

The North Royalton Board of Zoning Appeals met in the North Royalton Council Chambers, 13834 Ridge Road, on Monday, April 26, 2010 to hold a Public Hearing. The meeting was called to order by Chairman Neil Price at 7:30 P.M.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Councilman Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

PUBLIC HEARING

(BZA10-04) Abbey Road Properties LLC request a variance to Chapter 1278 “Industrial Districts”, Section 1278.04 “Use Regulations for General Industrial Districts”, paragraph (a)(2), of the City of North Royalton Zoning Code, to allow the temporary use of a portable concrete crusher outside of an enclosed building and to allow the screening of topsoil on this vacant property located on York Beta Drive, also known as PPN: 483-04-003.

Public hearing notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

The Chairman recognized anyone wishing to be heard.

Brian Baumann, representing Abbey Road Properties LLC, the applicants, approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Baumann: Yes.

Mr. Price: Please state your name and address.

Mr. Baumann: My name is Brian Baumann and I reside at 11300 Boston Road in North Royalton, Ohio.

Mr. Price: Just tell us why you are requesting a variance.

Mr. Baumann: I am asking for a variance to do concrete crushing for a specific job on the property. Right now the property is vacant and in my opinion is several years away from being able to be developed. I would like to use the property to do some concrete crushing as well as screening the topsoil that is stockpiled there and has been there for a number of years. The concrete crushing will allow me to be competitive in the construction market and the site work specifically. My proposed use would be for that job only and the concrete brought onto the site would be only from that specific job and would then be taken out and reutilized back into that job. So it will not be an open dump site for anybody but similar to the one maybe at Tri County Concrete. It would only be from my job. The trucks will be my trucks which I control. At the same time we would also like to clean up the site since there has been a little bit of dumping over the years. Once we are complete we would like to permanently post bollards and cable to prevent further dumping as well as post signs that the site will be under surveillance to alleviate the problem which is a nuisance right now for the property.

Mr. Price: Anything else?

Mr. Baumann: Not at this time.

Mr. Price: Thank you. Anybody else?

Kathy Fogg, general partner of Fogg Investment Properties, No. 1 Ltd., approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Fogg: Yes sir. I reside at 11112 Glen Valley, Brecksville, Ohio. I am a general partner of Fogg Investment Properties who own a 12.25 acre parcel on York Beta Drive, adjacent to this proposed operation. I am concerned about any kind of concrete crushing or topsoil operation that would take place on any nearby parcel. I could only be in favor of it with the stipulation that ALL of the concrete or topsoil to be involved already exists on the parcel and the purpose of the operation is to allow the owner to be able to remove or utilize the concrete and/or topsoil already there. I am against this use if it is to allow concrete and topsoil to be brought onto the site from other locations. In my experience, this use typically increases unauthorized dumping and causes harm to adjacent parcels from individuals or companies that have heard that the area is accepting waste materials. Currently, except for one area, all of the previous dumping has been cleaned up and the Industrial Park looks very nice and appealing for perspective purchasers. With the only access to this parcel from a dirt drive at the end of the road, it is my opinion that this Industrial Park road will end up muddy and full of stuff that people have dumped. My parcel has approximately 700 – 800 foot of frontage adjacent to this site. I don't want it full of junk when this operation doesn't accept what people have in their trucks because it doesn't want it either or because it is closed. If this type of use is allowed I want to have the City of North Royalton to be able to give adjacent property owners assurances that we will not have dumping occur on our sites and, in the event that it does happen, it will be cleaned up in a timely manner without cost to the individual property owners. Unauthorized dumping is enough of a problem for vacant landowners without encouraging it by allowing a visible, exterior concrete crushing or topsoil operation to operate in a developing Industrial Park. I am trying to sell my parcel for development and I believe that the economy is finally coming back and I may be able to do so. However, parcels that become unsightly because of dumping are harder to sell and the cost to remove the dumped materials places a hardship on the owner. I also believe that this type of use is unattractive and very dirty and will have negative effects on existing businesses and any businesses that may consider building there. All of the property owners have a considerable investment in this Industrial Park, as does the City of North Royalton. Now we may finally have an opportunity to have businesses develop these properties and every effort should be made to make these sites desirable to perspective buyers and not allow them to have a bad first impression caused by this type of operation. As you consider this use I encourage you to consider the effects that such a use will have on the marketability of the vacant sites in the Industrial Park. Thank you very much. I could elaborate but I figured that I probably should keep it brief.

