

The North Royalton Planning Commission met in the City Hall Council Chambers, 14600 State Road, on **Wednesday, January 21, 2015 to conduct a Public Hearing**. The hearing was called to order at 7:00 p.m. by Chair Cheryl Hannan and opened with the Pledge of Allegiance.

**PRESENT: Planning Commission:** Chairwoman Cheryl Hannan, Tim Miller, Larry Antoskiewicz, Mayor Stefanik, Frank Castrovillari, Acting Secretary Bonnie Becka. **Administration:** Law Director Tom Kelly, Building Commissioner Dan Kulchytsky.

Prior to the beginning of the public session of the Public Hearing, Mr. Kelly and Mr. Kulchytsky explained the standards by which the Planning Commission is to review the two requests on the docket for Similar Use determination by the Planning Commission. Mr. Kelly stated that C.O. 1278.04 states: Buildings and land shall be used, and buildings shall be designed, erected, altered, moved and maintained, in whole or in part, in a General Industrial District only for the following uses. Under Section (a) the ordinance lists the main uses 1 through 6. He went on to say that these applicants here today do not fall under those uses. Therefore, the Applicants have applied to this Commission for a Similar Use Determination under Section (b) which states: Any other manufacturing use not listed above or in any Use classification of another district and determined as similar by the Planning Commission according to standards set forth in Section 1262.08. Mr. Kulchytsky read C.O. 1262.08 "Determination of Similar Uses" (1) through (4).

#### **PUBLIC HEARING:**

1. **Vito Colonna** is requesting a similar use determination as set forth in North Royalton C.O. 1278.04 (b), **to operate a retail landscape supply facility** located at **9652 Akins Road**, also known as **PPN:483-27-003**, in a General Industrial District.

Julian Colonna spoke on behalf of his father, Vito Colonna, who is the property owner. Mr. Colonna stated that they are planning on selling the property to Pawel Michalski, the applicant. He stated that they plan on running his landscaping company out of a facility on the property. Mr. Colonna said the sale of the property is contingent upon the approval of the Planning Commission. Pawel Michalski, the applicant, said he plans on operating a retail store in which he would sell mulch, topsoil, firewood and stone and operate his landscaping business out of the facility.

**Moved** by Mr. Miller, seconded by Larry Antoskiewicz **to move this item to the Regular Order of Business**. Roll call: Yeas: **Five** (Cheryl Hannan, Mayor Stefanik, Tim Miller, Larry Antoskiewicz, Frank Castrovillari). Nays: **None. Motion carried.**

2. **Jim Casciano / York and Wallings LLC** is requesting a similar use determination as set forth in North Royalton C.O. 1278.04 (b), **to operate a trucking facility for storage and operation of semi-trailers** located at **12020 York Road**, also known as **PPN:483-06-003**, in a General Industrial District.

Jim Casciano, owner of the property, stated that he is seeking similar use determination for storage of semi-trailers and the operation of semi-tractors with trailers from his property.

Julie Perkins, Attorney with Kaman & Cusimano, LLC, was present to represent Independence Place West Condominium Owners Association. She said the Association consists of 124 home owners with condominium property situated immediately north of the property at issue. She stated that the Association opposes granting this request for a similar

use determination to operate a trucking facility. She said pursuant to Section 1262.08 those criteria come into play if someone is applying for similar use for any other manufacturing use that is listed in 1278.04 (b). She said the criteria that she is going to address is that Council would need to find that the requested use does not create dangers to health and safety, does not create offensive noise, vibration, smoke, odor, dust, glare or other objectionable influences, and also that the requested use does not create traffic to a greater extent than the other listed uses. She stressed that the other listed main uses for the General Industrial District per 1278.04 are offices, laboratories, manufacturing conducted wholly within an enclosed building. The requested outdoor storage of trucking facilities with semis coming and going is not a manufacturing use and is not a similar use to a manufacturing use. According to the homeowners at Independence Place West the use does create safety dangers and does create increased traffic, noise, odor and glare. Although this property is in a General Industrial area, there are residences directly bordering the property and the current Industrial Uses do not generate the traffic that a trucking company generates. She added that although the Applicant's application indicates that he will operate between the hours of 8:00 and 5:00, the home owners have already experienced noise, headlights, trucks running late at night and into the early morning hours of 4:00 and 6:00am which is outside of the 8:00 a.m. to 5:00 p.m. timeframe. She said the owners have complained of the diesel fumes and they have had headlights coming through their windows at inappropriate hours. This clearly creates objectionable influences to the neighboring property owners to a much greater extent than the wholly contained indoor uses. She said there is already on the property beeping and noise from the mulching operation at inappropriate hours from the backup warning when someone is getting mulch as early as 6:00 a.m. She felt these do not qualify as an accessory use, but if they did qualify it is required by Section (c) to be within walls or fencing so the materials are not visible to adjoining property owners. She continued, compromises have already been made regarding the operations on this property; the requirements set at the July 30, 2014 Planning Commission meeting have not all been met and continuing issues exist. She surmised that granting a similar use determination is inappropriate.

