

**BOARD OF ZONING APPEALS
MINUTES FOR THE
June 6, 2019 MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Chairman Dave Harwood at 7:30 pm on Thursday, June 6, 2019, in the Council Chambers of the Village of Evendale Municipal Building. Attending were members Dave Harwood, Mike Reed, Tom Shanks and Ken Valentine. Supporting the BZA was Pam Morin (staff). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

After all those present who planned on giving testimony were duly sworn in by Mr. Harwood, the following appeal was on the agenda:

1. Applicant, Brian Welege, owner of Brian’s Auto Recovery, LLC, 10680 Evendale Drive, Evendale, Ohio (the “Property”), filed an appeal on May 24, 2019 of the Building Commissioner’s decision to deny applicant right to (i) install a fence in the front yard of the Property and (ii) to store vehicles in the front yard of the Property, as set forth in an application for a building permit dated April 10, 2019 and received by the Village on April 12, 2019, and is seeking a variance as per Section 1266.04 (D) of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

| SCHEDULE 1266.04(D) INDUSTRIAL TRUCK CENTER DISTRICT ACCESSORY USE AND STRUCTURE LIMITATIONS | | | | | | |
|---|---------------------|-----------------------------|--------------------------------|------|------|------------------------------|
| INDUSTRIAL TRUCK CENTER DISTRICT | | | | | | |
| Structures & Uses | Area Limitations | Permitted Yard Locations | Minimum Setbacks in Feet | | | Maximum Height in Feet(a) |
| | | | Front | Side | Rear | |

| | | | | | | |
|---|--|----------------------|-----|------|------|---|
| Fences | | | | | | |
| Perimeter fence(e) | n/a | Front, side and rear | n/a | none | none | 8 |
| Fences and walls enclosing permanent outdoor storage. | n/a | Rear only | n/a | 5 | 5 | 8 |
| Fences and walls enclosing permanent outdoor display and sales. | As approved by the Planning Commission and pursuant to Conditional Use approval. | | | | | |

| SCHEDULE 1266.04(D) INDUSTRIAL TRUCK CENTER DISTRICT ACCESSORY USE AND STRUCTURE LIMITATIONS | | | | | | |
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| Structures & Uses | Area Limitations | Permitted Yard Locations | Minimum Setbacks in Feet | | | Maximum Height in Feet(a) |
| | | | Front | Side | Rear | |

| | | | | | | |
|-----------------|-----|--------------|-----|---|---|-----|
| Vehicle storage | n/a | Side or rear | n/a | 5 | 5 | n/a |
|-----------------|-----|--------------|-----|---|---|-----|

Mr. Welege provided the following testimony:

- His business buys vehicles at auctions. They must transfer the titles, make minor repairs and clean them before they can be resold. The typical length of storage of these vehicle is between 45 – 60 days. To date they have sold over 300 vehicles.
- They also tow vehicles for a local auto salvage yard. Occasionally, Mr. Welege must park the vehicle on his lot over night until they can deliver the vehicle the next morning.
- There is no long term storage of vehicles.
- There is no backyard and very small side yard on this property.
- He has approximately 40 cars on his lot every day.
- For security purposed, he has proposed installing a 6’ fence chain linked fence with two strands of barbed wire on top. This is in character with many of the businesses located on Evendale Drive.

After hearing the testimony of those testifying and reviewing the written evident submitted to the BZA, Mr. Welege summarized the following findings of fact and conclusions of laws:

- Mr. Welege applied for proposed fence on April 10, 2019. After reviewing the fence regulations for the Industrial Truck District with Mr. Welege, he was advised to file for an appeal.
- Applicant filed an appeal dated May 24, 2019 with the Evendale Zoning Board of Appeals. A copy of said appeal, shall be marked as Exhibit C, is on file in the Building Department and is incorporated by reference herein.
- After proper notice to the required parties, the BZA held a hearing on June 6, 2019, said date being within the required 60-day time period prescribed by Section 1284.03 (5). A copy of said notice is marked as Exhibit D, is on file in the Building Department and is incorporated by reference here in.
- Pursuant to Section 1284.05 (c) of the Code, the following factors are to be among those considered in determining whether to grant a variance:

- (1) Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;
- (2) Whether the variance is substantial;

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services;
- (5) Whether the property owner purchased the property with knowledge of the limitations currently imposed on it by this Zoning Code
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
- (7) Whether the spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance.

The ZBA found as follows with regard to the aforesaid factors:

- (1) The property will yield a reasonable return without the variance or whether there can be beneficial use of the property;
- (2) The variance is substantial;
- (3) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance;
- (4) The variance would not adversely affect the delivery of governmental services;
- (5) The property owner purchased the property without knowledge of the limitations currently imposed on it by this Zoning Code
- (6) The property owner's predicament feasibly can't be obviated through some method other than a variance; and
- (7) The spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance.

Mr. Reed made and Mr. Valentine seconded the motion to approve the variance request. Mr. Harwood suggested two conditions:

1. The storage of vehicles is for his vehicles only;
2. Mr. Welege make his best effort to keep the best cars in the front of the lot.

Mr. Reed amended his motion to include these suggestions. There was no further discussion. The motion passed with a vote of 4 – 0.

The next order of business was review of the minutes from the March 21 2019 meeting of the BZA. A motion was made by Mr. Valentine and seconded by Mr. Shanks to approve the minutes of the March 21, 2019 meeting as read. The motion passed by a vote of 4 in favor, 0 against and 1 abstention(s).

The final order of business was to publicly recognize the long and dedicated service of Pam Morin, Evendale staff representative to the ZBA.

WHEREAS, Pam Morin has long been a dedicated, hard-working, honest and loyal employee of the Village of Evendale;

WHEREAS, Pam Morin has decided to retire from employment with the Village of Evendale, Ohio as of the last day of August, 2019; and

WHEREAS, it would be a travesty to fail to recognize the long and exceptional service provided to the Village, its citizens and the Zoning Board of Appeals;

NOW, THEREFORE, upon motion made, duly seconded and unanimously approved, be it

RESOLVED, that Pam Morin be recognized and thanked for her many years of public service; and

RESOLVED FURTHER, that June 6, 2019 be and hereby is, declared to be recognized by the Evendale Zoning Board of Appeals as "Pam Morin Day";

Upon a motion made by Mr. Valentine, seconded by Mr. Reed and unanimously adopted the meeting was adjourned at 8:05.

Attest:

David Harwood, Chairman
Board of Zoning Appeals