

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Minutes

Monday, May 8, 2017

7:00 PM

Planning and Zoning Commission

*Bill Christensen – Chairman
Michael Vasko – Vice Chairman
Joe Donahue – Secretary
Brad Richey
June Konold
Joe Wildenthaler
Drew Gatliff*

Call To Order

Time In: 7:00pm

Declaring A Quorum (Roll Call)

A motion was made by Joe Wildenthaler, seconded by Joe Donahue, that Mike Vasco be excused. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Approval of Minutes

April 10, 2017 Planning and Zoning Commission Meeting Minutes

A motion was made by Brad Richey, seconded by Joe Wildenthaler, that the April 10 Minutes be approved. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Public Comment

A member of the audience approached the stand to discuss his concerns with the proposed project for High Street/33 intersection pertaining the 17 acres. Mr. Haire stated that the applicant has not officially submitted an application for the rezoning of that property but it is expected to be heard in June. The application they wanted to submit for the May Agenda was declined. The resident asked staff why the applicant was denied. Staff indicated due to the application being incomplete for review. The resident stated that his concern is that someone would want to change the zoning laws for this area and that the information that he saw was for 46 buildings and that creates a lot of vehicular traffic for this quiet neighborhood and will make it unsafe. Mr. Haire indicated that the adjacent property owners will receive notice and he should follow the application online and come and speak at P&Z if there are future concerns.

Public Oath

Public Hearings

VA-17-003

Property Owner: The Field of Honor – Sandy Sharon
 Applicant: Vietnam Veterans of America Capital City Chapter 670
 Location: PID 184-000626 (Field of Honor Cemetery located along Winchester Pike and Cemetery Road)
 Request: Variance from Section 1107.03(a)(4) to create a parcel that does not have access to a public right-of-way road frontage.

Mr. Moore presented the application for property owner The Field of Honor, applicant Vietnam Veterans of America Capital City Chapter 670 for property located at 300 Winchester Cemetery Road (PID 184-000626). The applicant is requesting Variance approval from Chapter 1107.03(a)(4) to create a parcel that does not have access to a public right-of-way road frontage. Staff presents the application and notes that this variance will be granting a .153 acre island parcel in the existing 7.27 acre Parcel ID 184-000626. Staff indicated that this property already contains a .06 acre island parcel which houses the All Faiths Memorial Park Mausoleum.

This .153 acre parcel will have an access easement to access Cemetery Road and Winchester Pike from the existing gravel drives that move throughout the Field of Honor Cemetery. The applicant has indicated that this lot split is so the Vietnam Veterans Chapter 670 can gain full ownership of the memorial and can apply for grant funding and provide long-term maintenance of the site.

Staff recommends that this variance be approved as presented as it does not create any adverse effects on the public safety, convenience or comfort and that this site has been operated informally in this manner since its creating.

The applicant Jerry Wheeler discussed the application with the commission and stated that the desire to obtain ownership of the property is to upgrade the monuments that are on site and to provide a future long term maintenance of the property.

Mr. Christensen opened up the application up for public comment.

Mr. Heath Kitts, neighboring property owner discussed his support for the project.

A motion was made by Brad Richey, seconded by Joe Wildenthaler, that this Public Hearing be closed. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

A motion was made by June Konold, seconded by Drew Gatliff, that this Variance be approved. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

CU-17-002

Property Owner: Charlie Stebelton

Applicant: John Damrath – Certified Oil Company

Location: 880 West Walnut Street

Request: Conditional Use to Section 1171.03(h) to allow for a Conditional Use Permit for a Certified Oil Convenience Store and Fueling Station.

Mr. Moore introduced the application for property owner Charlie Stebelton and application John Damrath with Certified Oil Company in regards to property located at 880 West Walnut Street. The application is looking for approval for a Conditional use from chapter 1171.03(h) to allow for a Certified Oil Convenience Store in the LM (Limited Manufacturing) district. Mr. Moore indicated that the applicant wish that this meeting be tabled and the public hearing be moved to the June meeting so a revised Site Development Plan could follow the Conditional Use application.