Mr. Price: Mr. Jordan.

Mr. Jordan: Good evening Board. I am Tom Jordan, the Community Development Director for the City of North Royalton. The Administration has been working with the property owner and owners throughout the Industrial Park to try to make all of the sites in the Industrial Park more marketable. It is absolutely correct, as the previous speaker had indicated, that dumping has been a problem back there. There are two things that the City has had to undertake. When Laszeray opened we actually had to go along a number of the existing sites and remove debris within about 30 feet of the right-of-way in order to clean it up after Laszeray had spent millions investing there. In addition, we have tried to include extra patrols and we recently, throughout the Industrial Park, have chased C.E.I. to make sure that it is well lit back there. So we have a continual struggle to try to stop the dumping within the Industrial Park. The issue specific to this parcel, however, is that there is some stockpiling of dirt. The problem with that dirt is for it to be useable it will need to be screened and then trucked and hauled away. There has also been additional dumping on the site. It is sort of like the broken window syndrome – once one of the windows is broken people feel that it is an acceptable site for dumping because they see the existing dumping that has taken place. (Continued ...)

Mr. Jordan (continued): I believe that there are pictures of the mounding and it is quite evident when you go back there. It is at the end of the cul-de-sac. There is mounding there. That mounding will attract and has attracted further dumping. What we have asked the owner to do is remove all of the material that is there - the mounding, all of the illegal dumping, and then take measures to stop further dumping by installing bollards and chain. In addition some surveillance notices should be posted at the site. If you have actually been to the site you know that the road leads directly into it. If you notice on the parcel map there is a little square which would eventually be where the cul-de-sac would get built out. It is really lending itself currently to that use. The actual owner of the property, the managing partner, Mr. Brian Baumann, runs a trucking company that does rock crushing. They can haul it out. They have a specific job that needs some rock crushing so the proposal is to take in the rock to be crushed and use the empty trucks going back out to take out the soil. In addition, the rock would be processed on the site and eventually all of the rock crushing would be discontinued within a certain time period.

I believe that there would be two, thirty day periods within the year. So we would support the applicant's request for a temporary use variance under the conditions that they be limited to two, thirty day periods, that they remove all of the debris that is currently at the site and that they take the measures that I outlined earlier to prevent future dumping. As noted earlier, our other concern typically is with residences that are nearby. The nearest one is on Independence Drive, which is a considerable distance away. I do not believe that anyone is here this evening from that area. I do not believe, because of the distance away and also the tree line, that they should be negatively impacted. I have spoken to Laszeray and Induction Tooling which are literally the two companies which operate currently near the site. They are supportive. Their main goal is to also get rid of the existing debris that is attracting further dumping. So again, from the Administration's standpoint, we would like to see the site cleaned up and support the applicant's measure to do it. Out of concern for the prior speaker and adjacent property owner, I think that there may have been a misconception that we would be opening it as a city dump site on a temporary basis. That is not the goal. The landowner that currently owns the site has a demo company and this would only allow him specifically, and for only his trucks, to bring in the rock to be crushed and to haul it away. This would not be for a general purpose dump site for the city in any way. We want that discontinued. I would be happy to take any questions and I appreciate your attention.

Mr. Price: Thank you. Anybody else? May I have a motion to adjourn the Public Hearing?

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **move BZA10-04 to the open meeting.**

Mr. Price: Call the roll.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Mr. Price: Motion to adjourn the Public Hearing.

Moved by Mr. Ranucci, seconded by Ms. Mastronicolas to **adjourn the Public Hearing.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Public Hearing adjourned at 7:44 p.m.

Mr. Price: Does anyone need to recess? (No response.) In that case we will go right into the Open Meeting.

The **Board of Zoning Appeals** of the City of North Royalton met on **April 26, 2010** to hold an Open Meeting in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:44 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Councilman Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

Mr. Price: I need a motion to excuse Mr. Kasaris for cause regarding the approval of the Minutes for the March 22, 2010 meeting.

Moved by Mr. Jankovsky, seconded by Mr. Ranucci to **excuse Mr. Kasaris for cause regarding the approval of the Minutes for the March 22, 2010 meeting.**

Mr. Price: Call the roll.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Mr. Price: Need a motion to approve the Minutes of March 22, 2010.

