

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

Report Date: May 6, 2024

Hearing Date: June 3, 2024

Applicant: Jared M Williams of J.M. Williams Reality LLC

Acreage of Request: .448 acres (2011 updated survey)

Current Zoning of Requested Area: Residence Zone “R-1”

Requested Action: Residential Zone “R-1” to Neighborhood Business Zone “B-1”

Current Use: Single-Family Dwelling

Attached: Location Map, Application, Warren County Auditor Information on Property, Warren County Aerial of Property, 2011 Deed, 2007 Deed, Warren County Auditor Information on Adjoining Parcel Account 0618281, Section of 1973 Clearcreek Township Zoning Map, Clearcreek Township 2005 Master Land Use Plan Maps: 4, 6, 10, 11 and 12, Hunter Red Lion Area Plan Maps: 5, 8, 14.

Location of Request:

The parcel is identified as 2570 State Route 122, parcel number 08-15-326-006, and account number 0618303. The request is in Section 15, Town 3, and Range 4 in Clearcreek Township.

Applicant’s Reasons for the Application:

“Request re-zoning of above property to B-1 for future use as office and/or barbershop.”

Zoning History:

- In 1973 the property was classified as Rural Residence Zone “R-1”.
- In 2005, after the adoption of the Master Land Use Plan, the Zoning Resolution was updated with new zoning classifications and the Rural Residence Zone “R-1” was reclassified to Residence Zone “R-1”.
- In 2007, the parcel was .50 acres in size.
- In 2011, the intersection improvement of SR 122 and SR 741 reduced the acreage of the parcel to .448 acres.

Background for the Request:

For clarification, the adjoining parcel is also referenced as 2570 State Route 122 and was transferred with the subject parcel. The adjoining parcel also has parcel number 08-15-326-006 but has a different account number 0618281. The adjoining parcel is .081 acres (2011 updated survey). The adjoining parcel was rezoned to Neighborhood Business Zone “B-1” on November 6, 1973 (See Section of 1973 Clearcreek Township Zoning Map).

The applicant is requesting a consistent zoning classification across the two (2) parcels that have historically been transferred together. The applicant is requesting the Neighborhood Business Zone “B-1” so that the existing single-family dwelling can be converted into a permitted commercial use. If the rezoning request is successful, the combined Neighborhood Business Zone “B-1” would total .529 acres.

Adjoining Zoning Classifications and Current Uses:

- North:
 - Open Space Rural Residence Zone “OSR-1” (Vacant).
- East:
 - Neighborhood Business Zone “B-1” (Sales Shed for Former Nursery).
 - General Business Zone “B-2” (Building for Former Pool Store and Vehicle Sales).
- South:
 - General Business Zone “B-2” (United Dairy Farmers with Fuel Center).
- West:
 - Residence Zone “R-1” (Single-Family Dwellings, Cemetery).

2005 Master Land Use Plan Information:

- Map 4: Identifies the property to be in the Warren County Sewer Service Area.
- Map 6: Identifies the road as a Collector - Rural.
- Map 10: Identifies the property in Planning Area #8.
 - Red Lion Village Area – Small rural crossroads hamlet, smaller homes on smaller lots, small scale commercial uses, industrial uses to the east. Sanitary sewer not present but expected in the future.
- Maps 11 & 12: Identifies the future land use of the property to be Commercial.
- Applicable Goals and Objectives:
 - **Related to the Man-Made Environment:**
 - GOAL: A pattern of land use capable of serving and meeting the social, economic and environmental needs of the residents of the Township, now and in the future.
 - OBJECTIVE: Establish areas of commercial activity, ensuring a convenient, safe and pleasant environment in meeting the retail and business needs of Township residents.
 - POLICIES:
 - Perpetuate rural living by encouraging development only on a neighborhood-oriented basis. Commercial development should be either nestled in the interior of a Planned Unit Development along a collector road or along an arterial road network that has a design suitable for the intensity of use. An access management plan should be imposed.
 - Encourage commercial growth equal to what the market will bear. Over-commercialization should be avoided.
 - Encourage cluster-type development for commercial areas. Establish an overlay for these clusters to further encourage use, scale and materials.
 - Avoid strip commercial development and "spot zoning".

2017 Hunter Red Lion Area Plan Information:

- Map 5: Identifies the property to be included in the Conceptual Design Red Lion Town Center (Mixed Use Zoning Classification).
- Map 8: Identifies the future land use of the property to be Commercial.

