

Special Board of Zoning Appeals  
Public Hearing Meeting  
December 9, 2015  
Minutes

The Special BZA Meeting was called to order by Chairman Stanard at 6:07pm.

PRESENT AT ROLL CALL: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

ABSENT: Mr. Bolek

Others Present: Rick Loconti, Building Commissioner, Aimee Lane, Assistant Law Director, Village Engineer, Sherri Arrietta, Clerk of Council

Mayor Renda made a motion seconded by Mr. Fritz to approve the minutes from the Regular BZA Meeting of November 23, 2015.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard,

NAYS: None

MOTION CARRIED

At this time, Mrs. Lane administered the oath to those who wanted to speak at the hearing this evening. Chairman Stanard declared the public hearing open at 6:09pm.

**34180 Moreland LLC**

34180 Chagrin Blvd./Sunoco

Use Variance -

Reestablish a Non-conforming Gas Station Use

Mr. Richard Greaves and Mr. Mike Rajko, with 34180 Moreland LLC, were present at the meeting. Mr. Greaves stated that they have provided a rendition of what the station currently looks like and what they would like to do to it. They plan to turn the 3 garage bays into a full service convenience store which will include wine and beer, and block off the front of the station and put in a double door and commercial store front glass. The stone that will be used on the building will be similar to the stone used across the street and Moreland Towne Centre, which

will tie it all together and make it in keeping with the area. The existing roof peak would be changed to a cedar shake material.

Mrs. Lane informed the board that she spoke with Steve Parsons, the supervisor from BUSTR for our area inspector, Dave Davis. She stated that she asked Mr. Parsons if this site was ready to start selling gasoline, to which he responded that the new owners still had to do a few things first. Mrs. Lane stated that it caused a little pause because at the last meeting during the preliminary discussion, the applicants stated that they could sell gas “tomorrow.” She stated that she spoke with Mr. Greaves yesterday, and he explained that once the title transferred, they were taking steps to get the tanks back into service. There are some new requirements for 2017 that they were also trying to accomplish. That activity is what caused the Building Commissioner to initially have some concern, and in turn caused the Building Commissioner to send a letter informing them that the gas station use was no longer permitted on that property and that they could not sell gasoline until these zoning issues were dealt with. Mrs. Lane stated that Mr. Greaves conveyed to her that he took that letter seriously, which is why he and Mr. Rajko met with her and the Mayor, then with the BZA, but also it ultimately halted their efforts with BUSTR so that they could first get the zoning issues sorted through. She stated that she received a call today from Tony Continenza who is working with the applicant on the BUSTR side of things, and explained that the applicants have been going through the permitting process to get ready for inspections next week. Mrs. Lane provided the members with a letter from Steve Parsons from BUSTR. If the inspection is successful, a *certificate of coverage* should be issued which would be the final paper needed so that they will be ready to sell gasoline. Mrs. Lane stated that she would suggest that any recommendation of this board be conditioned upon that *certificate of coverage* being presented to the Village.

Mr. Greaves stated that when he received Mr. Loconti’s letter on the 17<sup>th</sup>, they had already completed stage 2 decommission which will make them complaint with the 2017 requirements, ahead of time. He stated that they still need the state Fire Marshall to come in, which was originally scheduled but was postponed after they received the letter. Mr. Greaves stated that an underground line test needs to be done. Mr. Rajko clarified that the lines have already been tested and passed, the fees were paid, however, the Fire Marshall is required to come out to verify it. Mr. Greaves stated that there is also a Veeder-Root system there, that does a 4 hour line test, every 24 hours.

Mr. Stanard declared the public hearing closed at 6:19pm.

Mr. Stanard asked if there are 4 gas tanks on site. Mr. Greaves informed him that 3 tanks are gasoline, and one is oil. Since the oil tank is under a different status, it is not required to be tested. It is possible to be pulled out and a closure report can be done or they can keep it and collect oil for the whole Village so that residents can dispose of it properly, if it is a service needed in the Village. Mayor Renda stated that the Village already collects oil twice a year at our Greening the Hills event.

Mr. Stanard asked if they anticipate completely eliminating all service bays. Mr. Rajko stated he gave the previous owner a 6 month lease to use the last 2 bays on the end. He stated that they will put a wall in between and by May that lease will be up and they can do an addition on the left side to keep the service portion, but would only want to provide a quick-service option (oil change/tires), if the Village wishes that the service portion stay. Customers would have a place to sit and wait in the store while the work is being done. Mayor Renda stated that she is most comfortable with what they are proposing which is to sell gas and have a retail store. She stated that this was discussed at the staff meeting and Mr. Incorvaia, Village Prosecutor, made the point that this is the Village's one and only opportunity to clean up that corner to be more in keeping with Moreland Hills. Mayor Renda stated that she appreciates and endorses the gas/retail store.