Moved by Mr. Ranucci, seconded by Mr. Jankovsky to **approve the Minutes of March 22, 2010.**

Mr. Price: Call the roll.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (4 – 0).

Minutes approved.

OPEN MEETING

(BZA10-04) **Abbey Road Properties LLC** request a variance to **Chapter 1278 “Industrial Districts”, Section 1278.04 “Use Regulations for General Industrial Districts”, paragraph (a)(2), to allow the temporary use of a portable concrete crusher outside of an enclosed building and to allow the screening of topsoil on this vacant property located on York Beta Drive, also known as PPN: 483-04-003.**

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance to allow the temporary use of a portable concrete crusher outside of an enclosed building and to allow the screening of topsoil which are contrary to Section 1278.04 (a)(2) of the Zoning Code.**

Mr. Price: Discussion?

Mr. Kasaris: Mr. Baumann, I just have a couple of questions regarding the process. I have seen the process and I think that the record should reflect what process you actually go through to crush the concrete. Who regulates the process of crushing the concrete? How loud is the crushing of the concrete? How many days will it actually take you to crush whatever concrete you have to be crushed?

Mr. Baumann: The project that is going to bring the concrete in – the most that it would take would be two, thirty day periods. There is just not enough concrete that would take longer than that.

Mr. Kasaris: Would it actually take thirty days? I know when it was crushed at DiGioia's it took 2 or 3.

Mr. Baumann: That amount of concrete was probably 2 or 3 times the amount that would be brought in here. It is just not that big of a project. It is big enough to justify bringing in a crusher to a site to crush it and recycle it and then remove it. The job itself is going to require all of that concrete to be brought back in as part of the project.

Mr. Kasaris: So it comes in over a period of thirty days and it is crushed as it comes in.

Mr. Baumann: It will probably come in for a period of thirty to forty days and then the crusher will come on site and actually only crush for 30 days. Then it will be done. Then we will haul it away as we are crushing. We will have the site secured once we start bringing stuff in with the bollards and the cables. The next phase of the project will come about and we will remove the concrete at that site and bring it in here, crush it, and then take it right back to use as backfill.

Mr. Kasaris: Could you please describe the crushing process? How does it work?

Mr. Baumann: The crushing process involves a portable crusher basically the size of a semi. It is about 53 feet long, 10 foot wide and about 10 – 12 feet tall. It runs on a diesel motor and the diesel motor noise is about the same as a typical excavator that you would see on road construction as well as end loaders or even semi's. The actual crushing itself is not as loud as you might imagine. I know that we had done a demonstration for some of the people who were here at the DiGioia site regarding the noise situation. I know that a lot of the people there that experienced it felt that the actual backup alarms were louder than the actual crusher itself. I do not want to use the word "quiet" but it is not like you are going to hear a dynamite situation or ... a hydraulic hammer is much louder than the actual crusher. With regard to your question as to who regulates this, this crusher has to have a permit from the State of Ohio for air pollution and from the E.P.A.. We are monitored and we have to report daily if we are having any dust emissions or if there are any problems with the air quality as a result of the crushing operation. They are pretty strict about all of it.

Mr. Kasaris: How do you control the dust emissions?

Mr. Baumann: We use water from the hydrants. It is basically a garden hose that goes in there. There is a dust suppression system in the mouth of the crusher and that wets the material as it goes in and it also has a dust suppression as it leaves the chamber and goes up the conveyor to stop any dust emissions.

Mr. Kasaris: How many people would be on site during this process?

Mr. Baumann: Probably 5-6 people. There will be 3 operators, a couple of laborers and then somebody to direct the trucks.

Mr. Kasaris: How would you protect the crusher at the end of the day when the crushing is finished?

Mr. Baumann: The crusher has a key like all equipment does and it will be secured the same way as, for example, your project on Rt. 82 where you are doing the street repairs. The equipment is locked at night and you must have a key to get into it otherwise you cannot enter it.

Mr. Kasaris: Thank you.

Mr. Price: This topsoil arrangement – what is the process for screening that?

Mr. Baumann: That is actually a little simpler than the crushing itself. The topsoil process basically requires a screener that will take the topsoil with an excavator, feed it into a screener and it will shake out the over-sized stuff such as the roots and the over-sized material that is not considered processed topsoil. That stuff will be hauled away – the processed topsoil will be hauled to the job site where I am doing the work and spread for the tree lawns and the grass areas. The other material will be hauled away as well because it does not have a use at that point.