A motion was made by Joe Wildenthaler, seconded by Brad Richey, that this Conditional Use application be tabled at the request of the applicant. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

CU-17-003

Property Owner: CASTO Gender Road LLC

Applicant: AutoZone Development LLC

Location: 6348 Gender Road

Request: Conditional Use to Section 1167.03(c) to allow for a Conditional Use Permit for an AutoZone.

Mr. Moore introduced the application for property owner CASTO Gender Road LLC and application AutoZone Development LLC for property located at 6348 Gender Road. Staff indicated that they are going to introduce all of the applications for this property at once so that the commission can understand staff perspective on each item before voting on each application one at a time.

The first application #CU-17-003 is for a Conditional Use from Section 1167.03(c) to allow for an Automotive Service Station and Convenience Market in the former Discount Tire building. Staff indicated that the applicant is requesting the property be used as an AutoZone, which the applicant has noted will be engaged in the sale of automotive parts and accessories. As an accessory dealer, this use would clearly meet the definition of automobile repair and services as defined in Section 1133.03 (16) of the Canal Winchester Zoning Code. The AutoZone website notes that, "Today, AutoZone is the leading retailer and a leading distributor of automotive replacement parts and accessories in the U.S." AutoZone also advertises limited repair services, including testing your automotive parts while they are still on the car. This includes servicing batteries, including charging batteries while they are still on your vehicle. As noted in the

definition of automobile repair and services, battery dealers are included. Since the service bays from the previous use are proposed to be removed with this proposal, it is assumed that this limited repair service will take place within the parking lot of the proposed AutoZone.

AutoZone also engages in the sale of convenience foods and drinks. They have a small area within their stores dedicated to a cooler space for cold drinks and under counter display areas for candy, potato chips, beef jerky, and like items. They have indicated in their application that they offer a de minimis amount of these items for sale. The Canal Winchester Zoning Code Section 1133.03 (14) does not quantify the amount of convenience foods that need to be offered for sale in combination with motor oil and lubricants to be defined as an automobile convenience market. Due to the nature of selling both of these items in combination the proposed use shall also be classified as an automobile convenience market.

Staff discussed the Criteria for Approval for a Conditional Use that is to be analyzed per Chapter 1145.03:

a. The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.

- The proposed use as an automobile repair and services and automobile convenience market facility is identified as a conditional use in the General Commercial zoning district as noted in Section 1167.03 (c). The development standards that this property are subject to are specified in various areas of the Canal Winchester Zoning Code. The Planning and Zoning Administrator has reviewed the application and found that the proposed development does not meet two specific development standards, which the applicant has now applied to vary from. These specific standards are identified in Section 1199.03 (d) and Section 1199.03 (e) in regards to the use of prohibited spandrel glass on the AutoZone building and removal of the required entry on the front of the building.

b. The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.

- The proposed is compatible in some aspects with the adjacent land uses. They do retail items like many of the surrounding uses, however the limited repair and customer repairs that take place in the proposed facility's parking lot are not compatible with adjacent land uses.

c. The proposed use will not adversely impact access, traffic flow, and other public facilities and services.

- The proposed use will use existing access points and existing connections to utility services. It is not anticipated that there will be any adverse impacts on traffic, or public services and facilities from the proposed use.

d. The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.

- The proposed use will take place on a previously developed site. Therefore, there is not an impact on natural, scenic, or historic features.

e. The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

- The proposed use as an automobile repair and services facility potentially would have adverse impacts on the safety, comfort, prosperity and general welfare of the community. Automobiles being tested, diagnosed, and repaired within an open parking lot, which is an uncontrolled area, has the potential to put people's safety at risk. Some customers may be uncomfortable with tools being offered for loan by this business and used in their close proximity while entering or exiting the store. Automobiles in disrepair or being diagnosed within the parking area poses a detrimental impact to surrounding uses that may diminish property values within the area and effect the general welfare of the entire community.

The site development plans and variance requests presented show that the applicant's proposed use of the building cannot comply with applicable development standards. These commercial development standards were put in place to promote desirable commercial development that enhances the character and livability of the community. These requests evidence that the building proposed for this use is not an appropriate location that would be compatible for the type of use that the applicant is proposing, and the proposed variances necessary for this use detract from the character of the area and impact the prosperity and general welfare of the community.