Sean Cooper, President of Independence Place West Condominium Association, stated the semi-trucks have been parked opposite his main front double window and his front patio. He said he was awoken two weeks ago with bright lights shining directly in his front window as early as 4:00am and as late as midnight. He added that he has made several police reports. He said people are living in the trucks while they run for two hours at a time throughout the night with the diesel creating fumes and noises created by a squeaky fan belt. He added that this has affected his quality of living. He said this should not be allowed so close to a residential area; it will affect the value of the homes in this area. If this request moves forward, we are asking that they operate between 9:00am and 5:00pm.

Jan Stuber, 10195 Independence Place West, expressed her concern about why the trucking company is already operating their business if they are now just applying for this permit. Mr. Kulchitsky responded that upon discovery of the trailers and tractors that were located on this site, a violation notice was issued to Mr. Casciano stating that he does not have permission to operate this business and it falls outside of the City Ordinances. The owner then submitted an application to the Planning Commission for similar use determination. The violation notice gives an appeal time; an opportunity for Mr. Casciano to be heard as does every resident who receives a violation notice. His appeal to the Planning Commission for similar use determination is here before us today.

Dan Langshaw, Ward 3 Councilman, spoke regarding the numerous complaints and concerns that he has received from the residents who live in this area regarding noise, traffic, safety and the overall impact on their neighborhood. He said that given how close this

business is to residential area with 130 plus residents, he would urge the Planning Commission to vote against the proposal. Mr. Langshaw requested that the Building Department look at the requirements previously approved at the September 4, 2013 Planning Commission meeting regarding the hours of operation restricting access to the site during certain hours and on weekends and federal holidays.

Approximately 24 residents were present; several of the residents expressed their personal opinions. Some comments were reiteration of earlier guests; however, the following issues/concerns were also presented:

- That a trucking company could not possibly operate between 8:00am and 5:00pm
- Traffic backup created by the trucks trying to turn out onto a narrow street that is located close to an intersection and on a route up from the Fire Department.
- Safety and traffic issues since the route is close to a day care center and Albion School
- Questioned why residents received no Planning Commission public legal notice for original Mulch World business
- Questioned the appeal time process
- Trucks running at midnight and continuing to run till 2:00 and 3:00am.
- Noise and people talking late at night
- Our common area has been reduced due to the addition of a buffer of trees planted to block some of the noise, lights, dust, odor, etc.
- The cost to the Association for the additional plantings which in-turn will be paid for by the residents
- Concern regarding what type of business will eventually be put on the property to the south of them, which is now for sale
- Concern regarding the health of the residents, especially those with COPD
- The odor coming from Mulch World

Randy Karr, owner of Trucking Logistics, stated that his business has been located for the past three years in the Industrial Park in North Royalton. When this opportunity became available he didn't realize it would create such a problem. He said he has a small fleet; his trucks pull in, they face west and back in. The trucks don't face north where all the houses are so he said he doesn't understand that. Regarding the light issue, he said he doesn't see that happening. He said his drivers do not sleep in the trucks; they are all local. He said we are very professional. He said my trucking company does not load and unload or run all night long.

**Moved** by Mayor Stefanik, seconded by Larry Antoskiewicz **to move this item to the Regular Order of Business.** Roll call: Yeas: **Five** (Cheryl Hannan, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari, Tim Miller). Nays: **None. Motion carried.**

## ADJOURNMENT

**Moved** by Mr. Miller, seconded by Frank Castrovillari **to adjourn the Public Hearing.** Roll call: Yeas: **Five** (Cheryl Hannan, Mayor Stefanik, Larry Antoskiewicz, Tim Miller, Frank Castrovillari). Nays: **None. Motion carried.**

**The Public Hearing adjourned at 7:50 p.m.**

The North Royalton Planning Commission met in the City Hall Council Chambers, 14600 State Road, on **Wednesday, January 21, 2015 in regular session**. The meeting was called to order at 7:50 p.m. by Chair Cheryl Hannan.

**PRESENT: Planning Commission:** Chairwoman Cheryl Hannan, Tim Miller, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari, Acting Secretary Bonnie Becka. **Administration:** Law Director Tom Kelly, Building Commissioner Dan Kulchytsky.