Mr. Price: Where is this job site that you keep referring to?

Mr. Baumann: It is in Parma Heights.

Mr. Price: It is not in North Royalton.

Mr. Baumann: It is not in North Royalton.

Mr. Price: So this is in effect a convenient spot to operate from.

Mr. Baumann: Yes, it is.

Mr. Price: It can't be operated on site?

Mr. Baumann: No. It is in a somewhat residential area where we are ripping out the entire street, we are replacing the sewers and then putting the new concrete back in.

Mr. Price: So let us go back through this once again. You have a piece of vacant land. It has a large mound of dirt that you are going to utilize for topsoil purposes. You will bring in concrete from this job and crush it in a thirty day period.

Mr. Baumann: The crushing will only take two, thirty day periods. One will be in the June time frame and the other one in September or October. It will only be thirty days for the actual crushing.

Mr. Price: It will only be thirty days within the two, thirty day periods.

Mr. Baumann: Yes. For the crushing – yes.

Mr. Ranucci: Sixty days.

Mr. Baumann: Sixty days total. Thirty days in May-June. If I start on May 10th I will be done on June 10th. Then again in September, around the 15th, and I will be done by the 15th of October. We will be hauling it away immediately and I would say by around November 15th everything would be off of the site and we won't be there for crushing at all.

Mr. Price: What happens to the material that is crushed during the first thirty days?

Mr. Baumann: That will be gone before the other stuff even comes in. We need it back on the job site.

Mr. Price: Why are there two, thirty day periods with the separation of a couple of months?

Mr. Baumann: Because we are doing one half of the road first. We are ripping it all out, restoring it and then doing the other half of the road, ripping it all out and then restoring it.

Mr. Price: It was mentioned earlier that the owner of the property would be utilizing their own trucks and have control over the employees. Who are American Eagle Recycling and B & B Wrecking?

Mr. Baumann: American Eagle Recycling is the owner of the crushing equipment which is a separate company set up to do specific recycling. There are specific tax advantages when purchasing equipment that is used for, in this case they call it “manufacturing”, but we are doing the recycling of concrete. Under the Ohio law that is also considered “manufacturing” because you are making a product. We are making recycled concrete. B & B Wrecking is the contractor who does most of the work in the field. They are both owned by the Baumann Family, as well as Abbey Road Properties.

Mr. Price: So the extra income that is referred to in the application for the City’s General Fund - there will be 5 to 7 employees for about two months?

Mr. Baumann: There will be two months for the crushing and also for the load –out period afterwards. The crushing takes place in those thirty day periods when the crusher is going to be there. The reason that I chose the two, thirty day periods is because that is all the time that I really need for the crusher to be there. That is essentially what everybody always has a concern about. They do not want an ongoing crushing operation. They are concerned that there could be some dust from it, some noise from it, and so that is why I limit it to thirty days. The other thing is that on my State of Ohio Permit, it encourages that when you have a portable crushing permit to only stay there for thirty days at a time. It could otherwise be construed as a permanent crusher.

Mr. Price: I guess that I am still not clear. Does all the work that you are going to do on that parcel take place within the two, thirty day time frames or is the clearing and the bollards and whatever other work is to be done within that lease period of one year or is it just the two, thirty day periods?

Mr. Baumann: I cannot do all the work in two, thirty day periods. No. If I was granted this, for example, I will give a theoretical time frame but it can be moved but this is about what it would be ... If we started on May 1st I would start to bring concrete in there. I need to bring the concrete in there in order to have a stockpile because once the crusher is there it goes through it pretty quickly. In the meantime I would have equipment on site, they will be loading out the trash that has been dumped and then installing the bollards. After approximately 2 – 3 weeks or 15 days I would bring the crusher in there, crush up the concrete and then start hauling the concrete away. Then that would be a thirty day period of the actual crusher and what some people would consider to be the nuisance of the project due to what they perceive as dust and noise pollution.

