

Case Number: 26-BZA-003

Request: Conditional Use Permit

Applicant: Josh Lilies, agent for Omesh Properties LLC

Staff Report: Completed by Jeff Palmer, Director of Planning & Zoning

Report Date: August 20, 2026

Hearing Date: September 8, 2026

Current Zoning of Properties: Neighborhood Business Zone “B-1”

Description of Properties:

The property is identified as 0 Route 48, parcel number 05-27-451-008, account 0143685 and 1.6081 acres in size. The parcel is located in Section 27, Town 3 and Range 5 in Clearcreek Township. The property is zoned Neighborhood Business Zone “B-1”. The request is for approval of a Drive Through Facility. Section 9.025(A) requires a Drive Through Facility to be reviewed as a Conditional Use Permit request pursuant to Section 21.01 (F) of the Clearcreek Township Zoning Resolution. (See Exhibits: Location Map, Exhibits: 1A-B)

Nature of the Request:

The applicant states: “Request for a drive thru to serve a convenience store establishment”
(See Exhibits: 2 , 3)

Background on the Nature of the Request

Staff Comments:

The applicant plans to construct a fuel canopy with six (6) double sided fuel pumps and a convenience store on this property. The applicant is requesting approval to establish a drive through facility as part of the services provided at the convenience store. Individuals could come to the drive through window and make purchase requests without needing to leave their vehicle. Sections 9.025 (A) and 21.01(F) of the Clearcreek Township Zoning Resolution are applicable to this request.

The property would be accessed via a private access road that has been partially constructed.
(See Exhibits 1B, 2, 6L)

On February 9, 2015 the Trustees approved Resolution 4669. This resolution established Drive Through Facilities as Conditional Use Permits. The Parking and Loading Regulations were also updated at this time to establish minimum standards for the Drive Through Facility. Both regulations would be considered for all Drive Through Facility requests. (See Exhibits: 4A-H)

The following Sections of the Clearcreek Township Zoning Resolution are involved with this request.

DEFINITIONS

SEC. 3.24 Drive Through Facility: Shall mean an establishment that encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles. this shall not include drive-in facilities including, but not limited to, drive-in theaters and other drive-in establishments, where the goods are consumed in motor vehicles, on the premises.

SEC. 16.07 Drive Through Facility

- A. A drive through facility shall be designed and located to minimize visual, traffic and noise impacts to adjoining properties. In addition to the applicable provisions of this chapter, this use shall be regulated as a conditional use.
- B. All drive through facilities (teller machines, service windows, pickup windows, kiosks, drop boxes or similar facilities):
 - 1. The front of the building shall be oriented to the street.
 - 2. Audible communication devices shall be a minimum of 100 feet from a residentially zoned property line and/or a suitable acoustical barrier shall be installed.
- C. Stacking spaces:
 - 1. Minimum required:
 - i. Restaurants shall have a minimum of 8 stacking spaces per lane, measured from the pickup window.
 - ii. Non-restaurants shall have a minimum of 4 stacking spaces per lane measured from the teller or pickup window.
 - 2. Size of stacking spaces shall be a minimum of 180 sq. Ft.
 - 3. Stacking spaces shall not impede on or off site traffic movements or movements in or out of off street parking spaces.
 - 4. Stacking spaces shall be separated from other internal driveways by surface marking or raised medians.
 - 5. Stacking spaces shall be designed so that vehicles do not obstruct a driveway, fire access lane, walk way or public road right-of-way.
 - 6. Stacking space requirements shall be in addition to the off street parking space requirements.

Review of Application:

Per Section 21.01(F)(1), the Board of Zoning Appeals shall have the power to grant conditional use permits subject to the following criteria:

Completeness of the Site Plan and Project Narrative

The site plan shall show on one or more sheets:

- (a) **a metes and bounds drawing of the area for the proposed conditional uses;**
Staff Comments: The applicant has provided this information. (See Exhibit: 2)
- (b) **topography of the area with intervals of not more than five (5) feet of elevation;**
Staff Comments: The applicant has provided this information at a one (1) foot interval on the site plan. Dashed lines represent existing contours. Solid lines represent proposed contours. Exhibit 11 has been added to show the existing contours for the site and the adjoining parcels. This Exhibit has a two (2) foot interval for contours. (See Exhibits: 2, 11)
- (c) **existing water courses, all flood prone areas using the one hundred (100) year flood plain as a standard along with proposed surface water drainage plans;**
Staff Comments: Staff has provided the Federal Emergency Management Agency, National Flood Hazard Layer FIRMette Map, community panel numbers 39165C0035E, dated December 17, 2010, which identifies the property as Zone X. It is outside of the flood plain. (See Exhibit: 5)

- (d) **all existing and proposed roads and driveways in the proposed conditional use area and within 200 feet of the boundaries;**

Staff Comments: See site plan, aerial map of property. (See Exhibits: 1B, 2)

- (e) **all required parking and loading area pursuant to Chapter 16 of the Clearcreek Township Zoning Resolution;**

Staff Comments: The applicant has provided this information. (See Exhibit: 2)

- *Per Section 16.02 of the Clearcreek Township Zoning Resolution: Retail store or personal service establishment except as otherwise specified herein requires one (1) parking space for each two hundred (200) square feet of gross floor space. A 4,800 sq. ft. structure would require twenty-four (24) parking spaces.*
- *The site plan illustrates:*
 - *Nineteen (19) parking spaces around the perimeter of the convenience store.*
 - *Twelve (12) parking spaces under the fuel canopy around the fuel pumps.*
 - *The proposed parking areas meet and exceed the parking requirements of Section 16.02.*

- (f) **the shape, size and floor area of all existing structures;**

Staff Comments: The parcel is currently vacant. (See Exhibits: 1B, 6A-L)

- (g) **front, rear and side elevations of each proposed structure or for proposals consisting of multiple similar structures, typical elevations with sufficient detail to establish the concept presented:**

Staff Comments: The applicant has provided elevations for the proposed convenience store and the drive through. (See Exhibit:3)

- *The drive through roofline and construction materials mimic the other elevations for the proposed structure.*
- *The drive through will have an archway element that mimics the other archways on the proposed structure. The archway façade will be cultured stone veneer.*
- *The roof fascia and the metal awning will also mimic the design and materials found on the other elevations for the proposed structure.*

- (h) **existing vegetation and tree coverage along with the location, dimensions and other relevant data for all proposed landscaping, fences, walls or similar structures;**

Staff Comments: The Warren County aerial and site visit show the parcel to be a vacant field. (See Exhibits: 1B, 6A-L)

- (i) **any additional information that may be deemed necessary for a complete review of the proposed conditional use.**

SEC. 16.07 Drive Through Facility

- A. A drive through facility shall be designed and located to minimize visual, traffic and noise impacts to adjoining properties. In addition to the applicable provisions of this chapter, this use shall be regulated as a conditional use.

The applicant states: “The drive through will be located on the far side from the common drive and be blocked from view by the main building and by adjacent wood fencing and neighboring buildings.”

Staff Comments:

- *Adjoining Zoning Classifications and Current Uses: (See Location Map, Exhibits 6A-L)*
 - *North:*
 - *Neighborhood Business Zone “B-1”, fence company.*
 - *East:*
 - *Neighborhood Business Zone Planned Unit Development “B-1PUD”, vacant.*
 - *South:*
 - *Neighborhood Business Zone “B-1”, vacant.*
 - *West (across SR 48):*
 - *General Business Zone Planned Unit Development “B-2PUD”, garage door company*
 - *Neighborhood Business Zone Planned Unit Development “B-1PUD”, vacant.*
- *Drive through traffic would travel north (behind the building) then turn west. At this point the vehicle could either continue to circle the building along the northern property line or enter the stacking lane. A six (6) foot tall solid wood fence is proposed along the northern boundary of the property. (See Exhibits:2, 6A-L)*

B. All drive through facilities (teller machines, service windows, pickup windows, kiosks, drop boxes or similar facilities):

1. The front of the building shall be oriented to the street.

The applicant states: “The front of the building is oriented towards the street.”

Staff Comments: The front door of the convenience store is parallel to State Route 48. (See Exhibit: 2)

2. Audible communication devices shall be a minimum of 100 feet from a residentially zoned property line and/or a suitable acoustical barrier shall be installed.

The applicant states: “There will be no audible communication devices. The window will serve as the communication point.”