#### **APPROVAL OF MINUTES:**

**Moved** by Mr. Castrovillari, seconded by Larry Antoskiewicz to **approve the September 24, 2014 minutes**. Roll call: Yeas: **Five** (Cheryl Hannan, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari, Tim Miller). Nays: **None. Motion carried.**

**Moved** by Mayor Stefanik, seconded by Mr. Castrovillari to **approve the November 20, 2014 minutes**. Roll call: Yeas: **Four** (Mayor Stefanik, Larry Antoskiewicz, Tim Miller, Frank Castrovillari). Abstained: Cheryl Hannan. Nays: **None. Motion carried.**

#### **OLD BUSINESS**

1. **Woodcroft Glen**, Royalton Road, GB and RMD Zoned. Woodcroft Glen Phase 2 **final plat approval. Tabled.** No action at this time.
2. **Tomaro Properties** is requesting a similar use determination as set forth in C.O. 1276.02(b) to have a salon in Office Building District located in the Wallings Road Medical Building, **6785 Wallings Road**; also known as **PPN: 488-01-002. Tabled. The applicant has submitted a request to withdraw application.**

**Moved** by Mr. Miller, seconded by Frank Castrovillari to **acknowledge receipt of the notice of withdrawal and to remove this item from the table**. Roll call: Yeas: **Five** (Cheryl Hannan, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari, Tim Miller). Nays: **None. Motion carried.**

#### **NEW BUSINESS**

1. **Vito Colonna** is requesting a **similar use determination** as set forth in North Royalton Codified Ordinance 1278.04 (b), **to operate a retail landscape supply facility** located at **9652 Akins Road**, also known as **PPN:483-27-003**, in a General Industrial District.

Julian Colonna stated that the sale of this property is contingent upon approval of the change of use determination. He added that bringing a business into the city will mean that we take much better care of the property since he is running a business on that property.

Mr. Kulchytsky, Planning Commissioner, asked the applicant Pawel Michalski, the proposed end-user of AAA Landscaping, if he will be having a primary use which will contain his offices located within the structure that exists on the property. The Applicant responded "Yes." Mr. Kulchytsky asked if he plans on renovating the building and bring it back into compliance with state laws and local ordinances. The Applicant responded "Yes." Mr. Kulchytsky stated the property has some level of overgrowth which has occurred on the property which has become unsightly. He asked the Applicant if he has intentions of cleaning back the brush, the plantings and trees that obstruct the views coming onto the

property. The Applicant responded "Yes, he wants to keep it clean." Mr. Kulchytsky addressed the issue regarding the bins shown on the site plan which are proposed to house mulch, stone and topsoil. He asked what will be the height of the bins and will the height of the materials stored in them exceed the height of the bins. The Applicant stated the height of the bins will be 6 feet and the stock piling could be 8 to 9 feet. Mr. Kulchytsky asked if he could increase the bins to completely cover the pile, possibly 8 feet. The Applicant responded "Yes." Mr. Kulchytsky addressed the issue regarding the retail portion of the business since it would affect the Similar Use Determination. He stated that if the Applicant should have walk-in retail, his recommendation to the Board would change in terms of the Similar Use Determination. He added that he would recommend that the Applicant not have that portion as part of the scope. The Applicant stated he would like to sell material by phone and internet but he would also like to have the walk-in retail as well. Mr. Kulchytsky addressed the Law Director since it is a permitted use in other districts. Mr. Kelly stated there is a provision that would affectively prohibit having retail sales allowed in a General Industrial district. Mr. Kulchytsky restated to the Applicant that this request would prevent the Board from hearing the Similar Use Determination. He asked the Applicant if he is aware of that. The Applicant responded "Yes, but he didn't understand that part. Mr. Kulchytsky then asked the Applicant if he wishes to amend his application before the Board to exclude the walk-in retail. The Applicant stated he would not be able to do it then, and that he would not be able to make enough money from just deliveries. He added that people would want to come in and see the material before buying it. Mr. Kelly addressed the Applicant and stated that if you need to have direct retail sales from the property, the Commission is mandated to reject the application. He added that if he wants to proceed, it might be wise to ask for an opportunity to have the matter continued and have it laid upon the table and then consider further whether or not this is how you want to proceed. If on the other hand, you have already made up your mind that you have to have walk-in retail, it is likely that the Planning Commission will turn you down. The Applicant then stated that he will not have the walk-in retail. Mr. Kelly followed-up by saying if the Planning Commission decides to grant your application, and subsequently you operate in a fashion that allows for these retail sales, which are forbidden, then it is likely that the City will shut your operation down and you will have a piece of property that you cannot use for retail sales. The Applicant stated he understands and he still wants to proceed. Mr. Kulchytsky asked for clarification from the Applicant as to whether he would like to include or exclude the walk-in retail sales. **The Applicant said he is modifying his application to exclude the walk-in retail sales.** Mayor Stefanik questioned if this would include wholesale sales to a commercial landscaper who wanted to come pick up 10 yards. Mr. Kelly stated that if it is clearly a wholesale exchange that would very likely be permitted. He added that it is the direct retail sales to walk-in or drive-in customers that are prohibited. The Applicant stated he wants to proceed since he still needs a place to run his landscaping business and to have a place to park his truck and trailers. The Applicant asked for clarification to the scenario that if someone with a truck pulls in and asks him to sell him some mulch or topsoil, does he need to turn him away. Mr. Kelly said it depends on the volume and the nature of the sale. He said wholesale exchanges between the applicant and other landscaping companies would be an acceptable exchange. However, sales to the general public in that manner would be forbidden. Mr. Michalski said he understood. Mr. Kulchytsky asked if there was going to be any manufacturing of mulch on the site. The Applicant responded "No." The Applicant responded that he also does plowing.