I do not believe that it is the case and I think that what I did last year at DiGioia’s speaks for what I am going to do there. I would then start to do the actual topsoil screening as well. Screen the topsoil sometime in June and that will be a situation where I will work for a week or so at a time and then haul it away as well. I will screen the topsoil on an as-needed basis. That will go on periodically throughout the summer. The site will be secure whenever we are not there with the bollards and cables and we will make sure that nobody is dumping anything in there. In this process I only want to bring my concrete in there for quality control and also because of the other concerns that are out there – that people think that it is a public dump or a place to get rid of concrete for free, which is not my intention at all. Back to the time frame then, sometime in September I would then again bring in concrete for about a 15 day period to get a head start and then bring the crusher in again and crush for about thirty days, move the crusher out and also be hauling out the concrete and topsoil as I screen it. The project will be done in the calendar year of 2010. I picked the one year just because it seemed to make more sense but for all intensive purposes, by the end of 2010, I really will not be on the site doing this crushing operation.

Mr. Price: Anymore questions?

Mr. Ranucci: Just one more. How far back off of the road will the stockpile of concrete be as well as the crusher?

Mr. Baumann: It will be about 175 – 200 feet.

Mr. Ranucci: Are you going to put in a temporary road?

Mr. Baumann: Yes. I will put in a temporary road and I will also have a street sweeper going whenever I have trucks on site so that we don't have the dust and dirt that the trucks could track onto the road. If they do we will clean it up immediately.

Mr. Ranucci: The topsoil will be used for this project?

Mr. Baumann: Yes. There is more topsoil than is needed on this project but if I have the screener there I would like to screen more so that I can get rid of that stuff because I know that that is a concern of the City as well as the neighbors. I want to get rid of that myself because, as the woman from Fogg Investments indicated, it will make the area look better for potential clients or people who want to buy and develop in that area. Right now it does not look that good with that topsoil being there.

Mr. Price: Donna, do we need to attach some of these conditions to this variance as well as these statements regarding the bollards and cables and returning the land to a more pristine state?

Ms. Vozar: I think that the applicant can agree to those factors being a part of their application. I would like to point out, if I could, that this is a similar situation for which the Building Commissioner has, on several occasions, made a determination that there has been a nuisance and has permitted the abatement of the nuisance through this means. This is a little different, which is why the Building Commissioner did not just make the determination on his own. There are additional circumstances which are obviously present here that the applicant and Mr. Jordan have brought forth. As long as the applicant is willing to agree to these various items and amend his application – we need to jointly put together a list of those criteria just to make sure that we are clear because it is not set forth clearly in the application. Also, while I have the microphone, I would like to remind the Board that we are under Section 1264.08 (e)(2), as the applicant is requesting a **use variance**. So when we go through the criteria and the testimony you can apply the testimony to the various factors that are there, if you so choose. If that answers your question I hope that we can maybe have the applicant go forward and start indicating what it is that he is amending on his application – what items that he is willing to do. Again, a part of this is abating the nuisance on the property which actually has, from what the applicant has said, made the property several years away from development and as such has not made it economically viable to use it for its purpose. So if you so choose, Mr. Chairman, we can start going through those items.

Mr. Price: Yes.

Ms. Vozar: Maybe Mr. Jordan can also assist in putting this together.

Mr. Price: For the record, if you would please, could you list the items that you would be willing to agree to.

Mr. Baumann: I would definitely be willing to do the bollards and cables. I think that that is something that is needed as well as the signs that will warn potential dumpers that there is surveillance that will be going on.

Mr. Price: This will take place at the beginning of the time period.

Mr. Baumann: Yes, it will. You did mention the word “pristine”. I am a little intimidated by that word.

Mr. Price: Okay, I'll take it back.

Mr. Baumann: I am a landowner and I am a resident of North Royalton. I do want to eventually develop that property. I do agree with Kathy (Kathy Fogg, Fogg Investment Properties) that the only chance we have is to make this property look as nice as possible. I do not know how to put that into words and into a variance but my goal is the same as Kathy's and probably the rest of the owners who have vacant land there. The bollards and the cable should definitely stop the dumping on my property. Kathy brought up a good point in that that means they might just dump somewhere else. I do not know if that will be the case or not but I can try to control it.

The one thing that I will say is that I think that I will improve the situation because I will have a presence there and if my employees do see people dumping we will encourage them not to do so or write down their license plates and contact the police. The North Royalton Police Department have been known to be pretty responsive from what I have seen for having lived here for over 30 years. Right now there is nobody back there. The only time that I go back there is to take my 15 year old daughter there to train her how to drive because there is nobody back there.

