

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
REGULAR MEETING

Held via YouTube Live Streaming

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

May 11, 2022
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Francis Sweeney, Vice Chair
Chris Jarrell, Member
Todd Golling, Member
Brandon Dynes, Member
James Rowe, Alternate Member
Davey Rowan, Alternate Member

Also Present:

Heather Freeman, Planning & Zoning Director/Zoning
Inspector

Melton Reporting
11668 Girdled Road
Concord, Ohio 44077
(440) 946-1350

1 7:00 p.m.

2 VICE CHAIR SWEENEY: Good evening, and welcome to
3 the Wednesday, May 11th meeting of the Concord Board of Zoning
4 Appeals. My name is Francis Sweeney and the meeting is now in
5 session. I would like to introduce my board. To my far left
6 is Davey Rowan, to my immediate left is Brandon Dynes, to my
7 immediate right is Chris Jarrell, and to my far right is Todd
8 Golling.

9 Under advice of our legal counsel, we ask that
10 anyone who is going to be speaking tonight, and that would be
11 in, on the variance application, I would ask that you stand
12 and be sworn in.

13 MR. GOLLING: Stand up, yeah.

14 VICE CHAIR SWEENEY: This would be, this would be on
15 the Variance Application 2022-99. That will be the only
16 matter that will be in the form of a public hearing this
17 evening. So whoever here for that, please stand to be sworn
18 in.

19 MR. DEMING: Is that me?

20 MR. GOLLING: That's you, yeah.

21 MS. FREEMAN: Yeah, yeah.

22 MR. GOLLING: He is the, he is the lighting.

23 VICE CHAIR SWEENEY: Oh, okay. I'll explain, yeah.
24 Sorry.

25 MR. DEMING: That's okay.

26 VICE CHAIR SWEENEY: Go ahead.

27 (Whereupon, the speakers were sworn en masse.)

28 VICE CHAIR SWEENEY: All right. Thank you.

29 We have two matters this evening. We have a
30 Variance Application 2022-99, Deming Enterprises, Inc.,

1 requests a variance from Section 22.09(C)(2) to allow
2 lighting, lighting from the building soffit on the front
3 elevation of a proposed building to be set at a height of 27.4
4 feet in lieu of the maximum height of 14 feet, for the
5 property located at 7750 Discovery Lane, also known as
6 permanent parcel number 08-A-020-A-00-017-0.

7 You may approach and present your variance.

8 MR. DEMING: I am Barry Deming, with Deming
9 Enterprises. In your packet, I believe, you have a picture of
10 the building with the photometrics, I believe.

11 VICE CHAIR SWEENEY: Oh, you have been sworn in?

12 MR. DEMING: I was sworn in just now.

13 VICE CHAIR SWEENEY: And your home address?

14 MR. DEMING: Is 4600 Riverwood Drive in Madison.

15 VICE CHAIR SWEENEY: Okay. And if you could try and
16 speak up.

17 MR. DEMING: Sure.

18 VICE CHAIR SWEENEY: Thank you.

19 MR. DEMING: So in your package you should have some
20 photometrics of the building and what the office will look
21 like. So with the ordinance, I believe 14 foot is the maximum
22 height for any lighting. So the pole lights and the building
23 mounted wall pack lights and any other lighting outside is at
24 14 or below. So this is just strictly with the soffit down
25 lights that will go around the office.

26 So in your picture there you see that that's about
27 27 and a half foot up. That soffit sticks out about 2 foot
28 from the building. So those lights will be approximately 1
29 foot off the wall. And then they're manufactured to shine,
30 obviously, down and then back at the building. So I think the

1 actual projection out away from the building probably won't
2 exceed anything from 10 to 12 feet.

3 That's essentially the long and short of what we're
4 asking for. The owner was kind of adamant of trying to leave
5 them in the project for what it will make the building look
6 like. The glass has a nice blue tint to it, so with the
7 lights in the evening shining on it, he felt that it would
8 really set the building off.

9 MR. GOLLING: Are these windows right here?

10 MR. DEMING: It's all glass.

11 MR. GOLLING: It's all glass, okay. It's glass
12 panels, not windows?

13 MR. DEMING: They're windows, yeah, blue tinted
14 windows, yeah. Almost the entire office is a window system,
15 so it will look really nice.

16 Any questions I can answer? There is some masonry
17 and I think you can kind of tell where the masonry is on the
18 office but, by and large, most of it is glass.