Clearcreek Township Zoning Staff Report

Residence Zone “R-1” to Neighborhood Business Zone “B-1”

Zone Change Request

- Land Use – Guiding Principals
 - Enhance experience within commercial nodes to promote an increase in business and services.
 - Create zoning standards for commercial development.
 - Staff started this process concurrently with the sewer feasibility study. When the future users in the sanitary sewer area, delayed the assessment for the sanitary sewer improvement, this zoning resolution updated was also paused.
- Map 14 - Identifies the road as a Secondary Arterial.

Below is the current zoning section and the requested zoning section from the Clearcreek Township Zoning Resolution:

CHAPTER 5.75

RESIDENCE ZONE "R-1" REGULATIONS

SEC. 5.751 The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code are the zoning regulations for Residence "R-1".

SEC. 5.752 PERMITTED USES: A building or lot shall be used only for the following purposes:

- A.** Single family dwellings
- B.** Home occupation, subject to the following conditions in addition to any other applicable standards of use of the applicable zoning district not otherwise permitted herein:
 1. Telework or telecommute-based activity shall not be considered as the operation of a home occupation subject to these standards.
 2. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
 3. The use is compatible with other uses, maintains and preserves the character of the neighborhood and does not create a nuisance or detract from the residential function and tranquility.
 4. The home occupation shall be conducted within the dwelling.
 5. No commercial display of materials, merchandise, or goods shall be allowed to be stored outside of the primary residence.
 6. The external appearance and/or use of the structure(s) or lot in which the home occupation is conducted shall not be altered to indicate the presence of the home occupation.
 7. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupation, shall be created.
 8. The use does not produce offensive noise, vibration, smoke, dust, odors, lighting, electrical interference, radioactive emission, environmental pollution, or other nuisances.
 9. Mechanical and electrical equipment used shall be only that normally used or found in a single-family dwelling; and, when

performance rated shall be limited to normally domestic ratings rather than commercial or industrial.

10. Not more than one person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
11. The home occupation shall not serve as a location where multiple employees routinely meet or park prior to going to work off-site. Vehicle and equipment parking shall comply with Section 5.15 of the Clearcreek Township Zoning Resolution.
12. Products from internet based home occupations may be stored temporarily as inventory on the premises, during the normal course of said activity, inside the primary residence.
13. Delivery of materials necessary for a home occupation shall be limited to automobiles, light duty trucks (e.g. typical Fedex or UPS home delivery vans and trucks) or vans. Deliveries by heavy trucks shall be limited to two times per week.
14. Traffic generated by a home occupation shall not exceed the average daily volume normally expected for a residence in a residentially zoned neighborhood, which for the purpose of this section, equals up to ten (10) round trips per day.
15. Certain uses by their very nature, have a pronounced tendency to increase in intensity beyond the limits permitted for home occupations, thereby impairing the reasonable use and value of surrounding residential properties. Therefore, the following are prohibited uses or activities as home occupations:
 - a. Adult entertainment or sexually oriented business.
 - b. Ambulance service.
 - c. Day care (excludes plan “a” as defined in the Ohio Revised Code).
 - d. Health salon, gym or aerobic exercise studio.
 - e. Machine shop.
 - f. Medical and dental clinics and hospitals.
 - g. Motor vehicle towing, storage, and/or salvage business.
 - h. Nursing homes.
 - i. On-site, store front retail as a primary use.
 - j. Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation not complying with Section 5.15 of the Clearcreek Township Zoning Resolution.
 - k. Printing shop.
 - l. Restaurants or any other eating and/or drinking establishment.
 - m. Tourist home, bed & breakfast, motel, hotel, inn.
 - n. Trucking, hauling, moving, tow truck service, hearse service, limousine, and cab service.
 - o. Undertaking and funeral parlor.
 - p. Uses that require explosives or highly combustible or toxic materials.