Mr. Price: Anything else?

Mr. Baumann: I am open to other suggestions, if you have any, to alleviate the problems and concerns of Kathy, myself and all of you when it comes to developing the Industrial Park. That, to me, is the best that I can do unless something else that is reasonable can be thought of.

Mr. Ranucci: The only other thing that I was thinking about was the mounding. At the end of the day could we have that as flat as possible.

Mr. Baumann: I will have positive drainage once I leave the site. I am hoping that 80-90 percent of that material will go away with the screening because it is good material. It is good topsoil but it is just not good in its current state. It is not useable until it is screened. Once it has been screened it is then \$15 to \$18 topsoil.

Mr. Price: I am just a little concerned with comments that were previously made. The perception that this activity is going on and the activity then being translated to a sort of negative side as far as development or potential buyers go when they look at the area or another property... A year – is there any shorter time frame that this project could take place in?

Mr. Baumann: The concrete aspect could be done by December 1st or December 31st of 2010. That is not a problem. The only thing that I want to make sure of is that if I do the topsoil part, which I know that it is a part of this variance but I do not know that I am doing anything wrong with the actual land use that is currently permitted there, I would have no problem with the concrete crushing portion, where everything will be off site and everything will have been crushed by December 1st or December 31st of 2010. If the topsoil is gone at that time it would be great but if not I would like to have maybe a spring season as well which would put me into May 1st of 2011. That is why I asked for the year. The concrete crushing portion of it and the importing of any material will be completed, for sure, in the year 2010. I would definitely be willing to modify that part of it if it does not get too confusing from a legal standpoint with the City.

Ms. Vozar: Mr. Chairman. You are requesting a temporary variance for one (1) year. The purpose of your use variance, so that I am clear, is to enable you to get your property ready so that you can develop it. Is that correct?

Mr. Baumann: That is correct.

Ms. Vozar: Part of that includes making that economical for you to do that by removing the mound and all of that and this is the justification to get you to that point.

Mr. Baumann: Yes, it is.

Ms. Vozar: So the year that you are asking for will allow you to get the property basically ready by abating any nuisance that might be on that property and doing what you need to do with the dirt. The concrete portion will end sooner than that and you can have a definite time period for that which would be around December 15th or shortly thereafter.

Mr. Baumann: Right. Basically, regarding the concrete, I have that all spoken for. With the dirt I have – 60 to 70 percent of that dirt is spoken for but I do not have it for the rest of it as far as this particular project. It is like anything else, it is a little speculative but I would like to accomplish the goal of cleaning up the site and also getting rid of the topsoil at a profit. If I end the variance on December 31st, which I can on the concrete portion of it, that is not a problem but I would really like to get rid of all of the topsoil so that we can make it as close to “pristine” as we can. Everybody would be happy then.

Mr. Price: It wasn't so much that I was questioning the removal of the topsoil or the work associated with the dirt but with the crusher and the concrete and the noise and the perception that this big, bad machine is around. If that could be “fixed” as far as time.

Mr. Kasaris: You want to limit the time.

Mr. Price: Yes.

Mr. Baumann: I would be willing to agree to either December 1st or December 15th – I would have no objection to that whatsoever.

Mr. Price: But when is the job going to be needing the recycled concrete and when are you going to get the raw material?

Mr. Baumann: I should have it all off by October 31st.

Mr. Price: All off of the site?

Mr. Baumann: All off of the proposed area to crush. Everything will be crushed and hauled away, according to my schedule now, by around October 31st. I just want to give myself a possible extra month in case we have a bad season – I cannot predict everything with a construction project.

Mr. Price: I know.

Mr. Baumann: I wish that I could but I can't. Certainly by December 1st it will all be – the project would be in jeopardy and I would not be able to do that. I have to be done with the project by the end of the year so that is why I was willing to use that as my end date for the concrete.

Ms. Vozar: Mr. Chairman, if I could make a proposal.

Mr. Price: By all means.

Ms. Vozar: The applicant has testified that the only job site concrete that would be brought to the site and removed from the site is going to be the Parma Heights Project, which is what we will call it. Since that job needs to be done by the end of the year, perhaps in order to ensure that it is limited to the Parma Heights Project, we should include the language in there that it is the Parma Heights Project. Concrete will be brought there only. It must be completed by the end of the calendar year. This ensures that it will not go on longer than need be or that more is not brought to the site than needs to be brought to the site. This is just a proposal.