Staff Comments: It is unclear how the drive through will signal the inside employee that they are waiting in the stacking lane.

C. Stacking spaces:

1. Minimum required:
 - i. Restaurants shall have a minimum of 8 stacking spaces per lane, measured from the pickup window.
 - ii. Non-restaurants shall have a minimum of 4 stacking spaces per lane measured from the teller or pickup window.

The applicant states: “4 stacking spaces area provided (non-restaurant use)” (See Exhibit: 2)

Staff Comments: No additional comments.

2. Size of stacking spaces shall be a minimum of 180 sq. Ft.

The applicant states: “Stacking spaces area 180 sf min”

Staff Comments: The stacking spaces are depicted as 12’x21’ or 252 sq ft. The proposed parking spaces meet and exceed the minimum required size of 180 sq ft. (See Exhibit: 2)

3. Stacking spaces shall not impede on or off site traffic movements or movements in or out of off street parking spaces.

The applicant states: “Stacking spaces do not impede traffic or block parking spaces.” (See Exhibit: 2)

Staff Comments: The drive through archway has a twenty-five (25) feet setback from the northern property line. The archway is setback twenty (20) feet from the edge of the proposed pavement. A three (3) foot deep awning is proposed to project north of the drive through archway. The seventeen (17) feet clearance would allow for most traffic to drive around the building independent of the stacking spaces. However, the Clearcreek Fire District requires a minimum of a twenty (20) foot access around the entire structure. The applicant will need to eliminate the awning, increase the pavement width or increase the northern property setback to accommodate the Clearcreek Fire District comments. The drive through is not adjacent to the street access provided to the site from the private access road. (See Exhibits: 2, 3)

4. Stacking spaces shall be separated from other internal driveways by surface marking or raised medians.

The applicant states: “Stacking aisle is separated from the drive with a painted yellow line.”

Staff Comments: The site plan depicts this painted line. (See Exhibit: 2)

5. Stacking spaces shall be designed so that vehicles do not obstruct a driveway, fire access lane, walk way or public road right-of-way.

The applicant states: “Stacking spaces do not obstruct the driveway, fire access lane, walk ways or public road.”

Staff Comments: The drive through stacking lane is located along the northern boundary of the proposed building. The north elevation does not have door access to the building. A second window that mimics the design of the declared drive through window exists on this elevation. It is unclear if it is an architectural aesthetic or if it would be a second functional window. Employees going to the dumpster from door from the east elevation would cut through the employee parking spaces to avoid being in the stacking lane. (See Exhibits: 2, 3)

6. Stacking space requirements shall be in addition to the off street parking space requirements.

The applicant states: “Stacking spaces are not included in the parking space requirement.”

Staff Comments: See Section 21.01(F)(1)(e) above. (See Exhibit:2)

Per Section 21.01(F)(4): It shall be the responsibility of the applicant for a conditional use permit to analyze the following standards and to propose conditions consistent with such standards as a part of the application and site plan. Standards should ensure that the use: is compatible with the area in form and function, will not endanger public health or safety, is designed in such a way to mitigate potential conflicts with adjacent and nearby land uses and that:

Completeness of the Standards for Conditional Use Permits Items

A. The proposed use shall mitigate the impact of noise generated by the use:

Applicant states: “No additional noise caused by the drive thru.”

Staff Comments:

- *No order board or speaker is associated with this drive through. (See Exhibit: 2)*
- *Vehicle noise from the stacking lane would be identical to vehicle noise from the parking lot, and fuel canopy parking.*

B. The proposed use shall mitigate the impact of light pollution generated by the use:

Applicant states: “Fencing along the east and north sides shall mitigate light from the cars using the drive thru.”

Staff Comments:

- *The proposed elevation at the drive through and service drives mimic the contour range along the northern property line: 1010-1012. (See Exhibits: 2, 11)*
- *The six (6) foot tall solid wood fence proposed along the northern boundary of the property would function to buffer all headlight traffic for the drive through as well as for the traffic for the parking lot and fuel canopy. (See Exhibit: 2)*
- *This parcel wouldn't be required to install a perimeter buffer because the adjoining parcels are also non-residentially zoned.*
- *See Staff Photos Exhibits: 6A-L*

C. The proposed building materials shall be compatible to the existing structures on the property and blend into the context of the neighborhood:

Applicant states: “N/A.” (See Exhibits: 1B, 6A-L)

Staff Comments: The property is currently vacant. All proposed construction will occur at the same time.

