

City of Medina

Board of Zoning Appeals

Case No. Z25-04

Applicant: Stephen Berry

Subject Property: 999 Lafayette Road, Medina, Ohio

Final Decision and Conclusions of Fact

The Board of Zoning Appeals (hereinafter the "Board") of the City of Medina, Ohio (hereinafter the "City"), makes the following conclusions of fact in support of its final decision in the above-referenced case.

After the hearing of all evidence and arguments of the interested parties in this matter at a quasi-judicial administrative hearing held at a public meeting of the Board on March 13, 2025 (hereinafter the "BZA Hearing"), and considering the standards set forth in the City of Medina Codified Ordinances (hereinafter the "Code") Section 1145.10(e) and Section 1153.04(a)(15)(B.) to allow a wider driveway width and more driveways than permitted at 999 Lafayette Road.

The Board's conclusions of fact supporting its decision are:

1. The Subject Property is known as 999 Lafayette Road in the City of Medina, Ohio, with Medina County PID#: 028-19C-12-023, and is comprised of approximately 1.96 acres (hereinafter the "Property").
2. The Property is located in the "C-3 General Commercial" zoning district as described in the City of Medina Planning and Zoning Code and Zoning Districts Map, adopted pursuant to Chapter 1113 of the Code.
3. The Property is currently owned by Leonard and Sandra Shetler and contains two buildings, parking, one access point on Lake Road, and one access point on Lafayette Road.
4. Stephen Berry of Architectural Design, Inc. (hereinafter the "Applicant") requested development of the Property for a convenience store, motor vehicle filling station, and drive through.
5. The Applicant submitted a Site Plan application as required per Code Section 1109.01 for the demolition of the existing site and the construction of a building, two canopies, parking, access drives, site lighting, landscaping, and related items. The application was reviewed by the City of Medina Planning Commission (hereinafter the "Commission").

6. The Applicant submitted a Conditional Zoning Certificate application as required per Code Section 1153.02 for a motor vehicle filling station and restaurant with drive through. The application was reviewed by the Commission.
7. The Applicant submitted an area or size type variance to Code Sections 1145.10(e) and 1153.04(a)(15)(B.) to allow a wider driveway width and more driveways than permitted. The application was reviewed by the Board.
8. The Board was provided relevant information regarding the request including, but not limited to:
 - a. An existing conditions plan, site plan, landscaping plan, lighting plan, exterior building elevations, and a floor plan submitted by the Applicant.
 - b. Responses to Factors Applicable to Area or Size-Type Variances submitted by the Applicant.
 - c. A staff report submitted by Andrew Dutton, Community Development Director.
9. Code Section 1145.10(e) states:

Driveway Width. The width of driveways at the curb line and at the right-of-way line shall comply with the requirements in Table 2. The Commission may permit wider driveways for three or more entrance/exit lanes for those drives with a high volume of traffic. In the case of a four-lane drive, the lanes shall be designed as two adjacent entrance and exit lanes divided by a minimum six-foot wide barrier.

**TABLE 2
WIDTH OF DRIVEWAYS**

	<i>Maximum Width at Curb Line (feet)</i>	<i>Width at R.O.W. Line (feet)</i>	
		<i>Minimum</i>	<i>Maximum</i>
<i>Residential</i>	22	10	20
<i>Commercial or Public Facility</i>	38	12	24
<i>Industrial</i>	120	24	75

10. Code Section 1153.04(a)(15)(B.) applies to the proposed motor vehicle filling station use and states:

No more than two (2) driveway approaches shall be permitted directly from any thoroughfares and shall not exceed thirty (30) feet in width at the property line.

11. The Applicant proposed three access drives with the following widths:

Access Drive	Width at Curb Line	Width at Right-of-Way*
Lafayette Road	67 ft.	44 ft.
North Lake Road	43 ft.	37 ft.
South Lake Road	100 ft.	65 ft.
*Width at Right-of-Way is the same as Width at Property Line		

12. The Board was provided with Code Section 1107.08(i)(1):

Factors applicable to area or size-type variances ("practical difficulty"): The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether a practical difficulty exists and an area or size-type variance should be granted:

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*
- B. Whether the variance is substantial;*
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*
- D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);*
- E. Whether the property owner purchased the property with knowledge of the zoning restrictions;*
- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or*
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.*