Furthermore, diagnosing automotive maladies and testing vehicle parts while they are on the car within an uncontrolled parking lot environment poses safety and comfort risks to the customers of this and surrounding businesses.

The second application the applicant is requesting approval for is Variance #VA-17-004. This request is a variance from Section 1199.03(e) to allow for a front door to not face the primary street right-of-way. Chapter 1199.03 (e) Building Orientation states; Buildings shall be oriented to face the primary street right of way. An entryway shall be located on the front of the building. Corner entrances are acceptable to meet this requirement if one side of the corner entrance faces the primary street right of way. The applicant is proposing to remove the entryway on the Gender Road frontage of the building. They would replace this doorway with a window, but the window would have black glass or spandrel glass to not allow a view within the facility. The proposed floorplan provided shows that this area would be used for shelving to display merchandise.

Staff discussed the Criteria for Approval for a Variance:

(a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.

- The applicant has not proven that special circumstances or conditions exist on this property. The applicant claims that the building and parking lot are

justification for this variance, however the building currently has an entryway on the front of the building. The previous occupant had no issue with this required entryway. The applicant could easily alter their interior plans to allow for the doorway to remain.

(b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

- The interpretation of the code would not deprive this applicant of rights. Nothing in the code prohibits more than one entrance to the facility. It only requires that there be an entrance on the front of the building. The applicant could keep the existing entry on the front of the building and relocate the entry on the east elevation of the building so it is more proximate to their parking lot.

(c) That the special conditions and circumstances do not result from the actions of the applicant.

- The current layout of the proposed building and parking are not a result of the applicant. However, the proposal is to remove an existing entryway, which is a direct result of the applicant's operations. The only reason a variance is being requested is due to circumstances regarding the applicant's desired operations.

(d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.

- Granting this variance will confer on the applicant undue privilege. There is an existing door that is in compliance with zoning code provision. Allowing this variance would grant a privilege not allowed to other buildings in the area and potentially set a precedent for others in the same zoning district requesting removal of existing entryways.

(e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

- The Commercial Development Standards were adopted to promote desirable commercial development that enhances and protects the community's character. Allowing the removal of this front door would not promote a high quality built environment and has the potential to adversely impact the prosperity and general welfare of the community.

(f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.

- The proposed removal of the door is included to allow for more wall display area for internal customers. This variance would allow more product to be displayed and would provide an economic benefit to this user. The property could still be used for retailing purposes if the entryway were to remain.

(g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

- The granting of this variance will not permit a use that is not otherwise permitted.

Based on this proposal not meeting the criteria for approval, staff is recommending denial of VA-17-004 as presented.

The third application that the applicant is requesting approval for is Variance #VA-17-005. This request is a variance from Chapter 1199.03(d) to allow from the use of black spandrel glass on the storefront elevations. Chapter 1199.03(d) Glass; states that elevations facing the primary street shall be a minimum of forty (40) percent glass between the height of two (2) feet and ten (10) feet and have an unobstructed view of the building interior to a depth of four (4) feet. The use of black, gold, green, silver, or any other reflective colored glass on building is prohibited. The use of spandrel glass is also prohibited. Frosted glass may be permitted in some cases, subject to approval of the Planning and Zoning Commission.

The applicant is proposing to alter the existing west façade of the building by changing existing clear glass to spandrel glass (85 square feet) and existing spandrel glass to clear glass (160 square feet) as shown on Exhibit B. They are also proposing changing the entire north elevation of the building to spandrel glass from clear glass (321 square feet). On the east elevation they are proposing filling in portions of garage doors with spandrel glass (301 square feet). Therefore, the total requested use of new spandrel glass on the building is 707 square feet.

Chapter 1199 Commercial Development Standards were adopted as Ordinance 8-12 in 2012. This was the first time the use of spandrel glass has been regulated in Canal Winchester. The use of spandrel glass was addressed due to complaints received from its use in this building and its use at Firestone and its impact to the architectural character of the area. There have been no variances requested or granted for the use of spandrel glass since this regulation was adopted.

Staff discussed the criteria of approval for this variance:

(a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.