19 MR. GOLLING: I do have just, I just kind of want to
20 orient myself how the building is facing. I know that Little
21 Mountain is behind these trees?

22 MR. DEMING: Yeah, so the corner of the office
23 points towards -- How do I describe?

24 MR. GOLLING: Does it point toward the street?
25 Where is the street? Is this the street front right here?
26 Like where are we on here?

27 VICE CHAIR SWEENEY: Southeast.

28 MR. DEMING: Yeah, so their driveway will come right
29 in here and this corner of the office will be right there.

30 MR. GOLLING: Okay. So these were all facing this

1 front drive then?

2 MR. DEMING: Yeah, this would be facing Discovery
3 and this would be facing the woods over here.

4 MR. GOLLING: Gotcha. But none of it will be facing
5 back towards the golf course and the residents?

6 MR. DEMING: Correct, correct.

7 MR. GOLLING: Okay.

8 MS. JARRELL: How tall is the building in total?

9 MR. DEMING: The office is about 30 foot, so these
10 lights will be about 27 and a half feet down, but the top of
11 the roof will be about 30 feet.

12 MR. DYNES: I am guessing you want these, in part,
13 for some safety measures as well, the lighting?

14 MR. DEMING: They will help illuminate the parking
15 lot because the parking lot wraps around the office just in an
16 L shape like the office is.

17 MR. DYNES: So parking will be adjacent to the
18 building up, parking spaces up to the building?

19 MR. DEMING: So in between the building and
20 Discovery Lane and then in between, on the south side of the
21 building, between the building and the woods is where all the
22 parking is.

23 MR. ROWAN: I assume these are sunset to sunrise or
24 some variant.

25 MR. DEMING: They would be in the evening on a
26 timer, so they probably won't be on all night. They'll
27 probably shut them off at 10 or 11 or something.

28 MR. DYNES: Any other plans for the parcel?

29 MR. DEMING: This whole project, pretty much, takes
30 up most of the parcel. He has room for about a 20,000 square

1 foot addition but it would be all manufacturing.

2 VICE CHAIR SWEENEY: What does he do?

3 MR. DEMING: They do machine manufacturing but it
4 would be, the best way for me to describe it is, if you had an
5 invention that you came up with and needed to make a million
6 of them, if you go to them and say, "Here is what we need to
7 make and here is how many we need to make and how fast we need
8 to make them," and then they will make a machine that will do
9 that. I guess, that's the simplest way to describe it.

10 VICE CHAIR SWEENEY: Sounds good.

11 MR. DEMING: But it's all high end. It's not, it's
12 not pumping out rubber knobs that go on the end of a stick. I
13 mean, they're making some high end stuff.

14 MS. JARRELL: What portion of the building is office
15 versus warehouse?

16 MR. DEMING: The office portion is 8,000 first floor
17 and 8,000 second floor, total of 16,000, and then the shop is
18 55,000.

19 MS. JARRELL: Okay. And is the shop also 30 feet?

20 MR. DEMING: Yes, because they have bridge cranes in
21 the whole facility.

22 Any other questions come to mind?

23 MR. ROWAN: It seems pretty straightforward to me.
24 I mean, I like the design. It makes sense putting them in the
25 soffits like that as opposed to the alternative would be to
26 put them on the wall, I'm assuming, the exterior.

27 MR. DEMING: The alternative would be to put them in
28 the ground and shine them up but then we can't control how
29 they shine out, really.

30 MR. GOLLING: As far as light pollution goes, I

1 think this is the better answer. Shining up, I don't think
2 would ever -- I mean, there would be a second option which
3 would be a faux soffit at 14 feet but that would just look
4 dumb.

5 MS. JARRELL: Yeah.

6 MR. DEMING: And it's all glass.

7 MR. GOLLING: Yeah. It would kind of cut the
8 architectural rendering down to something silly.

9 MR. ROWAN: I have no further questions.

10 MR. GOLLING: No, I am good.

11 MR. DEMING: No other questions. Thanks.

12 VICE CHAIR SWEENEY: All right, thank you.

13 I have to apologize. I neglected to introduce our
14 Zoning Inspector, Heather.

15 MS. FREEMAN: That's okay. Thank you.

16 VICE CHAIR SWEENEY: This is Heather.

17 All right. Is there anyone else that will be
18 speaking on this variance for or against?

19 (No response.)

20 Heather, were notices given to other parcel owners?

21 MS. FREEMAN: All the proper legal notifications
22 were done in the newspaper and then to all the adjacent
23 property owners and those across the street.

