

The **Board of Zoning Appeals** of the City of North Royalton met on **December 6, 2010** to hold a **Special Public Hearing** in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:30 p.m.

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

Chairman Price: I need a motion to excuse Mrs. Mastronicolas and Mr. Ranucci for cause.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **excuse Ms. Mastronicolas and Mr. Ranucci for cause.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (3-0).

PUBLIC HEARING

(BZA10-15) Thomas Unik / Sunshine Diversified Investments request a variance to **Chapter 1276 “Business Districts”, Section 1276.07 “Area Regulations” and Section 1276.09 “Yard Regulations”**, of the City of North Royalton Zoning Code, for **relief from the minimum lot width requirement and relief from the requirement that in all Business Districts, buildings and land shall abut a dedicated street for the required lot width**, for this **proposed lot split and consolidation** for these two properties located at **8868 Ridge Road**, which are zoned for **Local Business, also known as PPN: 482-12-017 and PPN: 482-12-018.**

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.

Thomas Unik approached the microphone.

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

Mr. Unik: I do.

Mr. Price: Your name and address please.

Mr. Unik: Thomas Unik, 1729 Superior Avenue, Cleveland, Ohio.

Ms. Vozar: I do not mean to interrupt but before we start taking testimony I would like to add something. I did want to put on the record, and make sure that the applicant is clear about this, that both the Secretary and myself have addressed the applicant and advised him that we have a quorum at three (3) members. As such he would be required, pursuant to our Code and to have this variance granted, to have all three members vote in his favor. We have discussed his options and obviously, before we would want to take any testimony, we would want to make sure that he understands that for the record.

Mr. Unik: I do.

Mr. Price: We are here tonight because ...

Mr. Unik: We have a double lot or two lots together. There are two buildings. There is a 25,000 square foot building in the front and at the rear of the property is an 18,000 square foot building. These were built, I believe, in the 1960's for AT & T. They were owned by the prior owner. I bought the property about three years ago so they had been operating up to that point in the same manner. AT & T is a current tenant in the rear building. They have, I believe, four years left in their lease and then two, five year options. (Continued on next page...)

Mr. Unik: The operations of both the front and back parcel have been the same. There has been no change in operation or ingress or egress. They have always used the egress on the right side of the property. Nothing has changed whatsoever. The only thing that is changing is that I will actually be dividing the lot so that it is symmetrical and it is where the actual tenant really rents from the back. I am the actual owner of the front and back property but I occupy the front property. So nothing is actually changing as far as operations, tenants or anything.

Mr. Price: Anybody else?

Tony Sandora, Chairman of the Planning Commission, approached the microphone.

Mr. Sandora: I am basically here tonight as a resident but also as a member of the Planning Commission. I have some concerns about this. I have a deep concern about it because there are a number of places within this City that are basically the same. What is going to happen with them? There are a number of places on Route 82. There are 3-4 parcels on Route 82 alone that are very similar in nature to this. I can see everybody coming forward asking for the same thing. There are numerous parcels throughout the City where there are numerous buildings on one parcel. They could then also be doing the same thing. Most of these things were done back in the 1940's, 1950's and 1960's. Was it right? Maybe back then. Is it right now? No, you cannot do it anymore. My biggest concern is whether this is a hardship. I would say no. It probably has more of a financial reason. I would like to know why the gentleman even wants to do this. Why does he have to split this off? For what reason? What is the City going to gain from this? The City is probably not really going to gain anything from this in the long run. My next biggest concern is that on this piece of property and all of the other parcels that are exactly like this ... AT & T built this probably back in the 1960's. There is a good chance, though I do not know for sure, I have not seen it on his plans or anyplace and I do not know if anybody has submitted any proof of this, but I would assume that they only have one gas line, one water line, one sewer line and one electric line. If you split this property up what will happen to that? There have been comments made as far as what is the difference between this and a condominium association where people own separate entities on it. Each one has their own particular service. If there is a problem those lines are detected. This is a major problem if those lines run from that first building back to the second building. If there is a disruption of power, and those lines are on the other property, how do they now conform to getting a new gas line, a new water line and/or a new electric line back there. What about fire hydrants back there? We do not know any of this stuff. These are my biggest concerns. These are things that I really think you need to take into consideration. I have sat on this Board and on Council and there have been a number of residents who have come before this Board who had specifically asked to do the same thing, some due to the fact that there were two homes on the same piece of property. They were always turned down and they were always for financial reasons. They wanted to sell it or re-finance it and the bank would not allow it because it was not a separate parcel. As I said, this is my biggest concern – what could happen? Thank you.