- The applicant has not proven that special circumstances or conditions exist on this property. The applicant claims that the building and parking lot are justification for this variance, however they justify this with the building does not meet their traditional storeroom layout. This would be a self-created issue. The storeroom should be altered to meet the building rather than the building

to meet the storeroom requirements if a variance is needed.

(b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

- The interpretation of the code would not deprive this applicant of rights. Windows that currently exist could remain and the applicant could alter their interior layout. The use of spandrel glass has not been permitted in any location since regulations were adopted. The applicant should alter their interior layouts to meet the building rather than alter the building to meet their needs and not meet the community's zoning requirements.

(c) That the special conditions and circumstances do not result from the actions of the applicant.

- The current layout of the proposed building and parking are not a result of the applicant. However, the proposal to include additional spandrel glass on the building is a direct result of the applicant's desired operations within the building.

(d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.

- Granting this variance will confer on the applicant undue privilege. The current code requires that a certain percentage of the front of a building remain as clear window glass. The building currently does not meet this requirement and allowing the elimination of clear window glass on the front of the building would be increasing the non-conformity. Other users have altered their interior floor plans and operations to meet the window glass and glazing requirements.

(e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

- The Commercial Development Standards were adopted to promote desirable commercial development that enhances and protects the community's character. Allowing the use of spandrel glass on additional windows would not promote a high quality built environment and has the potential to adversely impact the prosperity and general welfare of the community. Especially in this location where the building is closer to Gender Road than the adjacent buildings, and places the windows using spandrel glass in prominent and visible locations. Clear window glass also increases public safety by allowing law enforcement officials the ability to see into a building from the outside. This is the same reason our code restricts the size of window signs to allow visibility within the building.

(f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.

- The proposed use of spandrel glass is included to allow for more wall

display area for internal customers. This variance would allow more product to be displayed and would provide an economic benefit to this user. The property could still be used for retailing purposes if the clear glass were to remain and storeroom layouts were altered.

(g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

- The granting of this variance will not permit a use that is not otherwise permitted.

Based on this proposal not meeting the criteria for approval, staff is recommending denial of VA-17-005 as presented.

The fourth application that the applicant is requesting approval for is Site Development Plan #SDP-17-002. This request is for the Site Development plan to alter the existing façade of the former Discount Tire building for the AutoZone store. With the proposal the applicant plans on making modifications to the existing storefront elevations, while maintaining the rest of the site as is.

With the changes to the east elevation, the applicant plans on filling in the existing three garage bay doors with brick and glass storefront windows and shifting the entrance from the parking lot from its current location to the existing far right garage door location. The far left set of storefront windows will be clear glass, same with the new entrance. The other two sets of glass are proposed to be covered with black glazing to restrict the view inside of the facility. The north elevation is also being proposed to have black glazing cover the existing clear glass windows. On the west elevation, the applicant plans on removing the existing front door into the space and covering that portion of glass with black glazing. In the center of the building that currently has the black glazing applied on the windows, the applicant is proposing to remove the glazing and replace with clear window glass allowing a view into the facility. The applicant's proposal to remove the front door facing Gender Road and adding any black window glazing or spandrel glass requires a variance approval from the Commercial Development Standards.

During the previous Conditional Use Application appeal for Discount Tire, City Council "strongly encourages Discount Tire to create a development plan that adheres to the development text for Waterloo Crossing; the building should be directed to face Gender Road...; the side of the building facing Gender Road should have an architectural design to create a false front...". The applicant's proposal to remove the storefront entrance off of Gender Road is in violation of the original approval from City Council in that this facility architecturally backs-up to Gender Road with the removal of the front door. In addition, the black storefront glazing would be allowing a use that is architecturally not compatible with zoning code requirements.

The applicant plans on keeping the existing parking lot lights at the facility. Additionally, the applicant has changed out the wall packs on the building with decorative sconce per item #13 on the elevation drawings. However, the applicant has not submitted a detail of the decorative sconce for review by the Planning and Zoning Commission.

The applicant is proposing one wall sign per elevation. The east elevation will consist of one 42.2 sq. ft. wall sign. The north, south and west elevations will each have a 32.9 sq. ft. wall sign. The total signage on the facility will be 140.9 sq. ft. Per the Waterloo Crossing Development Text, the building is permitted to have a maximum of 50 sq. ft. of wall signage per wall with a total amount of wall signage set at 175 sq. ft.

