside, we're more interested in working with Springdale to bring more businesses to the community. On a side note, many of you may know this, we were the property owners of Princeton Plaza. We've worked since 2009, January 2009 on Princeton Plaza shopping center changing the name to Tri-County Town Center. We were here several times, and I know Mrs. Ghantous was here, and Mrs. McBride on the Planning Commission so on and so forth. We've done what I think is a pretty good job of cleaning up something that has been there since 1962 in a short period of time, which was 3-5 years. Now, again on a side note, it was several people, five families minimum involved with that. Just so you know, the reason we did sell it is because there was different things that different members of the family were doing, and we felt that we did a good job with it. We brought it back and made a nice presence in Springdale, and it doesn't hurt that the company that bought it is about a \$1.5 billion company, so you won't have any problems with upkeep or anything else like that at least financially. Having said that, we'd like to do the same thing, or a similar thing, with Princeton Bowl. It's kind of tough. I have my son, myself, and my daughter and my wife, who are not here tonight, have a contract to purchase out the remaining shares of Gilhart Enterprises. There's two contingencies in that contract. One is that we are able to keep the signage on Princeton and Kemper Road, and the other contingency is that we'll be able to convert the Princeton Bowl into ten tenants, which we call it flex space. It's office, retail. It would be something like electrical contractors, plumbing, window tinting, those type of services. But anyway, that's what our intention is, so we just want to know if, and I know this is kind of getting off with what we're doing here tonight, but this will send a signal to us whether we should continue and invest in the community or not. That's okay too, if that's not what's going to be tonight. We came back in town, I can tell you, about three years ago. We counted about thirty vacancies in the Tri-County Mall. We went over there a few days ago and we counted 65 plus. We went across the street to the little strip center.

There's ten or twelve vacancies there. I don't know how Casinelli Square is doing; I know it's struggling. I went over to where the Outback moved from; that shopping center is in bad shape. I'm just coming to you saying, hey, work with us. Help us here. We'd like to invest in the community and bring out little section of it back. That's about all I have to say. Did you have anything to say? Yes, I did hand out plans. That's the concept plan for that building there. There's a picture there; that's just a facility somewhere else that is similar to that. I think that's it. That's all we have to say.

Chairman Ramirez: Is that all at the moment? If you would, please, we may have some questions for you. Now we're ready for some Staff comments, please.

Mrs. McBride provided Staff comments.

Mr. Gilhart: Can I make one quick comment?

Chairman Ramirez: Yes, sir.

Mr. Gilhart: it says for which the sign relates. It's still Princeton Bowl. It's still named Princeton Bowl. The sign relates to Princeton Bowl. Period.

Chairman Ramirez: Princeton Bowl is no longer in operation, correct?

Mr. Gilhart: Yes, it is in operation.

Chairman Ramirez: As a bowling alley?

Mr. Gilhart: Not as balls rolling down the lanes, no.

Chairman Ramirez: That's how we would, you know I was over at your site. First of all, I appreciate the Gilharts have been a valuable part of Springdale for over 50 years and I bowled at that alley until it closed. So, we appreciate you investing in Springdale, and I am a member of the Planning Commission as well, and what they said is true. We really want you to be profitable and make use of your property. But when I went down there, if it's open at all, I could not find a door to get to. It's chain link fenced all the way around, so I mean it's not like you can go in and buy bowling pins or

Mr. Gilhart: No, you can't.

Chairman Ramirez: í it's not in operation every day.

Mr. Gilhart: It's in operation but it's not, the doors are not open. We run the operation though, you can go down there tomorrow if you'd like. There's an office there. You know, here's my problem. It seems like out of this side of somebody's mouth is hey, we want to work with you. It's great. We'd love to see more investment in the community. Out of this side of the mouth, or the other hand, you need to tear your signs down. And we think we're going to, there's some positive feedback from Planning Commission, but so then do we tear down the signs and then come back in and try to get the signs? It just seems for cost alone, it just doesn't make sense to us.

Chairman Ramirez: Well, you know, if I'm looking at the code correctly, even if you did not tear down that sign, it looks like you would need more than 50% replacement of that sign according to your drawings there to get it up to look like the rendering there. So, if that's the

Mr. Gilhart: That's if we went to...

Chairman Ramirez: í case, it wouldn't comply either.

Mr. Gilhart: Well, we would just do a face change. We'd do a one third face change and that's less than 50% of the sign.

Chairman Ramirez: You got the base?

Mr. Gilhart: That's it.

Chairman Ramirez: Is there as well?

Mr. Gilhart: That's what we want to do with Planning Commission.

Mrs. Sullivan-Wisecup: Do you have a base there now?

Mr. Gilhart: No.