Mr. Price: Thank you. Anyone else?

Mr. Willey: Councilman Don Willey. I also sit on the Planning Commission. Tony and I have a little different perspective on this. Number one, the front building, as I understand it and feel free to correct me if I am wrong, is the one that he wants to market. Right now it is empty. Is that correct?

Mr. Unik: Right.

Mr. Willey: The back property is primarily garages and so forth. I think that the difference between this particular property and the residential is the fact that it is on Ridge Road. There is Carrie Cerino's and we are hopefully going to build an animal hospital down the road, so there is a lot of activity and traffic there. He has egress and ingress and an easement for the back property to exit onto Ridge Road. I do not think that it is our concern whether there is one utility or two utilities. On commercial property, and in the case of large office buildings, it is very common to share the utilities. They are not all separately metered. I do not think that that is an issue with us. I think that it is an issue for the property owner. It is then my contention that we would benefit by hopefully having an available property to get a new business in the City in that front building which is about 25,000 square feet. The other thing is that if down the road AT& T decides to abandon those garages back there another business could come in. That is my spin on it. Thank you.

Mr. Price: Thank you. Since there is no one else left in the audience, I would then ask for a motion to move this item to the open meeting.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **move BZA10-15 to the open meeting.**

Mr. Price: Call the roll.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Motion carried (3-0).

Mr. Price: May I have a motion to adjourn the public hearing.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **adjourn the Public Hearing.**

Mr. Price: Call the roll.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (3-0).

Public Hearing adjourned at 7:42 p.m.

The **Board of Zoning Appeals** of the City of North Royalton met on **December 6, 2010** to hold a Special Open Meeting in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:42 p.m.

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

Mr. Price: May I have a motion to excuse Diane Mastronicolas and John Ranucci for cause.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **excuse Ms. Mastronicolas and Mr. Ranucci for cause.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (3-0).

OPEN MEETING

(BZA10-15) Thomas Unik / Sunshine Diversified Investments request a variance to **Chapter 1276 “Business Districts”, Section 1276.07 “Area Regulations”, and Section 1276.09 “Yard Regulations”, for relief from the minimum lot width requirement and relief from the requirement that in all Business Districts, buildings and land shall abut a dedicated street for the required lot width, for this proposed lot split and consolidation** for these two properties located at **8868 Ridge Road**, which are zoned for **Local Business, also known as PPN: 482-12-017 and PPN: 482-12-018.**

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **approve a variance to Section 1276.07 of the Zoning Code so as to allow the applicant relief from the minimum lot width requirement for this parcel located in a Local Business District.**

Mr. Price: Any discussion?

Mr. Kasaris: Donna, would an issue be created if this Board were to grant this variance request with regards to creating any type of nonconforming lots in this particular zoning district?

Ms. Vozar: Nonconforming lots are severely disfavored when they are existing and the intent of the Code, over time, is for those properties to become conforming. In this case you are actually going to be taking a conforming lot and creating a nonconforming lot.

Mr. Kasaris: What would be nonconforming about it?

Ms. Vozar: It actually has two issues that would make it nonconforming which are the two variances being requested. One of the variances is that there would not be the 100 foot minimum width for the frontage. The second variance is that it will not abut a dedicated street. It is a landlocked parcel that you would be creating. While it may have an easement it would still be a landlocked parcel.

Mr. Kasaris: Does the Code prohibit this?

Ms. Vozar: It specifically prohibits it under Section 1260.12 entitled **“Required Lot Area to be Maintained”**. It reads: **“A parcel of land may be subdivided into two or more parcels provided that all lots resulting from such division shall conform to all the lot area and width regulations of the zoning district in which they are located...”** I would also like to point out that under the criteria that you need to look at and consider in order to determine whether or not a practical difficulty exists is whether the granting of the variance will create a nonconforming lot pursuant to Section 1270.16 of the Zoning Code. That Code is a repeat of that mentioned previously according to Section 1260.12; therefore, there are two places in our Code which state that a nonconforming lot shall not be created from a conforming lot. It is strongly disfavored for the reasons that I indicated.

Mr. Kasaris: It is actually prohibited by those ordinances.

Ms. Vozar: It is prohibited and disfavored by the enactment of those. You are correct. It is prohibited.

Mr. Price: Would the applicant please come up to the microphone. I would like to have you sort out a little bit about this use and ownership and future ownership and the reason for the split.

Mr. Unik: The reason for the split is that I am selling the rear lot to an investor. It is based just on a 1031 Exchange. There is no change in usage as I said before. There would be the same tenant. They would just transfer the lease from the AT & T tenant to the new owner. That would be the reason for the lot split at this point in time.