D. The proposed uses shall be physically suitable for the parcel on which it is proposed:

Applicant states: “Lot is zoned for business and will be suitable for drive thru”

Staff Comments:

- *The parcel is 1.6081 acres in size. (See Exhibit: 1A)*
- *Proposed structure sizes (See Exhibits: 2, 3)*
 - *Proposed Convenience store:*
 - *Store is 60'x80' with a 3'x12' front door awning. This footprint totals 4,836 sq. ft.*
 - *Drive Through covered area is 12'x21' with a 3'x16' awning. This footprint totals 300 sq. ft.*
 - *Combined footprint of 5,136 sq. ft.*
 - *Proposed fuel canopy is 48'x78' or 3,744 sq. ft.*
 - *Total footprint of all structures is 8,880 sq. ft. or .20 acres in size.*
 - *The Drive Through covered area and awning is 3.37 % of the total footprint of all structures (300/8,880).*
 - *The Drive Through covered area and awning is 5.84 % of the footprint of the convenience store. (300/5,136).*
- *The parcel will be served by sanitary sewer.*

- *The Zoning Resolution doesn't have a cap on the amount of imperious surface allowed per use or parcel.*
- *The proposed structures meet or exceed the required setbacks for the Neighborhood Business Zone "B-1".*

E. The proposed use shall be of a size and/or number of structures that may be completed in a reasonable time:

Applicant states: "Site shall be completed within six months of the start of construction."

Staff Comments:

- *Section 21.01(F) (5) Conditional use permits shall expire after twelve (12) months from the date of approval if in the opinion of the Zoning Inspector the proposed project has not been substantially initiated. Projects substantially initiated shall be completed within the time period approved as a part of the conditional use permit, provided the Zoning Inspector may, at his discretion, extend the time for completion for not more than six (6) months.*

F. The proposed use shall locate structures in an area that limits the impact to adjoining properties:

Applicant states: "Buildings shall be placed so as to provide good vehicular access and movement and not impact adjacent parcels."

Staff Comments:

- *See letter "A", "B" and "D" above.*

G. The proposed use shall locate outdoor gathering places in an area that limits the impact to adjoining properties:

Applicant states: "N/a."

Staff Comments:

- *No outdoor seating or gathering areas are proposed for the site. (See Exhibit:2)*

H. Buffer space, plantings and mounding shall be used on the periphery of the proposed use or property to maximize compatibility with adjoining properties:

Applicant states: "Landscape/Fencing/Buffer yards will be used to maximize compatibility with adjacent properties."

Staff Comments:

- *See letter "B" above.*
- *A streetscape buffer is required along the frontage of SR 48 as part of the zoning review and permitting process.*

I. When a proposed use includes common or jointly owned space an owners association or similar organization shall be formed with the authority and responsibility to maintain and manage such common or jointly owned space in perpetuity:

Applicant states: "All owners will be required to maintain the site and will enter into a joint property management agreement."

Staff Comments: No additional comments.

- J. The proposed use shall be supported by adequate public infrastructure and/or services. The proposed use shall not adversely affect public infrastructure and/or public services to the surrounding area or conditions shall be established to mitigate adverse impacts on such written comments from the following departments as applicable: Clearcreek Township Fire District, Clearcreek Township Police Department, Ohio Environmental Protection Agency, Ohio Department of Transportation, Warren County Auditor, Warren County Building Department, Warren County Engineer's Office, Warren County Health Department, Warren County Soil and Water Conservation District, Warren County Water Department:**

Applicant states: "All responsible agencies requirements and comments will be addressed and met. See attached comment letter from Warren Co Bldg Dept, Clearcreek FD & PD, and Warren Co Soil/Water."