Mr. Kasaris: Mr. Chairman, while we are talking about amending the variance request, do we really need a variance to screen the topsoil? That is part of clearing the land. Why does he need a variance to screen the topsoil?

Ms. Vozar: Mr. Chairman. While I do not believe that he needs a variance for that it is a part of the variance application because it is the basis and the grounds for why you would be granting the variance. So I think that it is a condition.

Mr. Kasaris: He could have the variance granted, in theory, for the stone crushing and not touch the topsoil.

Ms. Vozar: That is correct but he has made his application based on its justification.

Mr. Kasaris: Right, but he really does not need a variance to remove the topsoil. He could do that on his own.

Ms. Vozar: And should do it.

Mr. Kasaris: Thank you.

Mr. Price: I guess that what I have been trying to say is – what thirty day time periods would this job involve the machine at the site being operated? June to July? July to August? Could we set a specific date or is the job in such flux that the thirty days could mean the next thirty days or thirty days after that.

Mr. Baumann: We definitely need to be in there sometime in May, and whatever day that is, the Building Commissioner will set that date in stone and I will live by that. Whether it will be the 23rd of May or the 27th of May I do not know but that day will be that and I will be done crushing by the 27th of June. It will be the same thing in September. It will be some time between September 15th and September 30th. Whatever day that is, say it is September 18th, then by October 18th we will not be there with the crusher.

Mr. Ranucci: Once you bring the crusher on site will it be there the entire time or will you take it off site?

Mr. Baumann: I will take it away. It will not sit there.

Mr. Ranucci: So it will not sit there and you will take it off site. So basically the concrete will come in, gets crushed, the crusher goes away and comes back. As soon as you bring concrete in you will shortly thereafter start crushing the concrete.

Mr. Baumann: About two weeks after.

Mr. Ranucci: So basically you have six (6) weeks of activity.

Mr. Baumann: For the concrete crushing itself. The topsoil is separate but at the same time. When I first approached the people at the City they wanted to see that as part of the deal. They wanted me to make the topsoil go away so that is why it was included.

Mr. Ranucci: So we are basically looking at two, six week periods of actual activity – concrete in, crushed, and the stone taken away.

Mr. Baumann: Yes. That is fair to say.

Mr. Price: Mr. Alvarez, would it be agreeable with you that the thirty day time period be established by your office as far as a start and stop date?

Mr. Alvarez: Mr. Chairman, I would hate to tell anyone when to do their business. I think that we can mutually agree between the two parties, the City and the applicant, what thirty day periods he is referring to, be it the beginning of summer and ending in the fall.

Mr. Price: I mean that you would both agree that one day is the start date and the applicant would then have thirty days from that start date.

Mr. Baumann: Once the crusher shows up I will be fine with that. You will be the “watchdog” if you will – I am fine with that too. Once it shows up it will be crushing and I will be done in thirty (30) days.

Mr. Alvarez: Mr. Chairman. You previously stated that the State of Ohio gives you thirty days because that is considered temporary – is that correct?

Mr. Baumann: That is correct. I have a copy of the permit if you need that as well.

Mr. Alvarez: Do they also monitor you as well?

Mr. Baumann: They monitor us and we have to be in compliance. Their biggest concern is that they do not want that machine producing dust.

Mr. Alvarez: I guess that what I am saying is that there will be two “watchdogs” keeping an eye on you.

Mr. Baumann: They are random. We have to submit our reports monthly and then we are subject to random inspections at any time.

Mr. Alvarez: Do you inform them when you are starting?

Mr. Baumann: We have to inform them thirty (30) days prior to us even starting.

Mr. Alvarez: So you will be giving them a specific date that you will be on site.

Mr. Baumann: Right.

Mr. Price: Any other questions or comments?

Mr. Kasaris: Mr. Chairman, this is a temporary variance request. It is not a permanent variance request but is for a relatively short period of time throughout the year. If this variance request is approved the area will benefit from it. The City will benefit from it. The neighbors will benefit from it. This is not a permanent request. It is not like we are putting a house in an area zoned for industrial. The request is to allow the landowner to use a machine which is currently not permitted in the Code, to be used outside of a building, which by the way there is no building on the land. So Mr. Chairman, since this is a temporary request and involves a short period of time, by the end of the year this property will not be used in this manner, I think that the area will be cleaned up and it will be beneficial to the public. It will be beneficial to the government. It will be beneficial to the neighbors. I do not think that this offends the general purpose or intent and objectives of the Zoning Code or the Master Plan. I will therefore be supporting the variance request. Thank you.