24 VICE CHAIR SWEENEY: Okay. All right. Before we --
25 I also neglected to inform the applicant that a three-vote
26 majority is necessary to either grant or deny the variance.
27 Rushing through things tonight.

28 MR. DYNES: You're doing fine.

29 VICE CHAIR SWEENEY: Discussion on this?

30 MR. GOLLING: Yeah. So I don't know --

1 MR. DYNES: Close the public portion.

2 VICE CHAIR SWEENEY: The public meeting is closed.
3 Discussion?

4 MR. GOLLING: So I don't know how tall a regular
5 street light is but this isn't much taller than that and it's
6 facing away from the golf course. It is in an industrial
7 area. I would have concerns about light pollution would it be
8 pointing towards the golf course or the residences on the golf
9 course but there is, this is kind of behind the hospital, I
10 think, and there's a whole lot of nothing out there right now.
11 Hopefully, there will be some more things there but I don't
12 think it's going to affect, the 14 to 28 isn't going to make,
13 I don't believe, any difference in the lighting. It looks
14 nice, looks like it's well designed, and it looks like it took
15 the pending light pollution into account there.

16 MS. JARRELL: I would agree. And any newer
17 industrial-type development is going to be a taller building.
18 And, you know, maybe at some point we need to kind of revisit
19 what these requirements are in the Resolution because it
20 seems, at 14 feet, it seems really outdated.

21 MR. GOLLING: At least, for the Capital District.

22 MS. JARRELL: Right, exactly.

23 MR. DYNES: Well, if you accept the premise that the
24 architect has indicated it's not going to extend more than 12
25 feet away from the building, I don't think that's necessarily
26 too intrusive either.

27 MR. GOLLING: Right.

28 MR. DYNES: Twelve feet isn't necessarily
29 problematic, by my estimation. So accepting that at its face,
30 then it's not too much of a problem in my mind.

1 VICE CHAIR SWEENEY: All right. The chair will
2 entertain a motion to approve.

3 MS. JARRELL: So moved.

4 MR. GOLLING: Second.

5 VICE CHAIR SWEENEY: All right. The question, since
6 we've had discussion, the question now is on the approval of
7 the variance and a yes vote is for the approval of the
8 variance and a no vote denies the variance, denies the
9 variance.

10 Heather, please call the vote.

11 MS. FREEMAN: Mr. Golling?

12 MR. GOLLING: Yes.

13 MS. FREEMAN: Mr. Dynes?

14 MR. DYNES: Yes.

15 MS. FREEMAN: Ms. Jarrell?

16 MS. JARRELL: Yes.

17 MS. FREEMAN: Mr. Rowan?

18 MR. ROWAN: Yes.

19 MS. FREEMAN: Mr. Sweeney?

20 VICE CHAIR SWEENEY: Yes.

21 All right. Thank you very much.

22 MR. DEMING: Thank you.

23 VICE CHAIR SWEENEY: Our second matter before the
24 Board is a correspondence from Mr. John Nekic, Nekic.

25 MR. NEKIC: Yes.

26 VICE CHAIR SWEENEY: Mr. John Nekic, requesting that
27 the Board of Zoning Appeals reconsider the Conditional Use
28 Permit 2022-22 to Classic Clean Auto wash for a car wash in
29 accordance with Section 13.26 for the property owned by
30 Route 44 LLC, location at the intersection of Crile Road and

1 Gold Court, being current permanent parcel number
2 08-A-020-B-00-005-0.

3 MS. FREEMAN: Mr. Chairman.

4 VICE CHAIR SWEENEY: On advice of counsel --
5 Mr. Rowe will be sitting in. Not on advice of counsel but
6 Mr. Rowe will be sitting in --

7 MR. ROWE: Whatever.

8 VICE CHAIR SWEENEY: -- for Mr. Dynes.

9 Hello, Mr. Rowe. Good to see you.

10 MR. ROWE: Yes. Good to you see.

11 VICE CHAIR SWEENEY: Now, on advice of counsel, I
12 have been asked to make the following statement:

13 The request for an application to reconsider is a
14 vote to rehear the application by the board members. Three
15 votes are necessary to grant the rehearing and the
16 reconsideration. Any board member who votes for
17 reconsideration does not, is not required to change their vote
18 in any way, and a vote for a reconsideration doesn't mean that
19 a board member must or will change their vote.