As submitted, variances to Chapter 1199.03(d) & 1199.03 (e) are required for the changes to the exterior elevations of the facility. The proposed building meets all other development standards. Staff recommends denial of site development plan application based on the proposed building not complying with the adopted commercial development standards.

With all of the applications presented by staff, staff would like to make a final recommendation that the application for the Conditional Use #CU-17-003 be tabled so that the commission has time to fully review each application.

Mr. Donahue asked staff if the recommendation to be tabled is different than the recommendation in the Staff Report. Staff stated that they are recommending that the application be denied but P&Z has 35 days to make a decision on the application. By tabling it tonight the commission can have a full discussion on the application and they table it until next month before making a final decision after all of the testimony given this evening.

Mr. Wildenthaler stated that the recommendation is to table the application so that the commission has time to listen to all of the facts of the applicant and make a decision the following month. Staff indicated that is the recommendation but deciding to table it or not is at the pleasure of the board.

Mr. Richey discussed the variance requests and stated that while he agrees with the applicant that the front door facing Gender Road is not serving a purpose they could leave it to meet the code requirement. This door may not even be a used door, but could be an emergency exit. The issue with the variance for the window glass is that there have been no variances granted in the past for spandrel glass and the way that AutoZone has a typical store layout the backs of the shelves would be facing the windows without redesigning the store.

Staff indicated that with the clear glass window requirement the shelves would have to be 4 feet away from the window glass and at that distance they could double load the shelving units to be accessed by customers on two sides. Mr. Wildenthaler asked staff if they could put their typical window signage on that shelf if it is back 4 feet from the window. Staff indicated then it would be exempt from the sign code.

Mr. Donahue asked staff if tinted glass is the same as spandrel glass. Staff affirmed but frosted glass may be used in some instances based on P&Z Commission approval. An example of frosted glass recently being approved is when Aldi received approval for frosted glass in a section of the store to block visibility into the restrooms.

Mr. Donahue asked staff if signage is in compliance. Staff affirmed.

Staff noted that the applicant has provided a decorative light fixture on the building elevation renderings but has not provided a cut sheet for review.

Mr. Donahue asked staff if the order in which they need to review the applications is the Conditional Use first then the variance requests and finally site development plan. Staff affirmed.

Mr. Donahue stated that he thinks that any other type of use other than a tire related business will have to make structural changes to the building in order to adapt to the space.

Mr. Richey commented on the exterior decorative light fixture and stated that if they provided a sample of what it could look like that would be fine with him so that they are not tied to a specific light fixture and can shop around brands.

Mr. Gatliff asked if the changes in the elevations need to meet current standards, specifically for the west elevation. Staff indicated that if there are no changes altering the façade they do not have to meet the clear glass 40% requirement.

Representative of the applicant Joseph Miller spoke to the commission in regards to the application. Mr. Miller stated that he disagrees with the staff report entirely and emphasizes that the use for an AutoZone is a permitted use and not a conditional use and that the two variances they are requesting are critical to the success of the user to have a viable business on this site. Mr. Miller stated that he is confident that the commission will see that the use is an outright permitted use and requests that the commission make a vote on the conditional use submitted under protest this evening.

Mr. Miller states that the variances that are being applied for do not serve a purpose. To have a door facing the Gender Road does not serve a purpose and to reduce stock space makes the investment unviable.

Mr. Miller past around copies of a document to the Planning Commission for review. Mr. Miller discusses the document, which contains zoning code definition. Mr. Miller states that an Automobile Convenience Mart does not apply to the AutoZone facility and that the code definition states it is "a place where gasoline, retailed directly to the public in combination with the retailing of items typically found in a convenience food market or supermarket." Mr. Miller stated this is a gas station, not an AutoZone. Mr. Richey asked the applicant if AutoZone sells motor oil, lubricants, or other minor accessories. Mr. Miller stated that is correct, they do sell those items but to compare this user to a gas station is not the meaning of the code definition.