Chairman Ramirez: No.

Mr. Gilhart: And we would not do that. We're kind of fighting on two fronts here. We're fighting to keep our signs.

Chairman Ramirez: Right.

Mr. Gilhart: And we'd love to put a bunch of money into it like that and dress it up and do other things, but if we have to fight this thing on technicalities, we still want to keep them so we'll go ahead and spend no money or less than 50% of the value of the sign to do that. We have those issues as well, as Mr. Taylor knows, as far as the building. We can't spend any more than 50% of the improvement of the building or we have to come up to code. So that means raising the building seven feet or demolish and build a new one. At that point, it becomes a lake. It's worthless. If it becomes a lake, or close to it, the value on that is zero. Then we go to contest real estate taxes and we would have clear evidence at that point that it's worthless. There's \$24,000 a year that those taxes are paid on that building. That goes to the schools, and I would imagine that's Princeton School District which is probably Springdale too. Those \$24,000 would be zero. Then the sales tax, the income tax, and everything else that you would have gained from the redevelopment, that's gone too. So, I guess what we're saying is, we'd love to redevelop the project, but without signage we're dead.

Chairman Ramirez: It's not that you're not allowed signage, like Mrs. McBride said, when your plans would come before us again, I'm sure you would have signage included in those plans and that would certainly be approved like Mr. Hawkins and Mrs. Harlow had stated earlier.

Mr. Gilhart: But we can't rely on that. As business owners, investors, so on and so forth. I'm sure you mean well, and I truly believe that it's going to happen, but I've been through seven, eight, ten Planning Commission meetings in the last five, six, seven years. Anything can happen. As an owner, we need to protect our interests, so if you put yourself in my position, we have to protect our interest up until that point. Now this may be a thought too. We talked about, I used the term "stay of execution" even at the Planning Commission. I asked them. They said it's unrelated to this; it's something we can't deal with. But that would certainly be even a better situation if we would continue this, if there was nothing, if we couldn't get a positive outcome on this, even if we could continue this to let some of the other processes take place, this may be not even an issue at all.

Mr. Forbes: I only wanted to point out just a couple of procedural issues. I'm not here to address the merits of this in any way, but as the legal counsel. Just again, I want to remind you the only issue before this board and the only authority that this board has on this type of an administrative appeal is to determine if Mr. Taylor's order was

correct or whether it was in error. So, I just remind you that that's the narrow issue you have. But actually as you were just speaking, I guess I'll point out one other thing with respect to the Ordinance and the notice that was provided. It does say, "if the property owner fails to comply with the notice, the municipality may issue an order (which we have done) to the property owner that the sign must be removed within five months from the date of the order." I forget, December? January was the actual, January 20th was the actual order. So, even if this board were to confirm that the order was appropriate, they have five months before they have to remove the sign because then what the rest of the Ordinance says is that if they don't do it within the five months, the City actually has the authority to remove the sign and assess the cost. I'm not suggesting that it's a stay of execution or it's whatever you want to call it, but the very terms of the Ordinance say once the order is issued, it has to come down within five months, for what it's worth.

Chairman Ramirez: Mr. Gilhart, does that change, if we were to say that yes Mr. Taylor is correct, and you have an additional three or four months from now before you would have to take down the sign and like you said, maybe coming up with an alternative plan?

Mr. Gilhart: In my opinion as an owner, investor, whatever you want to call it, that would be, I would not see that as a wise way to go. What I would do if that were the case tonight is we would file an appeal with the Common Pleas Court. We would do that. And that's not because we don't like you or don't want to work with you. We have to protect our interests, so we don't know, even with these positive comments, we work I think very well, and I think Mrs. McBride would agree with me, maybe not, that everything I've said and everything I've presented to the best of my ability we've done. So, you know, I've already done that. But to have something taken away, and even if the order says we affirm the order; we're going to take it away in five month. Having that over our head, I don't know that we could even that might just kill the whole deal anyway. I don't know that, I'm not saying it would, but it's a real good possibility.

Chairman Ramirez: Any other questions for the applicant?

Mr. Gilhart: But I think from the evidence I've tried to present and the way we've interpreted this, again, there's no straight definitions that we could find in the code that identifies, "sign relates" is pretty vague. I think if we were to take this and have it reviewed, the vagueness, if there's any vagueness on that, my understanding is they would rule in our favor.

Mr. Gilhart II: It's construed against the person that drafted.

Mr. Gilhart: Yeah, it would be, as he says, construed against the person who drafted. But again, this is all technical stuff. We don't want to do that. What we would appreciate is if you would agree with us and say that yes we're in business because we are. We have the licenses. We're paying all our taxes. We've got income. I would prefer either you disagree Mr. Taylor or you do a continuance or something for nine months, or 90 days or something like that, to get us past.