13. Andrew Dutton, City of Medina Community Development Director, testified under oath at the BZA Hearing that:

- a. The Commission conditionally approved a Site Plan and Conditional Zoning Certificate application for the project earlier in the evening. The Commission's conditions included, but were not limited to, the approval of the subject variance request and the prohibition of truck traffic entering the site from the Lafayette Road access drive.
- b. Code Section 1153.04(a)(15)(B.) limited sites with fueling stations to two access points. The submitted plan included three access points, including one on Lafayette Road for passenger traffic and two on Lake Road for truck traffic.
- c. Code Section 1153.04(a)(15)(B.) limited the maximum access drive width to 30 ft. at the property line. The proposed access drives exceeded the maximum width.
- d. Code Section 1145.10(e) limited the maximum access drive width to 24 ft. at the right-of-way and 38 ft. at the curb. The proposed access drives exceeded the maximum widths.

- e. The Staff Report submitted to the Board incorrectly stated that Code Section 1153.04(a)(15)(B.) limited the maximum driveway width to 30 ft. at the curb. Code Section 1153.04(a)(15)(B.) limited the maximum driveway width to 30 ft. at the property line.
 - f. The City Engineer reviewed the proposed project, did not identify any issues with the number of curb cuts, and did not require a traffic impact study.
14. The Applicant testified under oath at the BZA Hearing that:
- a. The Lafayette Road access drive included one lane of traffic into the site, two lanes of traffic out of the site, and 12 ft. wide lanes.
 - b. Access drive radii were designed to prevent vehicles from jumping the curb, which resulted in slightly larger curb cuts at the right-of-way and curb.
 - c. The site was designed to segregate truck traffic from passenger vehicle traffic.
 - d. Access drives on Lake Road were located as far from the street intersection as possible and were designed for trucks to enter at the south access drive, fuel, and exit at the north access drive.
 - e. His office had considered truck turning radii when designing the site, which were indicated as dashed lines on the submitted plans.
 - f. The Lafayette Road access drive could potentially be reduced to 10 ft. wide lanes, but the reduction would not be ideal.
15. Majeed Makhoulf, representing Minit Mart LLC, the property owner of 1010 Lafayette Road, requested permission to question the Applicant at the BZA Hearing. The request was granted and Mr. Makhoulf asked the following questions which were responded to by the Applicant:
- a. Question: What was the basis for the argument that the Property could not have a reasonable return absent the variances?

Response: The proposal was for the best use of the Property, including services for passenger vehicles and trucks. Without the variances, the truck serviceability would not be possible. The real issue was that the property owner across the street did not want competition and was finding any argument to deny the project.
 - b. Question: Would the project have the same number of access drives if they were at another property?

Response: The number of access drives would be dependent on the property.
 - c. Question: Why were three access drives needed?

Response: Three access drives were needed to separate truck traffic from automobile traffic and allow for traffic flow in and out of the site, particularly trucks.

- d. Question: Were the three curb cuts necessary due to aspects of the site or the need to segregate traffic?

Response: The question was already asked and answered.

- e. Questions: Was it correct that his clients did not own the Property, were under contract to purchase the Property, and were aware of existing zoning restrictions?

Response: That was correct.

- f. Question: What other designs were considered for the site to develop without the need for variances?

Response: The proposed plan was the result of trying to accommodate tractor trailers and automobiles on the site.

- g. Question: Who studied the truck turning radii on the site?

Response: I worked on the turning radii, along with an associate.

- h. Questions: Was it correct that someone in your office studied interior traffic circulation and who performed the work?

Response: Truck turning radii were examined by me and my associate.

- i. Question: Are you a civil engineer or a traffic engineer?

Applicant: No, I am a registered architect.

- j. Question: Do you know what the level of services at the intersection is?

Applicant: I do not feel I'm obligated to answer these questions, I'm not represented by counsel, and I am not comfortable answering.

16. Majeed Makhoulf, representing Minit Mart LLC, the property owner of 1010 Lafayette Road, stated at the BZA Hearing that:

- a. The Applicant had not established that the Property could not yield a reasonable return without the granting of the variances.
- b. There could be a reasonable use of the Property in accordance with the zoning without the necessary variances.
- c. The variances were not related to the uniqueness or characteristics of the Property, but rather the need to segregate traffic.
- d. The Board should deny the requested variances.
- e. Mr. Makhoulf requested the opportunity to cross examine the City Engineer on the record and asked that the Board table the issue to allow the Engineer to be present to testify.