Staff Comments:

- **Clearcreek Fire District**, Captain Jeff Prass responded on July 1, 2026 and August 17, 2026 (See Exhibits: 7A-B):
 - "The fire department will need 20' of access lane on the north side of the building. Currently showing 12' measured from the drive through lane to the curb." *Staff Comments: (The former comments were referring to a previous version of the site plan).*
 - "The awning(overhang) does impede into our required 20 foot access requirement at this location.
 - Solution is to either eliminate the awning or raise the awning to 13 feet above parking lot surface which would facilitate our highest apparatus to pass without damage to awning or fire apparatus."
- *Staff Comments: The applicant will need to eliminate the awning, increase the pavement width or increase the northern setback to accommodate the Clearcreek Fire District comments.*
- **Warren County Soil and Water Conservation District**, Justin Bedocs responded on July 1 (See Exhibit: 8):
 - "This looks to be a grassed field with no streams or wetlands. So no additional permitting there. If there will be more than on acre disturbed, they will need to apply for an Earth Disturbing Permit with a SWP3 submittal."
- *Staff Comments: No additional comments.*
- **Warren County Building Department**, Steve Scott responded on July 13, 2026 (See Exhibit: 9):
 - "We do not perform "pre-submittal" reviews. We are too busy. I took a quick look through the sheets and made some notes on them in blue. These plans would be denied and additional information requested. The hazard of the fuel canopy and the electric to the canopy from the building isn't anywhere in the code review or on the plans.
 - Coolers are not deferred submittals.
 - Fuel canopy is a separate permit.
 - ICCANSI turning radius for new construction is 67"

- Need signs at keyed doors.
- Too many items missing.”
- *Staff Comments: Warren County Building Department comments focused on the review criteria for the structures. The former will be addressed through the permitting process for the structures. The Warren County Building Department didn’t make any specific comments on the Drive Through, which was the purpose of the request.*
- **Clearcreek Township Police Department**, Lt. Wallace Stacy responded on July 31, 2026 (See Exhibit: 10):
 - “The three of use (Chief and Lieutenants) have reviewed and see no issues with the plans as received.”
- *Staff Comments: No additional comments.*

K. The proposed use shall provide for access by public emergency equipment such as: fire, ambulance and police vehicles:

Applicant states: “The site will be accessible to all emergency vehicles. See comment form Clearcreek FD and revision to plans.”

Staff Comments:

- *The parcel has public road frontage on State Route 48. The property will be accessed via a private access road. The access road, after final construction, will connect SR 48 to Lytle Five Points Road. (See Exhibits: 1B, 2)*
- *Two (2) access points are proposed from this parcel to this access road. Each access point has full access to the site. (See Exhibits: 1B, 2)*
 - *The western access point would be used to access the fuel canopy, the front of the building and access south of the building (to rear and drive through).*
 - *The eastern access point would be used to access the rear of the building, drive through and access south of the building (to front and fuel canopy).*
- *The Ohio Department of Transportation District 8 is preparing to construct a round about at the intersection of State Route 48 and Lytle Five Points Rd. Preliminary discussions with ODOT indicated that if the former improvement occurs, then the private access connection to SR 48 would be changed from a full access point to a right in and right out access point. Southbound traffic would use the Lytle Five Points Road access point and then proceed to SR 48.*
- *See “J” above.*

L. The proposed use shall provide for adequate pedestrian circulation, vehicle traffic movement and off-street parking:

Applicant states: “The number of parking spaces meets the required min and ample circulation and aisles are provided to give easy access to all parking spaces, dumpsters, gas pumps, etc.”

Staff Comments:

- *See “D” & “J” above.*

M. If the proposed conditional use will generate estimated off-site traffic in excess of the estimated off-site traffic generated by the most intensive by-right permitted use for the class of zone, off-site road improvements or fees for off-site road improvements shall

be required to accommodate the excess traffic attributed to the proposed use of the property, based on a traffic engineering study. (Examples of off-site road improvements shall include but are not limited to: turn lanes, deceleration lanes, pavement widening and traffic control devices.):

Applicant states: "Traffic report will be submitted if required."

Staff Comments:

- The private access road has not been connected to public road right-of-way. Proposed uses along the access road will be reviewed as part of the agencies' review. (See Exhibits: 1B, 2, 6L, 11)
 - Traffic improvements at State Route 48 would be under the authority of the Ohio Department of Transportation.
 - Traffic improvements at Lytle Five Points Rd would be under the authority of the Warren County Engineer.
- *See "K" above.*