- q. Uses that require fire safety inspections, precautions or permits or other regulatory inspections or permits involving public health and safety.
 - r. Vehicle: sale, service, repair, body work, painting, detailing, upholstery and/or washing.
 - s. Veterinarian with boarding and/or surgical services, or
 - t. Uses similar to the above listed use which would, at the discretion of the zoning inspector, result in nuisance factors as defined by this section. In those instances when the zoning inspector denies an application, or if the zoning inspector is uncertain of the appropriateness of a proposed home occupation, the matter may be appealed to the Board of Zoning Appeals (BZA) for interpretation.
- C.** Community fire house, provided.
- 1. Front yard, side yard and rear yard requirements for zone are met.
 - 2. Main building shall be at least minimum residential size.
 - 3. Enough area is set aside for future parking spaces, for a minimum of forty (40) cars, with a parking space provided at any given time for each member of the fire company. If an assembly hall is included in the building, additional parking spaces shall be provided in accordance with **Chapter 16, Zoning Code**.
- D.** The sale of household goods, furnishings, clothing, toys, tools and books that have been used by members of the family occupying the premises may be advertised and sold on the premises, provided such sale is not held oftener than every six (6) months, for a period of three (3) days each sale; the items sold were not acquired for the sale.
- E.** Publicly owned or operated properties including parks, playgrounds and community centers.
- F.** Public forests and nature reserves including the usual buildings therefore.
- G.** Private forests and nature reserves, including the usual buildings therefore where parking spaces are limited to ten (10) vehicles.
- H.** Model homes: 1. Shall exist within a subdivision. 2. Shall be located along the primary ingress and egress to the subdivision. 3. Shall be declared to the Clearcreek Township Zoning Department prior to the use being established. 4. Shall be eliminated after ninety (90) percent of the parcels within that subdivision are under construction.
- I.** A temporary or permanent building for protection from the weather elements shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established as an accessory, and located in the rear yard and at least eighty-five (85) feet from every property line.

- J. Roadside Farm Market, offering for sale agricultural products of which at least fifty percent (50%) of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Ample off-street or off-road parking space shall be provided to take care of all vehicles visiting the roadside farm market. Parking spaces are limited to ten (10) vehicles. See Chapter 16 and 28.
- K. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.
- L. Signage in accordance with Chapter 28.

SEC. 5.7524 CONDITIONAL USES: The following uses require a conditional use permit (CUP) pursuant to **Section 21.01(F)** of this Resolution.

- A. Schools, public and private, from nursery schools through colleges having curriculum equivalent to public school curricula.
- B. Religious institution, provided buildings shall be at least a minimum residential size.
- C. Hospital and institutions of an educational, religious, charitable or philanthropic nature, provided the site upon which such uses are located shall contain at least five (5) acres and that such buildings shall not occupy over ten percent (10%) of the total site area.
- D. Rest home, nursing home or convalescent home, provided that such buildings shall be located upon a site of five (5) acres or more and shall not occupy more than ten percent (10%) of the total site area.
- E. Cemeteries, provided that any cemetery shall contain an area of twenty (20) acres or more.
- F. Telecommunication tower: In those instances where a telecommunication tower is made subject to this resolution pursuant to section 519.211 Ohio Revised Code (ORC) and as the same may, from time to time, be amended, said telecommunication tower shall be located, erected, constructed, reconstructed, changed, altered, or enlarged in accordance with Section 21.01(F)(2) & Section 22.05 of the zoning resolution.
- G. Farm Based Tourism
- H. Clubs, including country clubs, swimming and tennis clubs, provided that any structures, except fences, shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operation shall be at least two hundred (200) feet from any adjoining residential zone; the setback from street or streets shall be the same as for residences.

- I. Recreation area, not for profit, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.
- J. Private forests and nature reserves, including the usual buildings therefore with parking spaces for more than ten (10) vehicles.
- K. Signage in accordance with Chapter 28.

SEC. 5.753 HEIGHT REGULATIONS: No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

SEC. 5.754 PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A. There shall be front yard having a depth of not less than fifty (50) feet, provided, however, no front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within one hundred (100) feet of a the building under consideration. If an average can not be mathematically determined based upon the above process, then the zoning inspector shall expand the area under review. The expanded area shall include the front yard setbacks of the building(s) across the street and within one hundred (100) feet of the building under consideration.
- B. For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.
- C. Side yard: There shall be a side yard of ten (10) feet minimum on each side, except for lots with more than one (1) front yard, in which case the minimum side yard shall be ten (10) feet on the side, if any, not fronting on a street.
- D. Rear yard: There shall be a rear yard having a depth of not less than forty (40) feet, except for lots with three (3) front yards, in which case the minimum rear yard shall be ten (10) feet.

SEC. 5.7545 ACCESSORY STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A. Front yard shall conform to 5.754 (A) and 5.754 (B).
- B. Side yard shall conform to 5.754 (C).
- C. Rear yard shall be a minimum of ten (10) feet.