Mr. Fritz stated he agrees with the Mayor. He stated that the current plan addresses that desire for the gas and retail option, without the other negatives that have been associated with it. Mr. Fritz asked for clarification that this is their current plan and there is no desire to change it. Mr. Rajko stated what they are proposing is what the Village will get, however, if in the future, they see the need for more business, they would come back to this board for approval for an addition. He stated that while he can understand and see the need for the service station, this is the plan they are proposing and he will guarantee that it will be a clean corner. If the service portion goes, so will the U-Haul business. Mrs. Cooper asked if the gas/retail store is their preferred plan. Mr. Greaves and Mr. Rajko stated that it was. She asked if they would not be able to complete the look they are proposing for the building until the 6 month lease was up. Mr. Greaves stated that they would put up wall to give them their space for the service station and start to convert the portion of the building to the right. The main part of the conversion is to the right and once the bays are no longer being used for repairs, they would take the wall down and continue on with the work on the station. Mrs. Cooper asked the applicants, in their experience with other stations, what the number of parking spaces is per square feet. Mr. Greaves stated that there are 12 spaces at his station in Richmond Heights and he knows that there are more than that on this site. Mr. Rajko stated that parking is very important and usually customers spend 3 minutes in the store. He stated that the current parking layout will be gone; there will be marked parking

and clean cuts. It has been estimated that one parking space in front of the store is worth 13,000 customers per year.

Mr. Rajko informed the board that they will also be putting in the new credit card system with the chips in the card that will protect against fraud. He stated that he also has to comply with Sunoco standards; they have a good image and they want to fit in the Village.

Mayor Renda asked about signage. She stated that Mrs. Lane told them that the pole sign does not conform to our Zoning Code requirements. Mr. Greaves stated that they will most likely put in a monument sign. Mr. Rajko stated that an electronic sign works better to show gas prices. Mrs. Lane stated that if this body is prepared to recommend approval of the use variance, it is likely that it will come with multiple conditions, one being that this will be specific to gas station and retail store use as proposed, no further auto repair past the lease term, no U-Haul, and also board members might be interested in a condition that the pole sign is removed. She stated that the current ordinance allows for a free-standing sign with a maximum height of 5 feet. Mrs. Cooper asked if gas prices can be put on that type of sign. Mr. Greaves stated that they can be and he will give this board a rendering of it.

Mrs. Lane clarified that this evening's vote is just for the use and the rendering provided is just for informational purposes. She stated that they will still need to firm up the renderings and make an application to the Planning Commission for approval of the improvements as well as for the signage, parking, lighting, landscaping, which will all be included as part of that approval as well. Mr. Loconti will provide the applicants with further information about those requirements. Mr. Fritz asked if they plan on running electrical to the pole sign, before it is taken down. Mr. Greaves stated that they will change the prices manually for now. He stated that they will eventually have it done electrically.

Mr. Fritz asked about what measures are taken to ensure that the canopy is structurally sound since a neighboring community's gas station canopy collapsed under the heavy snow fall last winter. Mr. Rajko stated that they will have an inspector look at it to ensure that it is structurally sound.

Mrs. Lane asked a few questions for the record. Mrs. Lane stated that she is seeing two different business names on documentation; one being Moreland One Stop and the other is 34180 Moreland LLC. Mr. Greaves clarified that the 34180 Moreland LLC is the property owner and

the Moreland One Stop is the business owner/operator. Since the use variance approval runs with the land, it will be for 34180 Moreland LLC, which is how it is listed on the BZA agenda.

Mr. Stanard stated that he wanted to verify his understanding about the compliance inspection. The UST (underground storage tank) inspector supervisor, David Davis will be performing it. Mr. Greaves stated that Mr. Davis works for the state Fire Marshall in Columbus. Mr. Stanard stated if he finds no other issues, they will then issue a *certificate of compliance*, which you will forward to the Village. Mr. Greaves confirmed that was correct. Mr. Stanard asked if anything was left with BUSTR after that. Mr. Greaves stated that nothing would be left to comply with.

Mr. Rajko stated that what is left as far as underground inspections is for the insurance. They come randomly about every 6 months to inspect to ensure that nothing is leaking. The reports received from them will be filed in the applicants office, so that they will have evidence when the Fire Marshall shows up (unscheduled) to see that everything is in compliance. Mr. Greaves explained the Veeder-Root System to the members. There are probes that go in each of the tanks that tell you how many gallons of gas is in there, if there is any moisture in the gasoline, etc. It prints out a ticket everyday and they put it in the book in their office to show compliance. It is used to show that the tanks are not leaking and to see how much gas is needed to be ordered. The driver is still required to make sure the Veeder-Root is working correctly when they deliver gas.

