

**BOARD OF ZONING APPEALS  
PUBLIC MEETING MINUTES  
JUNE 26, 2023**

**I. CALL TO ORDER**

A. Pledge of Allegiance

The Pledge of Allegiance was recited.

B. Roll Call

Roll call was taken with the following members present: Chairman Tom Kouros, Vice-Chairman Michael Davis, Secretary Rick Calinski, and Mr. William Jarvis. Staff Present: Director of Operations Andrew Hansen, Attorney Alfredo Estrada, Planning & Building Administrator Denise Sulek, and Acting Recording Secretary Megan Schiltz. Absent was Mr. Eric Kundich and Town Manager James Gorman.

C. Approve Minutes of the Board of Zoning Appeals Meeting of May 22, 2023

Vice Chairman Davis made a motion to approve which was seconded by Mr. Calinski and carried 4-0.

**II. PUBLIC ACTION AND PUBLIC HEARINGS**

A. B.Z.A. Case #23-6-6 7715 W. Lincoln Hwy. – Proposed: Pro Sport Auto Finance

General Location: 7715 W. Lincoln Hwy. – Lot 1, Holmes Addition

Petitioner(s): Pro Sport Auto Finance, LLC, Mohammad Abu Eid & Ahmad M. Kamleh

Request: Variance of Use as required by Ordinance No. 1797, Title XVI, Section 4, Paragraph C (2), xxiii

Purpose: To allow a used car sales business with the U.S. 30 Commercial Corridor Overlay District

Chairman Kouros stated items A & B will be heard at the same time as it pertains to the same issue. Mr. Kouros asked Attorney Estrada if Proofs of Publication are in order. Attorney Estrada said they are. Attorney Adam Sworden from Sworden Law, P.C represented the petitioners. Attorney Sworden stated he was here about a year and a couple of months ago for the now outgoing operator at this location. Attorney Sworden stated they were originally thinking about doing a branding change due to the fact they are also operators for NWI Auto Finance; the family got together to change who would be the operator for this particular location. Attorney Sworden went on to say that since they will be needing a name change, they will also need new signage. Attorney Sworden added that with the new entity they will be needing to come back in front of the Board.

Attorney Sworden stated that when he was in last year, there were several issues with this site, including conditions that needed to be done as well as aesthetic improvements. Attorney Sworden said that the Buildings have a night and day difference than what it was, adding that they are requesting a favorable recommendation so they can continue service just under a new name and new owners with new branding. Mr. Kouros asked Attorney Sworden if he stated that a new tenant will be going in under Pro. Attorney Sworden responded they are different family members who are related to the outgoing operator; originally they were going to change this into a NWI Auto Finance location and try to move around some of the other dealerships they have, but ultimately decided to do a new entity with new family members.

Mr. Kouros asked Attorney Estrada if the Board would need to set the conditions that was put on with the prior owners. Attorney Estrada responded the original conditions would not carry over, this is a new petitioner so all conditions would need to be renewed. Mr. Kouros then asked if they would need to look up the old conditions. Attorney Estrada said this is one way

of doing that, or they can state any new conditions; this is a whole new petitioner so they have a “blank canvas” to work on. Mr. Davis asked Attorney Sworden if he represented last year under the previous owner, to which Attorney Sworden answered he was. Mr. Davis went on to say he should know some of the concerns that were brought forth from the last group presented initially, and asked if all were addressed. Attorney Sworden said yes he made sure they were handling all conditions in a timely fashion. Mr. Kouros opened the matter to the floor. There being no comments from the floor it was returned to the Board.

Mr. Kouros then read a letter for the record pertaining to the Car Dealership by Mrs. Nancy Greiner from 7724 W. 77<sup>th</sup>, stating that they would like a fence blocking the dealership that is in better shape than the current one. Mr. Jarvis asked if they are selling cars from both pieces of the property. Attorney Sworden stated the reason to come under both addresses last year, is because they were using the parking frontage on the South East corner of the lot; this is why they needed 2 separate applications under 2 separate addresses, the parcel boundary splits down the main access road on the South end. Mr. Jarvis asked if the business in the white building will stay as auto repair. Attorney Sworden said it would. Mr. Kouros stated that this previously received favorable recommendation (3-0) to the Town Council with the only 2 B.Z.A level conditions being that the property be kept and maintained to the property standards of the zoning ordinance; the second being that the property owner agrees to paint the building. Mr. Davis questioned if the fence that was in the letter had been brought up before. Attorney Sworden stated that he was not aware of the issue until tonight, the only fence he knows of is from the front of the property that is down by the landscape company; everything in the North and the front are bollards, continuing that given the address, the fence is located in the rear of the property. Attorney Sworden added he has never been back there and is not aware of what kind of fence it is, if it is something added as a condition, it would not be an issue to address. Mr. Davis stated that the only concern is if it was affecting the value of the homeowner’s property by the fence condition. Attorney Sworden stated it didn’t come up last year, but it’s something they will take a look at. Mr. Kouros asked Attorney Estrada if they were to make this a condition, how it would be made if they do not know how much of the fence there is. Attorney Estrada replied to just put it as general as possible, and hopefully the petitioner and the neighbor can rectify the condition placed on it. Attorney Sworden stated that his clients would be happy to meet with the neighbor to see if there is a better solution as how to solve it. Mr. Calinski asked Attorney Estrada that if they don’t state a specific time frame, is it a year through statute or within reasonable opportunity time. Attorney Estrada stated without specificity it will default to reasonable time frame because only reasonable conditions can be placed by the B.Z.A.