Mr. Kulchytsky stated he has some recommendations should the Board consider this application for Similar Use Determination and stated that these stipulations become part of the record and part of the requirements of the Applicant. Furthermore, he requested that one of the requirements be that the Applicant returns with a site plan for approval with more information as to fencing. His recommendation to the Board is that the Applicant fence in

the property to obscure any materials or equipment that can be seen from the road and that paving occur from the entry apron to the gate that enters into his yard. Furthermore, he stated, we have received a letter from the Metroparks, which is the largest neighbor to this property. They have expressed concern that no further impact on the wetlands and riparian setbacks will occur. We recommend that be a stipulation and requirement. If at any time we see dumping in the areas of the wetland, the City will revoke the applicant/owner's similar use permit. Mr. Kelly stated that if the Commission wishes to grant Mr. Colonna's application on behalf of Mr. Michalski, they both along with the property will be burdened with the restrictions that Mr. Kulchytsky has laid out into the record. He added that the permit or license if not followed is revocable.

Mr. Kulchytsky clarified for the Commission that they can review the Applicant's request now for a Similar Use Determination and it would include the stipulations that the Applicant will return to the Planning Commission with a site plan for approval with more information as to the fencing of the site and proposed improvements. Mr. Kelly clarified that this is a Similar Use Determination for a permit. Passage of this allows the Applicant to proceed and to prepare the plans to meet the codes requirement according to the Building Commissioner's review.

Mr. Antoskiewicz expressed his concern regarding the wet land area and where there is a lot of water running from York Road, from the turnpike and other areas through to the Metroparks. Mr. Kulchytsky stated that the bins are located to the furthest point possible to the west and north so they would not impact the water flow. Mr. Antoskiewicz questioned the silt fence shown on the site plans. Mr. Kulchytsky responded that the more detailed drawing of the site topography that was provided was part of an application and permit from the Army Corp of Engineers to do some limited fill at this site. That permit has expired and the silt fence has been removed. He recommended to the Board that the fencing that is to be placed on the site would include fencing along the easterly side of the property. This would provide the City with a baseline to gauge if anything has occurred outside of his designated area and keep track of any future fill. Mayor Stefanik reiterated the concern regarding the history of the last tenant dumping into the wetlands area and the blocking of the culvert that goes under Akins Road. The Mayor addressed the Applicant and reminded him that since it will be his property, it is his responsibility to keep it clean and open at all times. He also added that the area by the berm of the road needs to be kept clean and clear of growth to maintain sightlines.

**Moved** by Mr. Castrovillari, seconded by Mr. Miller to **approve the Similar Use Determination including all the stipulations provided by the Engineering Department and Building Department.** Roll call: Yeas: **Five** (Cheryl Hannan, Tim Miller, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari). Nays: **None. Motion carried.**

2. **Jim Casciano / York and Wallings LLC** is requesting a similar use determination as set forth in North Royalton C.O. 1278.04 (b), **to operate a trucking facility for storage and operation of semi-trailers** located at **12020 York Road**, also known as **PPN:483-06-003, in a General Industrial District.**