20 This is not considered a public hearing tonight.
21 There will be no testimony taken. And I believe that we go
22 directly to a vote. I am pretty sure that's the procedure,
23 although I've never, in all the years I've been doing this,
24 I've never done this.

25 MS. FREEMAN: Well, Mr. Chairman.

26 VICE CHAIR SWEENEY: But I talked to Mike Lucas
27 prior to this and that was his recommendation.

28 MS. FREEMAN: Mr. Chairman, if you don't mind.

29 VICE CHAIR SWEENEY: Sure.

30 MS. FREEMAN: I don't know if you need to read into

1 the record what the letter was and then I believe it would
2 still be appropriate, after a motion and first and second by
3 the Board, that you can have discussion amongst yourself prior
4 to a vote.

5 VICE CHAIR SWEENEY: So point of order, read it into
6 the record.

7 MS. FREEMAN: I don't think it would hurt.

8 VICE CHAIR SWEENEY: And then request a motion.

9 MS. FREEMAN: Yeah.

10 VICE CHAIR SWEENEY: That sounds good.

11 MS. FREEMAN: That would be appropriate.

12 VICE CHAIR SWEENEY: That sounds right.

13 It's a letter dated 4/26 of 2022 to the Concord
14 Township Board of Zoning Appeals.

15 "Dear Board of Zoning Appeals: As you will recall,
16 I spoke at the April 20, 2022, board meeting of the Concord
17 Township Board of Zoning Appeals and voiced my objection in
18 opposition to Classic Car Wash (hereinafter "Applicant")
19 obtaining a conditional use permit during the public hearing.
20 While there were many reasons for my objection and opposition,
21 I believe it is critically important that this Board obtain,
22 review, consider and analyze the traffic study that the
23 Applicant represented to you that it had completed and was, in
24 fact, part of your packet. Remarkably, despite their
25 representations, no traffic study was provided to you as was
26 noted during the meeting, and it was not therefore considered
27 by the Board in its deliberations and ultimately its decision.

28 "The absence of the traffic study report and the
29 misrepresentation by the Applicant are significantly material
30 to the decision and require this Board to reconsider its

1 decision. Additionally, time is of the essence and so I, am
2 by this letter, formally and respectfully requesting that this
3 Board immediately reconsider the granting of the conditional
4 use to the Applicant pursuant to the evidence that it should
5 have had before it and was told was completed for the Board's
6 consideration at the time of the April 2022 board meeting.

7 "As this Board is well aware, the Board possesses
8 jurisdiction to set aside or otherwise reconsider their
9 decisions until the actual institution of a court appeal or
10 until expiration of the time for appeal. Ordinarily, a
11 rehearing is for the purpose of directing attention to matters
12 said to have been overlooked or mistakenly conceived in the
13 original decision, and thus invites a reconsideration upon the
14 record upon which that consideration rested. Finally,
15 administrative agencies generally have inherent authority to
16 reconsider their own decisions since the power to decide in
17 the first instance carries with it the power to reconsider.

18 "Thank you for your time and your consideration. I
19 look forward to your swift and immediate action in this
20 regard.

21 "Very truly yours, Dr. John Nekic," N-e-k-i-c.

22 All right. I will entertain a motion to vote on the
23 motion for reconsideration.

24 MS. JARRELL: So moved.

25 MR. GOLLING: Second.

26 VICE CHAIR SWEENEY: Second, okay.

27 All right. Heather, I guess you can go ahead and
28 take a vote.

29 MS. JARRELL: We can have discussion.

30 MS. FREEMAN: Did you want to have discussion or

1 not?

2 VICE CHAIR SWEENEY: Do we?

3 MS. JARRELL: I mean --

4 VICE CHAIR SWEENEY: I don't know. That's one thing
5 I did not discuss with Mike, whether or not -- I think we're
6 allowed to have discussion.

7 MR. GOLLING: The discussion has to be around the
8 admitting of the letter, not the issue itself. So I think
9 it's, if we're going to admit it in, if we have to have
10 discussion about it, if there were something missing, then we
11 can talk about it and then we can vote on whether or not it
12 will be voted on or be reheard at the next meeting, I think.

13 MS. JARRELL: Is that --

14 VICE CHAIR SWEENEY: Okay. I don't have any
15 discussion but if there is any board member who feels like
16 they would like to discuss any element.