There being no questions or comments from the Staff or Board, Mr. Jarvis made a motion for a favorable recommendation to the Town Council of B.Z.A. Case #23-6-6 with the condition that no body parts be stored behind the building; Installation of 6’ privacy fencing and/or landscaping buffering at the South side of the property to be reviewed, installed, and approved by Staff within 6 months; Provide a defined shared access with the automotive repair business to the rear pole building at this location; No “Buy Here/Sell Here” options at this location; Subject to this Petitioner and location only. This was seconded by Mr. Calinski and carried 4-0.

B. B.Z.A. Case #23-6-7 7725 W. Lincoln Hwy. – Proposed: Pro Sport Auto Finance

General Location: 7725 W. Lincoln Hwy. – Lincoln Parkway Acres, Lot 7

Petitioner(s): Pro Sport Auto Finance, LLC, Mohammad Abu Eid & Ahmad M. Kamleh

Request: Variance of Use as required by Ordinance No. 1797, Title XVI, Section 4, Paragraph C (2), xxiii

Purpose: To allow a used car sales business within the U.S. 30 Commercial Corridor Overlay District

For Discussion see above. Mr. Jarvis made a motion for a favorable recommendation pursuant to all State, Local, and Federal regulations as well as all stipulations put on B.Z.A. Case #23-6-6. This was seconded by Mr. Davis and carried 4-0.

C. B.Z.A. Case #23-6-8 1300 U.S. 41 – Proposed: Bellydawgs

General Location: 1300 U.S. 41 – Menards Subdivision, Lot 1

Petitioner(s): Bellydawgs, LLC, Jesse Russell and Aaron Earving

Request: Variance of Use as required by Ordinance No. 1797, Title XVI, Section 5, Paragraph C (3)

Purpose: To allow a portable 10' X 16' food trailer to be located on-site from May 1<sup>st</sup> through October 31<sup>st</sup>, 2023 with the U.S. 41 Commercial Corridor Overlay District

Attorney Estrada stated Proofs of Publication are in order. Mr. Jesse Russell represented the petitioners. Mr. Russell informed the Board right outside the exit at Menards is a 10x10 space which Menards leases that would normally be racks of hanging flower baskets. Mr. Kouros asked if just a cart will be there or will tables and chairs be provided for people to eat. Mr. Russell responded there will not be seating, due to the lease agreement they are only allotted the 10x10 space. Mr. Russell added Menards has a loading area with benches where customers could sit to eat if they choose to; the only table will be used for prep, and possibly a storage box. Mr. Kouros asked if in the lease agreement it states portable equipment could be moved inside in case of inclement weather. Mr. Russell stated that the space is located underneath the canopy as you exit and no rain gets on them, and the trailer is taken every evening, it legitimately rolls away.

Mr. Davis asked Mr. Russell if he is comfortable with the safety aspect, as they would probably get a lot of children wanting hotdogs. Mr. Russell replied yes, because it is an exit area it's designed for safety. Mr. Kouros asked that as customers are walking out, they would order on the right hand side and would not be in the street, would be behind posts, but pylons will not be in place for safety. Mr. Russell stated that is correct, they could put up a cross-walk sign showing that children would be present if need be.

This matter was opened up to the floor. There being no questions or comments from the floor it was brought back to the Board. Mr. Jarvis verified there are not any intentions of having a drive-thru, they would not be going out into the lane to chase orders, and the only signage will be what is on the trailer. Mr. Russell confirmed and added the propane used will be all the way up to the west of the building with a little bit of space for handwashing, located in front of that would be the garbage can. Mr. Jarvis asked how they would be getting electric and water. Mr. Russell replied they have a propane water heater, fresh water tank and a gray water tank on the cart; Mr. Russell went on to say they can get electricity through Menards, however they are self-sustained and would not be needing any electricity.

Mr. Jarvis questioned what the hours of operation would be. Mr. Russell said as of right now there is not really a set time because there are other places they are located; could be 10-4 or maybe even 1-4, opening at 8am at the earliest, and will not be open any later than Menards.

Mr. Calinski made a motion for a favorable recommendation to the Town Council of B.Z.A Case #23-6-8. This was seconded by Mr. Davis and carried 4-0.

### **III. COMMISSION BUSINESS**

A. B.Z.A. Case #22-5-5 108 E. Joliet St.

Barkley's Bath House Dog Grooming & Pet Supplies

Petitioner(s): Lawrence Jagiela, II & Alisha Gonsiorowski

Variance of Use – To allow a dog grooming and pet supply shop within the Joliet Street Overlay Commercial "Core" District

FAVORABLE RECOMMENDATION TO TOWN COUNCIL W/ CONDITIONS (4-0)

5/22/23

Mr. Jarvis made a motion to approve which was seconded by Mr. Calinski and carried 4-0.

IV. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:42 P.M.

Respectfully Submitted:



Rick Calinski, Secretary