Mr. Miller discussed the definition of Automobile repair and services as primarily engaging in the repair, rebuilding ore reconditioning of motor vehicles and stated that AutoZone does not repair motor vehicles. Mr. Gatliff stated that AutoZone does sell batteries and other accessories. Mr. Miller states that the way the sentence is structured AutoZone does not apply.

Mr. Wildenthaler asked Mr. Miller if AutoZone is primarily engaged in selling automobile accessories. The applicant affirmed.

Mr. Miller passed around a correspondence document about AutoZone's application with staff dated January 2017.

Mr. Miller stated that the development meets all of the city standards except for the two-variance requests, which do not serve any purpose. Mr. Wildenthaler stated the variance requests serve no purpose in his mind, but they do mean something to the community. Mr. Miller reiterated and stated that a door to nowhere located along Gender Road is not a good idea for this development. Mr. Wildenthaler commented that this entryway did not seem to be a problem for the previous building owner or anyone else along Gender Road. Mr. Miller stated that this building's orientation makes this facility unique. Additionally, the former Discount Tire had no concerns for inventory control unlike the new proposed user.

Mr. Miller discusses sections of the staff report with the commission and states there is no information great enough in the staff report to support staff's recommendation that this is in fact a conditional use request. Even if in some way it could be seen as a conditional use, there is no justification to deny the request.

Mr. Miller stated that the AutoZone elevations provided show a great development and that the representation of the AutoZone north on Gender Road and the current site conditions of that facility show no justification to deny the applicants request.

Mr. Miller stated that City Council has been informed that there may be a liability issue with the staff suggestions for this being a conditional use request.

Mr. Miller stated the applicant would like a discussion on the variance requests and a discussion of alternative materials such as frosted or tinted glass. AutoZone is requesting approval for the conditional use and approval for the two variance requests as well this evening. With these approvals the site development plan can be approved due to staffs only concerns about the site being the variance requests.

Mr. Miller introduces two members with him to discuss portions of the application. Mr. Waldo is a representative for AutoZone and Jason Freeman a representative for CASTO.

Mr. Waldo discusses the variance request to remove the Gender Road access. Mr. Waldo stated that this entrance does not make a good site design due to a chance for theft.

Mr. Miller interrupts Mr. Waldo to state that variance requests have been approved to relocate the front entrance for other facilities.

Mr. Freeman stated that the applicant is trying to convert the Tire Discount facility to a General Commercial retail use and that due to the original buildings design this is bound to be conflict.

Mr. Richey asked staff if code requires the front door to be the primary door with normal ingress and egress or could the door have an unlocked timer such as an emergency exit. Mr. Haire indicated that the door is viewed from a building orientation perspective and that the front door will be faced on the front of the building facing the primary street right-of-way. The idea is not an emergency exit but an entryway.

Mr. Miller stated that the "front" of this building is facing the parking lot. Not Gender Road.

Mr. Miller stated that removing shelving to keep the door on Gender Road is not viable for the business.

Mr. Freeman stated there is an emergency exit that is designed in the employee area that will be lit and designated in the store. Mr. Waldo describes this emergency exit.

Mr. Miller stated that in this particular reason there is evidence on why the front door on Gender is not a good idea.

Mr. Wildenthaler asked staff what is the front of the building where the door is to be oriented. Staff indicated that the front of the building by code is defined by the right-of-way. If the building was a corner building it would have two frontages. Mr. Haire further indicated that it is the primary street right-of-way.

Mr. Wildenthaler asked staff what is the address for the building. The applicant Mr. Miller indicated Gender Road. Mr. Moore indicated that the road that accesses the parking lot and the shopping center behind the site is a private street and not public right-of-way.

Mr. Donahue asked staff if the door stays on Gender Road could it be designed to be a delayed entryway. Mr. Miller indicated while this door does not seem like much to the commission it would require additional employees in AutoZone to manage the door.

Mr. Freeman stated that the door could always go back if another retailer requires it in the future but AutoZone it does not work.

Mr. Richey stated that the variance issue is still not being met.

Mr. Donahue stated that if logistically the door needs to stay or not needs to be discussed amongst the commission.

Mr. Miller stated that AutoZone came to the city with the thought this is a higher and better use than the Discount Tire and that this variances are required to make this better use succeed.