Mr. Price: You own both buildings right now and you are going to keep the front building.

Mr. Unik: Correct.

Mr. Price: The use is not going to change.

Mr. Unik: Not at all.

Mr. Price: But with the new owner ...

Mr. Unik: It will not change at all. The new owner is just going to own it financially but as far as the lease, the lease is still going to be the way that it is right now. Where I am requesting it to be split is where the lease will cover for AT & T.

Mr. Price: So this 1031 Exchange is a swap.

Mr. Unik: Yes. The gentleman who is buying it is swapping for this property. The new owner is using a 1031 Exchange to purchase it.

Mr. Kasaris: He is taking money from property that he sold and is using it to purchase this.

Mr. Price: So you are requesting to make a nonconforming lot to defer financial gain.

Mr. Unik: For the rear lot and also for the front property. Right now there is 25,000 square foot of vacant space there. The way to make that proper again I would have to split the lot for a new tenant to take that over or purchase that. As far as benefit, the property value will increase to about another \$400,000 out of the back property. I bought both lots for about \$925,000 and the back property is being sold for \$725,000.00. So there will be a big financial gain as far as the property tax in the back. Everything is split right now – separate sewers, separate gas and so forth. The rear building has always had its own since I purchased it.

Mr. Price: Have you explored any other configurations for the split other than the one that you presented?

Mr. Unik: Yes. I looked to see if there was any property on Tilby Road for sale to provide another access to the property in the back but there was nothing there for sale.

Mr. Price: Would there be any other options?

Mr. Unik: There is no other way to get there besides through Tilby Road.

Mr. Price: Let me make a suggestion. What if you would split off a portion of the front lot that would be about 78 – 80 feet in length, running south to north, and then included the driveway back to the original lot.

Mr. Unik: The building is so wide in the front that there is not 100 feet on each side.

Mr. Price: You do not need 100 feet on each side.

Mr. Unik: I think that there is only 30 some feet on each side of the building to the property lines; therefore, you cannot get 100 foot of frontage.

Mr. Price: You have about 240 feet in the front.

Mr. Unik: That is including the building. The building is sitting on it.

Mr. Price: Yes, but the lot is about 244 feet. Half of that ...

Mr. Unik: More than half of that is the building.

Mr. Price: That does not make any difference. We are talking about frontage abutting the street. You have about 244 feet. If you split off about 70 – 80 feet, plus the driveway, that would give you 100 foot frontage for the rear lot. Let me show you a drawing of what I am trying to explain.

Mr. Unik came forward and was shown a diagram to be documented as Exhibit A.

Mr. Price: If this would be allowable would you be amenable to something such as this.

Mr. Unik: Yes.

Mr. Price: Allow me to show this diagram to the Building Commissioner. Would this be possible?

Mr. Alvarez: Mr. Chairman, to use another word I think that it would be feasible.

Ms. Vozar: If I may clarify something. Since this Board does not have jurisdiction over lot splits this would have to go back before Planning Commission. They would have to review this revision and get input from all of the departments. While the Building Commissioner might not object I am not sure ...

Mr. Price: I am just speaking in reference to this meeting.

Ms. Vozar: Okay.

Mr. Alvarez: Mr. Chairman, the way that you have it configured there he would have 100 foot up front and he would meet the 100 foot requirement abutting a dedicated street. In essence, he would be complying with the code in question. The existing building up front, although it appears that it would be against the lot line, according to our Code, this property abuts a nonresidential district so there is no side yard setback distance required. So this would be feasible.

Mr. Price: With that having been said I would offer you the option, I guess I would say, that if it were split in this fashion you might be able to avoid a vote by the B.Z.A., if you would be so inclined as to withdraw your application and reconsider the split.

Ms. Vozar: Mr. Chairman, the Planning Commission is the only board who could give him authority and approval of the lot split. It may behoove the applicant to request that this matter be tabled and allow him to go before Planning Commission. If the Planning Commission finds it acceptable then he could, at that point, withdraw his application from the next B.Z.A. If he withdraws it tonight he would have to re-apply or come back on reconsideration should the Planning Commission not approve of this. It is obviously your choice as to how you would like to proceed. That is just a suggestion.

Mr. Unik: At this time I would like to table my request until the next meeting.

Mr. Price: Anybody else have any questions?

Mr. Kasaris: I think that it is a good idea for him to table it.

Mr. Price: May I have a motion to table this item?

Moved by Mr. Jankovsky, seconded by Mr. Kasaris to **table (BZA10-15)**.