At this time, Mrs. Lane read the list of conditions for the board to consider and suggested that this board recommend the conclusions of fact so that Council can consider and give final approval of those recommended conditions and/or make alterations to them:

- The use variance is specifically for gas and convenience store use only
- There is no auto repair use on that property subject to the expiration of the existing lease
- There is no U-Haul use, subject to terms of the contract
- There shall be no additions to the structure without coming back to the board and having an amendment made to the use variance
- There is no additional office use without getting an amendment to use permit
- The property be brought into compliance with exterior and interior property maintenance codes
- That evidence be provided of BUSTR compliance
- The project is to subject to planning commission review for building modifications, signage, parking, landscaping

- That once signage is worked through with planning commission, that the pole sign be removed
- That the metal charity collection box be removed

Mr. Rajko stated that he still needs to find out who the charity box belongs to and have it removed.

Mr. Pogatschnik asked about someone working out of an office in that building, which he believed was mentioned at the last meeting. Mr. Rajko stated if it is to be headquarters for his company, he stated that he would come to this board with a plan, but there are no plans at this time because it is too small. Mrs. Lane already stated that should be covered under the first condition she listed that specifying that it should only be used as a gas station and convenience store.

Mr. Fritz asked Mrs. Lane since they are not sure of the amount time the contract with U-Haul is for, should this board stipulate that it should cease to operate within a specific amount of time. Mr. Rajko stated that if the previous owners are gone, they as the new tenants/owners will not accept the U-Haul. Mr. Fritz asked how it would be handled if they find out the contract with U-Haul is for 3 years, for example. Mr. Rajko stated that someone would have to be there to service the trucks, so if the repair service is gone, the U-Haul trucks cannot be serviced. Mr. Greaves stated that the contract is not with them; it would be with the previous owners, Wilson and Sons. 34180 Moreland LLC did not assume that contract when they bought property.

At this time, Mrs. Lane read the recommended conclusions of fact. The applicant, 34180 Moreland LLC, has presented an application for a use variance for the property located at 34180 Chagrin Blvd., from Section 1157.03(f), which does not permit gas station uses in the retail business district.

1. The applicant has demonstrated unnecessary hardship
2. The variance requested does stem from a condition that is unique to the property at issue and not ordinarily found in the same zoning district.
3. The property at issue is fully equipped as a retail gas station and the applicant would like to reinstate that gas station use and bring the facilities back into service instead of trying to sell the property for some other use or remove the facilities.
4. Granting the variance will not have a material adverse affect on the right of the adjacent property owners. The applicant has shown in his preliminary renderings the intent to add additional landscaping and that landscaping plan will be required to go through the Planning Commission review process. Additionally the applicant has presented a rendering showing an

improved exterior appearance of the building and pursuant to the Code, all required notices were sent to adjacent neighbors and no neighbors have objected to the use variance being granted.

5. The granting of the variance will not have a material adverse effect on the health, safety, or general welfare of the Village of Moreland Hills. In fact, it is the applicants intent to make the property more in keeping with the public health, safety, and general welfare by bringing the property into compliance with codes and complying with all BUSTR compliances to bring the gas station use back into service.

6. The variance is consistent with the spirit and intent of the zoning code. The property owner has professed that they will bring the condition of the property into compliance with existing codes.

7. The variance sought is the minimum that will afford relief to the applicant. The property is currently a fully equipped retail gas station and granting the variance will allow this property owner to utilize those existing facilities and have a viable business on what has been a problem property in the Village.

Mr. Stanard made a motion seconded by Mr. Fritz to accept the conclusions of fact and recommend them to Council.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mr. Stanard made a motion seconded by Mrs. Cooper to recommend approval of a use variance to reestablish a non-conforming gas station use to Council with the following conditions:

1. That it is specific to the establishment of a gas station and convenience store operation only
2. That there will be no auto repair service after the expiration of the existing contract
3. That there will be no U-Haul service after the expiration of the existing contract, to the best of their ability to promote that
4. That there are no additional buildings erected or considered without the approval of the Planning Commission
5. That there would be no additional office use in addition to that which is required to operate the retail facility for gasoline and the convenience store

6. That the building be brought into compliance inside and out, with the Village and State Code regulations
7. That they establish, prove, and maintain BUSTR compliance (provide the *certificate of compliance* to the Village after the Fire Marshall performs the inspection)
8. That the evaluation of additional items for the Planning Commission will always be presented before such work would be done, such as; landscaping, signage, lighting, parking, etc.
9. That at some point, as discussed, the pole sign is to be removed and replaced with a monument sign
10. That the charity box at least be investigated, with the likely recommendation that it be removed from the property.
11. That satisfaction is obtained by the Building Commissioner that the structure and integrity of the canopy is such that it is safe for residents to operate underneath it

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mayor Renda to adjourn the meeting at 7:03pm.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Respectfully Submitted,

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Sherri Arrietta, Clerk of Council