17 MR. ROWE: We have not, we have not received
18 anything new.

19 MR. GOLLING: And we wouldn't.

20 VICE CHAIR SWEENEY: No, we wouldn't. This is
21 not --

22 MR. ROWE: Okay.

23 MR. GOLLING: Yeah, it's not about that.

24 VICE CHAIR SWEENEY: It's not evidentiary at this
25 point.

26 MR. GOLLING: So all it is is, because he is stating
27 that the traffic study that was supposed to be in there wasn't
28 in there, we didn't get the whole picture. So in order to get
29 the whole picture, we need to consider it. And, you know,
30 hindsight, maybe tabling it would have been a better idea

1 until we got everything in.

2 MS. JARRELL: Agreed.

3 MR. GOLLING: And I, for whatever reason, I don't
4 know why that didn't pop in our head as an option at the time.
5 So this is just a table of sorts where we're going to be able
6 to rehear so we can hear the rest of the stuff. That's what I
7 think.

8 MR. ROWE: So we're basically voting on either
9 reconsider or letting it stand?

10 MR. GOLLING: Yeah, if we're just --

11 VICE CHAIR SWEENEY: Right.

12 MR. GOLLING: Because the stuff that was missing.

13 MR. ROWE: Okay. Carry on.

14 MR. ROWAN: So can I ask, so for what we're saying
15 is missing, is that a requirement for a variance?

16 MR. GOLLING: Well, it was stated that it was done
17 and it was supposed to be in our packets and it was not, and I
18 don't know why it was or wasn't there. I don't know if it was
19 or wasn't done.

20 MS. JARRELL: And we discussed it based on hearsay.
21 We didn't have the actual information in front of us.

22 And I agree wholeheartedly. I think that we were
23 erroneous, that it should have been tabled because this is a
24 very material decision and I welcome the opportunity to open
25 it up again.

26 VICE CHAIR SWEENEY: Okay. Should we take a vote?

27 MS. JARRELL: If everybody is done.

28 VICE CHAIR SWEENEY: I will state that to vote to
29 reconsider must be a three-vote majority.

30 Heather, you can take the vote.

1 MS. FREEMAN: Okay.

2 VICE CHAIR SWEENEY: Maybe I should probably
3 clarify. A yes vote will be to allow the reconsideration and
4 continue on with the rehearing. A no vote means that the
5 variance decision stands.

6 MS. FREEMAN: The conditional use permit.

7 VICE CHAIR SWEENEY: Excuse me? The conditional use
8 permit. Sorry.

9 MS. FREEMAN: Okay. Ms. Jarrell?

10 MS. JARRELL: Yes.

11 MS. FREEMAN: Mr. Rowan?

12 MR. ROWAN: No.

13 MS. FREEMAN: Mr. Rowe?

14 MR. ROWE: Yes.

15 MS. FREEMAN: Mr. Golling?

16 MR. GOLLING: Yes.

17 MS. FREEMAN: And Mr. Sweeney?

18 VICE CHAIR SWEENEY: Yes.

19 MS. FREEMAN: So that will be at your June meeting
20 then.

21 VICE CHAIR SWEENEY: The next meeting, right.

22 MS. JARRELL: We will do notification as required.

23 VICE CHAIR SWEENEY: Right.

24 And I've also been advised by our counsel that we
25 should table the minutes that were to be --

26 MS. JARRELL: Approved.

27 VICE CHAIR SWEENEY: -- approved tonight because
28 they will be a continuation from the hearing which is now
29 going to be continued on rehearing. So with that --

30 MR. ROWAN: I move to table the minutes from the

1 April 13, 2022, meeting to the next scheduled BZA meeting.

2 MR. ROWE: Second.

3 VICE CHAIR SWEENEY: Second?

4 MR. ROWE: Sure.

5 VICE CHAIR SWEENEY: All right. And we are done.

6 All right. That concludes the meeting for this evening. See
7 you in June. Meeting adjourned.

8 (Whereupon, the meeting was adjourned at 7:24 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

STATE OF OHIO)
)
COUNTY OF LAKE)

CERTIFICATE

I, Melinda A. Melton, Registered Professional Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to the best of my ability, the foregoing proceeding was reduced by me to stenotype shorthand, subsequently transcribed into typewritten manuscript; and that the foregoing is a true and accurate transcript of said proceedings so taken as aforesaid.

I do further certify that this proceeding took place at the time and place as specified in the foregoing caption and was completed without adjournment.

I do further certify that I am not a friend, relative, or counsel for any party or otherwise interested in the outcome of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 1st day of June 2022.

Melinda A. Melton

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the State of Ohio

My Commission Expires:
February 4, 2023