SEC. 5.755 INTENSITY OF USE: Every lot or tract, except a panhandle lot, shall have a minimum continuous frontage and width of not less than one hundred (100) feet at any point, except on a cul-de-sac, in which case it shall have a minimum continuous frontage and width at any point of at least fifty (50) feet, and a minimum width of one hundred (100) feet at the minimum building setback line and:

- A. Lots or parcels proposed as building sites that are connected to a central sanitary sewage system approved by the Warren County Sanitary Engineer and the Ohio Environmental Protection Agency shall contain not less than one half (1/2) acre exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line

drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements and railroad easements.

- B.** Lots or parcels proposed as building sites that are not connected to a central sanitary sewage system and are otherwise approved by the Warren County Combined Health District and/or the Ohio Environmental Protection Agency for individual onsite wastewater disposal system shall contain not less than one (1) acre exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements, and railroad easements.
- C.** If a preliminary plat was approved with more restrictive zoning regulations than those in place at the time of the final plat submittal, the least restrictive regulations will be applied at the time of zoning review.
- D.** The maximum lot depth to width ratio shall be 5:1. This requirement applies to lots less than five acres in size. Panhandle lots regardless of size are exempt.
ADVISORY NOTE: For the residential lots utilizing on-site sewage disposal systems, lots larger than the Zoning Code minimum of one (1) acre may be required by the Warren County Combined Health District contingent on the suitability of soils present on the lot.

SEC. 5.756 **MINIMUM SIZE:** The minimum size of any single family dwelling, exclusive of porches, garages and breezeways, shall be one thousand two hundred fifty (1250) square feet of floor space.

SEC. 5.757 **PANHANDLE LOTS** are permitted subject to the following regulations:

- A.** Panhandle lots shall not be "stacked" one behind the other relative to a street or road.
- B.** The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.
- C.** The panhandle portion of the lots shall have a maximum length of five hundred (500) feet.
- D.** The body of the lot shall have a minimum area of one and one-half (1 1/2) acre exclusive of the panhandle portion of the lot, any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements, high pressure gas pipeline easements and railroad easements.
- E.** The body of the lot shall have a minimum width of one hundred twenty five (125) feet and a minimum depth of two hundred (200) feet.
- F.** All structures shall be built within the body of the panhandle lot.
- G.** The principal structure shall have a minimum front yard of fifty (50) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.
- H.** Any accessory structure shall have a minimum front yard of fifty (50) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

CHAPTER 9

NEIGHBORHOOD BUSINESS ZONE "B-1" REGULATIONS

- SEC. 9.01** The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code, are the zoning regulations for Business Zone "B-1".
- SEC. 9.02** Permitted Uses: A building or a lot shall be used only for the following purposes, provided the lot and whatever structures used for human occupancy thereon are either connected to a central sewage system that will be upon the start of operation turned over to the appropriate county department for maintenance and operation or utilize an on site disposal system approved by the Ohio Environmental Protection Agency.
- A.** Any non-residential use permitted in zones "R-1", "R-2" and "R-3".
 - B.** Standards for districts zones for retail business known as Zone "B-1" Neighborhood Business District. Principal permitted uses within a minor "B-1" district which is entirely surrounded by "R" districts:
 - 1. Any local retail business or service establishment such as grocer, fruit or vegetable store, meat market, drugstore, shoe repair shop, hardware store, barber shop, clothes cleaning and laundry pick-up station, business or professional office or the like, supplying commodities or performing services primarily for residences of the neighborhood.
 - 2. Sit-Down Restaurant, Fast Food Restaurant, Outdoor Dining Restaurant
 - 3. Automobile service stations (filling stations). Minor repair and storage garages, parking lots for passenger vehicles.
 - 4. Bakery
 - 5. Funeral homes
 - 6. Antique Business
 - 7. Second hand store - inside display only
 - C.** Signage in accordance with Chapter 28.
- SEC. 9.025** **CONDITIONAL USES:** The following uses require a conditional use permit (CUP) pursuant to **Section 21.01(F)** of this resolution.
- A.** Drive Through facility.
- SEC. 9.03** The height regulations are the same as for Zone "R-1".
- SEC. 9.04** Yards:
- A.** Front yard: The front yard regulations are the same as for Zone "R-1".
 - B.** Side yard:
 - 1. If the lot adjoins a residence zone the side yard shall be twenty-five (25) feet minimum.
 - 2. If the lot adjoins a non-residence zone, the side yard shall be fifteen (15) feet minimum.
 - C.** Rear yard: If the rear yard adjoins a residence zone it shall be a minimum of twenty five (25) feet.
 - D.** If the rear yard adjoins a non-residence zone it shall have a minimum of fifteen (15) feet.
- SEC. 9.05** Lot size: The minimum lot size shall be the same as for Zone "R-1".