Mr. Price: Discussion? Call the roll.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Aye – all. Nays – none.

Item tabled (3-0).

Mr. Price: May I have a motion to adjourn?

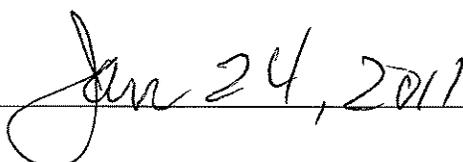
Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **adjourn the special B.Z.A. meeting of December 6, 2010.**

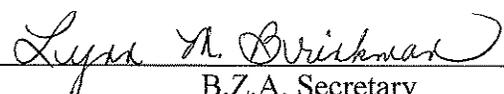
Ayes – all. Nays – none.

Motion carried (3-0).

The Board of Zoning Appeals Meeting **adjourned** at 7:56 p.m.

Approved: 
Chairman

Date: 

Attest: 
B.Z.A. Secretary

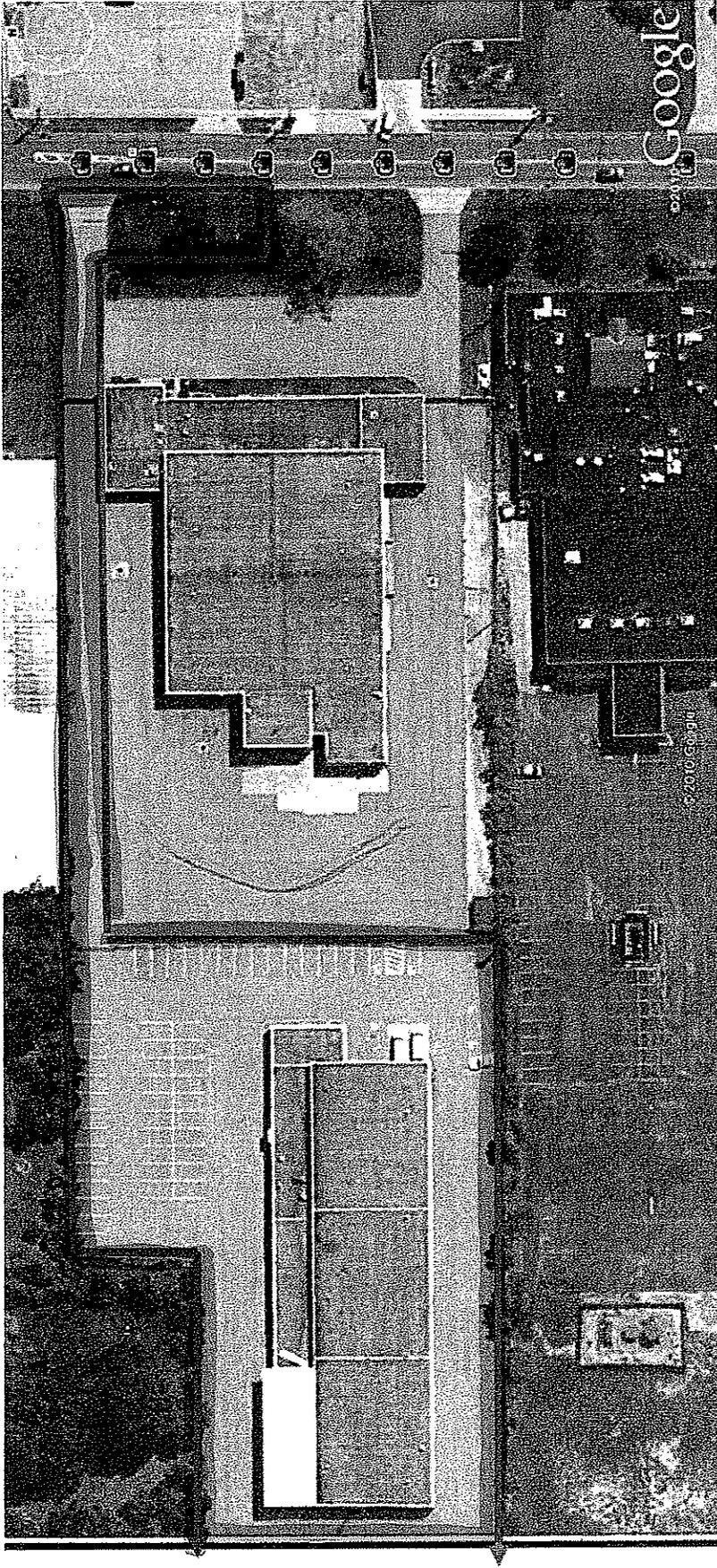


Exhibit A