Ms. Mastronicolas: When I visited the site my concerns were the same as some that were voiced here tonight. I feared that it could potentially turn into more of a dumping ground because people would see that and dump more at the site but I think that you have addressed that as did Mr. Jordan. I think that the flip side of that is that it would be an improvement to the area because there is a lot of stuff back there right now. With what you have stated tonight, your process, the posting of signs and the surveillance, I think that it would be a good thing for the area. Again, as Mr. Kasaris has said, it is a temporary situation so I will also be voting in favor of this variance.

Mr. Ranucci: Based on the comments of my fellow Board Members here, I will also be voting in favor of this request.

Mr. Jankovsky: Mr. Chairman, I have a couple of comments. First of all, I cannot think of any area in the City where a use such as this would be more suitable. There is nothing going on back there right now. I know that the City has itself been ever vigilant in trying to curtail the dumping back there. (Continued on next page...)

Mr. Jankovsky: It is not just in the area where this gentleman's property is but the whole back area of the Industrial Park. Going through there today I can see that it has been cleaned up. I assume that the City has had a lot to do with that. It looks great. So I do not think that in any way this is going to increase any dumping; if anything, it will probably curtail it for it will let the people who are dumping know that this area is going to be watched. I think that the applicant has met all of the things that we need to look at relative to Section 1264.08 (e)(2) pertaining to this use variance. I have never seen an applicant as well versed in all of the intricacies of what we need to hear to approve something like this. I will be voting for this very enthusiastically.

Mr. Price: I will also be voting in favor of this request and concur with the comments made by the other members of the Board. This is a temporary situation and it is going to improve the area. The signage and surveillance will hopefully discourage illegal dumping, which will improve the area. I think that this will be beneficial to all of the property owners concerned in that particular area.

Ms. Vozar: If I may propose the findings of fact and conclusions of law for your review. First, I would like to clarify for the record, and if the applicant can come forward so that the Board has your consent on the record, that I am going to go through the variance being requested. This is a request for a temporary variance to allow a portable crusher on the property known as Permanent Parcel No. 483-04-003. The applicant is here tonight and has amended his application to include various items that are a part of his application and he agrees, under oath, to be bound by all of these conditions which are part of his application and the variance. The applicant agrees that this is a temporary variance that will expire within one (1) year from the date when it is granted. All concrete and crushing operations shall terminate at the end of 2010. Concrete that will be brought onto the property is from the Parma Heights site. The applicant agrees that they will put up cable and post the property. They agree that as a condition of the granting of this temporary variance that they will clean up this site and remediate this site by removing the topsoil. The applicant further acknowledges that the purpose of this temporary variance is to enable the property owner to remediate the site. If there are no other conditions I will continue on with the findings of fact. The Board, by consensus, finds that an unnecessary hardship has been established pursuant to North Royalton Ordinance Section 1264.08 (e)(2), permitting a temporary variance not to exceed one (1) year to allow a portable crusher with all concrete and crushing operations to terminate on or before December 31st, 2010. The Board finds that the conditions were met and that, based on the applicant's testimony, the property is not developable as it exists. There is a hardship for the property unique to that property. As a result of the remediation it will actually put the property back into a position where it will be able to be developed. Additionally, while there was one property owner who objected, no other property owners were here or objected to it. The granting of the variance will not be materially detrimental to the public welfare or to the property or improvements in the neighborhood. The Board finds to the contrary and feels that this will actually improve this site. Furthermore, the Board finds that the granting of the variance will further the general purpose, intent and objectives of the Zoning Code and Master Plan. The variance sought is the minimum that will achieve the goal of remediation of the property. Is there anything else that the Board would like to add?

Mr. Price: Any additions. (No response.) Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ayes – all. Nays – none.

Variance granted, with conditions (5-0).

Mr. Price: Is there a motion to adjourn.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **adjourn the B.Z.A. meeting of April 26, 2010.**

Ayes – all. Nays – none.

Motion carried.

The Board of Zoning Appeals Meeting adjourned at 8:24 p.m.

Approved: _____
Chairman

Date: _____

Attest: _____