The Applicant, Jim Casciano, stated he wishes to address all the prior questions. He provided the Planning Commission with two pictures showing the view of the property from Independence Place. Exhibit A. He stated that as part of the original project at York and Wallings, he was required to put in a berm along the property to act as a sound and visual buffer. On top of the berm are some pine trees that were removed so the mound could be raised. The trees were then replanted at his expense to accommodate Independence Place

so they would not have to see anything over at his property. He added that if looking at the pictures provided, one can barely see the tractors and trailers that are there through the buffer of trees that were planted. He spoke of the violations from the Building Commissioner included operation of winter activities / snow plowing during late hours. Mr. Casciano said he has one plow truck and plows his own lot. He stated there is no city ordinance which dictates what time his lot can be plowed, just as it is the same for the plowing that is done at Independence Place. Mr. Casciano stated the trucking company has 3 trucks and 10 trailers. He only operates two trucks at a time and the trailers are parked. There is limited amount of trucking going in and out of there. He stated there is a lot of truck traffic that already exists on that route from the businesses around him. He said that his property has been zoned Commercial Industrial long before the condo owners bought their property. He addressed the concern regarding the smell of mulch; he stated he does not run compost mulch, it is wood chips and does not create a smell. The Applicant said he understands the residents' concerns but he said he feels that some of the concerns he has heard have been stretched to the limit.

Mr. Kulchytsky stated that there was no sight plan permitted as part of this application. The site plan was previously approved by the Planning Commission and Engineering Department as part of a prior approval for similar use. He said there are trucks located at the northeast corner of the site. He addressed Randy Karr, the owner of Trucking Logistics and asked where he was previously located. Mr. Karr stated he subleased from a trucking company located off York Alpha Drive close to York Delta. He added it was no longer available. Mr. Kulchytsky asked him if he is registered as a business. He responded that he was employed at that facility through them and he leased trucks to them. Mr. Kulchytsky asked if he is now registered with the city as a business. Mr. Karr responded he is not registered with the City.

The Chairperson noted for the record an e-mail provided by Mr. Casciano from an Independence Place resident stating why she does not agree with the concerns of other residents. Also the record will note receipt of a cover letter from Ward 3 Councilman Dan Langshaw, with 16 additional pieces of correspondence from residents, all which expressed their views regarding the operation of a trucking facility at 12020 York Road.

Mr. Kelly reviewed the four sets of criteria under C.O. 1262.08 which sets out the criteria for the Planning Commission's consideration of this Similar Use Determination. He said the first question for consideration is whether or not the proposed use is listed in any other classification or uses. He asked the Building Commissioner for feedback. Mr. Kulchytsky replied no district includes such a permitted use. He stated that the next three issues are up to the Commission's discretion.

Mr. Antoskiewicz asked Mr. Karr for clarification regarding the times his trucks are running. Mr. Karr responded that a majority of his business is done between 8:00am and 5:00pm. When questioned further, he responded that his office operates between those hours; however, there is small percentage of his trucking that runs over those hours, sits there and runs, or that you can see the lights. He said he operates a very professional outfit; it is a small fleet and he utilizes that space at minimal times and he is trying to be congenial to everyone involved.

Ms. Hannan questioned the reasoning for having these trucks operate without any permit to do so. Mr. Casciano responded that it was on oversight on his part. He said it was his understanding in moving the business in there that renting out space or property to a business wouldn't be an issue since he already runs a business there. He said he was informed by Mr. Kulchytsky that he was in violation and the business must apply for

occupancy. Mr. Casciano said he responded to Mr. Kulchytsky that after he gets his building up, they would legitimately run their business out of there. He did not think it would be an issue.

Mr. Kelly said this happens a lot and in most cases, it is the Building Commissioner's job and obligation to bring people and/or businesses into compliance. At this time, they are operating illegally.

Mayor Stefanik said we are pro-active and pro-business regarding looking for business to operate in North Royalton. He said if this request does not pass, he would like to meet with the trucking company to find another spot in North Royalton that will be a better fit.

**Moved** by Mayor Stefanik, seconded by Mr. Castrovillari **to approve the Similar Use Determination.** Roll call: Yeas: **None.** Nays: **Five.** (Cheryl Hannan, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari, Tim Miller). **Motion denied.**

## ADJOURNMENT

**Moved** by Mayor Stefanik, seconded by Mr. Antoskiewicz to **adjourn the January 21, 2015 Planning Commission meeting.** Roll call: Yeas: **Five** (Cheryl Hannan, Tim Miller, Mayor Stefanik, Larry Antoskiewicz, Frank Castrovillari). Nays: **None. Motion carried.**

**Meeting adjourned at 8:45 p.m.**

APPROVED: /s/ Cheryl Hannan  
Chairperson

DATE APPROVED: March 4, 2015

ATTEST: /s/ Diane Veverka  
Planning Commission Secretary