Mr. Miller discusses the window variances and indicated that they are ending up with twice as much clear glass than spandrel with the proposal. On Gender Road for example, there will be twice as much clear glass as spandrel. To make a retail store work, there needs to be the appropriate amount of product space. Mr. Miller stated that AutoZone cannot squeeze this building any more.

Mr. Miller stated that frosted glass is permissible under the zoning code and they are willing to change the design from black spandrel glass to frosted if it is necessary to be approved. Mr. Miller stated that a retail building with clear windows is problematic and it is problematic for this user.

Mr. Gatliff asked staff if the 4 foot depth requirement is required for frosted glass. Staff indicated that the 4 foot depth is for windows that are clear. Staff stated that

frosted glass as a permitted material by the commission is intended for instances like a restroom location or other sensitive areas within the building that you would not want the visibility to the exterior but wish to have natural light coming through them. The black spandrel glass is removing all light from the window and the frosted glass with shelving behind it is not allowing the light to pass through as intended.

Mr. Miller stated that the approval of frosted glass does not have any stance to tie how it is being used or what is behind the glass.

Mr. Gatliff discussed his concern that the frosted glass will be installed to just have shelving installed in front of it and then no light would be able to be seen from the inside or out so why even keep the windows if they will be blocked. Mr. Miller stated that the code does not require the windows to be usable if they are frosted.

Staff indicated that there are alternatives to remove this window variance request entirely that are not being pursued by the applicant.

Mr. Gatliff discussed the use of frosted glass. Mr. Haire indicates that the use of frosted glass is at the discretion of the P&Z Commission and should be reviewed as a case-by-case basis; nothing in the code says how frosted glass has to be used.

Mr. Freeman stated the main issue with this site is getting a building that was not designed for a general retailer to work for a general retailer.

Mr. Gatliff discussed alternatives to remove the variance requests with the applicant.

Mr. Miller stated that they think changing all of the spandrel glass to frosted is the best option.

Staff indicated that they appreciate the commission trying to help the applicant through the variance requests for the windows but still encourages the applicant to work through the interior layout to remove the variance requests.

Mr. Miller stated that the applicant has indicated they have squeezed the building to the max. What is being requested this evening is an appropriate use for this site.

Mr. Miller requests that the commission approves this building as an approved use for the site and that the variances be approved tonight.

Mr. Richey stated that he does not know zoning law in Ohio but the commission was informed they have 35 days to render a decision. This gives the commission time to look at the legal arguments for both sides before rendering a final decision. Having the opportunity to table the application to review it further makes the most sense.

Mr. Gatliff asked staff what the difference is between approving a conditional use or saying this use is a permitted use for the site. Staff indicated that a conditional use has the opportunity to add standards to the user to have it comply with the area because a conditional use typically needs regulations in order to fit into the area. Conditional users typically have additional impacts on the community thus why it allows requesting additional parameters to be met for the specific business.

Mr. Miller stated that the applicant feels this is a permitted use but if the commission feels it is a conditional sue they meet all of the conditional use requirements to be approved as presented. Mr. Haire indicated from a staff perspective, we have informed the commission why the city staff does not feel it should be an approved use.

Mr. Miller stated that the city has been well aware of this application for many months. Mr. Haire responded stating that this is the first month the applicant has applied for the conditional use and the commission has 35 days to render a decision.

Mr. Donahue asked staff if the 35 day time frame is for the conditional use only. Staff responded it is for the conditional use and the variance requests.

Mr. Freeman asks the commission what would be necessary to render a decision this evening. Mr. Christensen responds by saying that the applicant has suggested switching out the black glass for frosted. What would the frosted glass look like? There has been no indication of the impact that may have visually down Gender Road.

Mr. Gatliff asked staff about code requirements for window glazing. Staff responded with code requirements.

Mr. Freeman stated that this conversion from a Discount Tire to a general retail use is positive for the community.

Mr. Richey asked about the glass requirements. Mr. Moore indicated that spandrel glass is not permitted on any elevation and the only elevation that requires the clear glass at 40% is the front elevation. The front elevation is the only elevation that requires the 4 foot depth.