Chairman Ramirez: I don't know if we can, Mr. Forbes, can we do a continuance on a violation?

Mr. Forbes: I think this board, if this board believes that continuing the matter would lead to additional evidence that could be presented that would assist the board in making a decision and it's at the applicant's request, I would say the board likely has the authority to continue this. That being said, I think you'd need to know that there is actually going to be some more evidence that could be presented. Otherwise I'm not sure that it's in your best interest to continue it.

Mr. Gilhart: We would like to submit, if that is the case, if there's not enough information here tonight to make a decision on it, we would certainly come back to you with an opinion, a written opinion from an Ohio Florida Bar Attorney. We don't have that with us.

Chairman Ramirez: I believe at this point we are just ruling on whether Mr. Taylor is correct in his identification of the sign, and the age of the sign and whether the business is still Princeton Bowl, and that's all. Going forward with the planning, the future plans of the sign is not up for subject matter tonight.

Mr. Gilhart: What I was saying is if need be, as you stated, we could submit further evidence stating our case as far as a legal opinion on the code itself and whether an attorney or law firm or whatever.

Chairman Ramirez: I don't think we get to, with this board here, I don't believe that's our capability. We're just here to rule whether or not.

Mr. Gilhart: But I'm just saying if.

Chairman Ramirez: Is the zone and?

Mr. Gilhart: Is if you have the law director and the Building Official saying this says this and that's the way it is and there's a legal opinion written that says that's not the case, that would be evidence to present before them.

Chairman Ramirez: That's where you may want to take it to a higher court.

Mrs. Sullivan-Wisecup: I just have a question. If we continue this, will you be doing, can I go bowling at Princeton Bowl in thirty days?

Mr. Gilhart: Certainly.

Mrs. Sullivan-Wisecup: Because the entire thing is that the sign says Princeton Bowl as the Princeton bowling alley, so if we continued it, you are saying to us that that signage will represent what the community is able to.

Mr. Gilhart: Private parties only.

Mrs. Sullivan-Wisecup: Is it do with that space. I had a private party there. Don't play games. I've been here for a long time.

Mrs. Ghantous: I am not in favor of continuing.

Chairman Ramirez: Would somebody like to move for a motion?

Mrs. Sullivan-Wisecup moved to accept Mr. Taylor's decision; Mr. Nienaber seconded the motion.

Chairman Ramirez: So as I understand you are agreeing with Mr. Taylor that it is a violation. Is that correct? Okay.

Mr. Taylor's decision was upheld with a vote of 6-0.

Chairman Ramirez: Sir at this point we go back to the term that you have to remove the sign. You can work with Mr. Taylor on that or whatever means you need to go forward.

Mr. Gilhart: So, I assume we will be receiving a letter from Mr. Taylor stating what the order is, the result is.

Chairman Ramirez: Yes.

Mr. Gilhart: And advising us of the timeline.

Mr. Taylor: Correct.

Mr. Gilhart: Alright. Thank you.

Chairman Ramirez: At this time there is no more New Business. Anyone have anything for discussion?

Mr. Gilhart: Excuse me. Can I have those papers back?

Mrs. McBride: Actually no. I'm sorry. You presented those to the board and they have become an exhibit to the board. They have to stay here.

Chairman Ramirez: There is no Chairman's Report tonight.

Mr. Gilhart: I guess there's a presentation separately; there's a separate owner. (Off mic, inaudible)

Mr. Nienaber: Thank you. I didn't realize we hadn't moved on to the panel discussion part, but I'll go ahead and say, I just wanted to thank Gregg Taylor, Anne McBride, and Jeff Forbes for being here tonight. This was certainly the strangest set of circumstances we've ever had that I know of. That's all I had. Thank you.

Chairman Ramirez: Did you have something else to present to us other than you said?

Mr. Taylor: We were panning on hearing the Denrick case at next month's meeting. We received an application. John sent it on the other Mr. Gilhart's behalf to be heard next month because we got that application on February 20th which was the deadline for March's meeting. So, it was our intention, even though it has both cases on the agenda, which I apologize for, we didn't have the documentation.

Mr. Gilhart: So, next month then? Fair enough. Thank you.

X DISCUSSION

Mr. Nienaber will be absent from the March meeting.

XI ADJOURNMENT

Mr. Nienaber moved to adjourn; Mrs. Emerson seconded the motion and the Board of Zoning Appeals meeting adjourned at 8:16 p.m.

Respectfully submitted,

_____, 2017

Chairman Joseph Ramirez

_____, 2017

Secretary Carmen Daniels