Mr. Donahue asked staff if they can vote on the conditional use but table on the variances and site development plan. Staff indicated the order in which they should vote on the applications is the conditional use, then the variance request and finally the site plan. The conditional use can be approved, approved with modifications, or disapproved. The alternative is to table the application so that commission has time to review the testimony.

Mrs. Harrison representing staff legal council indicated the commission has the ability to go into executive session to deliberate the application.

Mr. Gatliff asked staff when to discuss the frosted glass. Staff indicated during the site development plan.

Mr. Miller stated that this application should not be decided on a piece by piece basis. The applicant has their right to appeal any decision to City Council and Mr. Miller states he hopes to commission will vote this evening.

Mr. Christensen asked if there were any more questions for the applicant. No more questions were asked.

Mr. Christensen opened up the application for public hearing. No members of the public were present to speak.

A motion was made by Brad Richey, seconded by Joe Wildenthaler, that this Public Hearing be closed. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Mr. Wildenthaler asked again what the options are this evening on the application. The options were discussed with the commission.

The Chairman asked if there was a motion to go into executive session.

A motion was made by Drew Gatliff, seconded by Brad Richey, that the commission go into Executive Session. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Time Out: 9:00pm

A motion was made by Brad Richey, seconded by Joe Wildenthaler, that the Executive Session be adjourned. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Time In: 9:14pm

Mrs. Harrison stated for the record that the Planning and Zoning Commission requested that a member of city staff join the commission during the executive session.

A motion was made by Brad Richey, seconded by June Konold, that this Conditional Use be tabled. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

VA-17-004

Property Owner: CASTO Gender Road LLC

Applicant: AutoZone Development LLC

Location: 6348 Gender Road

Request: Variance from Section 1199.03(e) to allow for a front door to not face the primary street right-of-way.

Mr. Christensen opens up the public hearing to VA-17-004. No members of the public were present to speak.

A motion was made by Joe Donahue, seconded by Joe Wildenthaler, that this Public Hearing be closed. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 – Vasko

Staff indicated that the commission can table the variance or vote on it this evening.

A motion was made by Brad Richey, seconded by Drew Gatliff, that this Variance be approved. The motion carried by the following vote:

Yes: 4 – Gatliff, Donahue, Richey and Wildenthaler

No: 2 – Konold and Christensen

Excused: 1 - Vasko

VA-17-005

Property Owner: CASTO Gender Road LLC

Applicant: AutoZone Development LLC

Location: 6348 Gender Road

Request: Variance from Section 1199.03(d) to allow for the use of black spandrel glass on the storefront elevations.

Mr. Christensen opens up the public hearing to VA-17-005. No members of the public were present to speak.

A motion was made by Joe Donahue, seconded by Drew Gatliff, that this Public Hearing be closed. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 – Vasko

A motion was made by Brad Richey, seconded by Drew Gatliff, that this Variance be approved. The motion failed by the following vote:

Yes: 1 –Donahue

No: 5 – Christensen, Gatliff, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

SDP-17-002

Property Owner: CASTO Gender Road LLC
 Applicant: AutoZone Development LLC
 Location: 6348 Gender Road
 Request: Site Development Plan to redevelop an existing building for an AutoZone.

A motion was made by Drew Gatliff, seconded by Brad Richey, that this Site Development Plan be tabled. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 - Vasko

Mr. Miller asked the commission for guidance on the applications. Mr. Richey stated that he needs time to evaluate the letters that were presented to the commission this evening due to it being new information. Mr. Christensen concurred.

Mr. Miller discussed the ascetics of the building. Mr. Gatliff states that having large vast areas of frosted glazing does not provide anything better than spandrel glass. The ability to use clear windows is desirable from the commission.

Mr. Christensen that it is an architect’s job to design a building that looks right. An architect should be discussing building changes.

Old Business

New Business

Adjournment

Time Out: 9:27pm

A motion was made by Brad Richey, seconded by June Konold, that this Meeting be adjourned. The motion carried by the following vote:

Yes: 6 – Christensen, Gatliff, Donahue, Konold, Richey and Wildenthaler

Excused: 1 – Vasko

Date

Bill Christensen, Chairman

Joe Donahue, Secretary