17. William Deluca, Regional Manager for Minit Mart, testified under oath at the BZA Hearing that there was traffic in the area and the proposed application would create additional traffic and safety issues.
18. Troy Gerspacher testified under oath at the BZA Hearing that the application would be ideal for industrial users in the area and he agreed with the separation of truck traffic on the site.
19. Based on all of the forgoing Paragraphs 1 through 18, the testimony of the witnesses, and the exhibit submitted and accepted at the BZA Hearing, the Board found that the area or size type variance to Code Sections 1145.10(e) and 1153.04(a)(15)(B.) to allow a wider driveway width and more driveways than permitted met the requirements of Code Section 1107.08(i)(1), "Factors applicable to area or size-type variances ("practical difficulty")" and the area or size type variance was approved. In the motion to approve the area-size type variance, the following were cited:
 - a. The essential character of the neighborhood would not be substantially altered.
 - b. The property owner's predicament cannot be obviated by some other method.
 - c. The spirit and intent behind the zoning code would be observed and substantial justice done by granting the variance.
20. The adoption of these Conclusions of Fact constitutes the final decision of the Board in this case.

APPROVED BY:

Motion of the City of Medina Board of Zoning Appeals on April 10, 2025.

Confirmed: _____

Bert Humpal,
Chair of the Board of Zoning Appeals

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CITY OF MEDINA BOARD OF ZONING APPEALS

CASE Z25-04

999 LAFAYETTE ROAD

- - -

Transcript of Proceedings held on Thursday,
the 13th day of March, 2025, before the
City of Medina Board of Zoning Appeals, commencing
at approximately 7:00 p.m., as taken by
Makenzie J. Sabo, RPR, Notary Public within and for
the State of Ohio, and held in Medina City Hall,
132 North Elmwood Avenue, Medina, Ohio 44256.

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MEDINA COURT REPORTERS
209 North Broadway Street
Medina, Ohio 44256
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office@crmedina.com

I N D E X

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WITNESSES:

Minit Mart's:

Mr. Makhlouf

Berry; S.

10, 25

- - -

APPEARANCES:

Bert Humpal, Chairman,
Mark Williams, Member,
Paul Roszak, Member,
Logan Johnson, Member,
Kyle Funk, Member.

City of Medina Planning and Community
Development Department,
Andrew Dutton, Community Development Director,
Sarah Tome, Administrative Assistant.

Applicant:

Stephen Berry, President, Architectural Design Inc.

Harry Singh, Property Owner.
Paul Singh, Property Owner.

Also present:

Berns, Ockner & Greenberger, LLC
by Majeed G. Makhlouf, Esq.
on behalf of Minit Mart, LLC.

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1 (Whereupon, all those intending to
2 testify were previously placed under oath by
3 the notary.)

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5 PROCEEDINGS

6 - - -

7 CHAIRMAN: Our first case
8 this evening is Z25-03, 820 -- whoops, I'm
9 saying it wrong. Z25-04 at 999 Lafayette
10 Road.

11 Andrew.

12 MR. DUTTON: (Displaying case
13 packet.)

14 Here we have the property at the
15 northeast corner of Lake Road and
16 Lafayette Road. It's zoned C-3. As you
17 can see on the map, the properties to the
18 east and southeast are industrial, south and
19 southwest are commercial, and then to the
20 west is property in Lafayette Township with
21 single-family homes and an auto dealer.

22 So the request here is the project to
23 construct a gas station with a drive-through.
24 It's a 4,177-square-foot convenience store
25 with a food service drive-through. You can

1 see on the map there you have passenger
2 fueling to the south of the building and
3 then truck fueling to the north of the
4 building.

5 The reason it is in front of you is the
6 code sections regarding access points and
7 access point width. So Section
8 1153.04(a)(15)(B) is specific to fueling
9 stations. It limits the number of access
10 points to two. The plan has three access
11 points; one on Lafayette for passenger traffic
12 and two on Lake Road for truck traffic. One is
13 in and the other is out.

14 The second part of that is Section 1153.04
15 limits the width of thirty feet at the curb.
16 The widths are forty-four feet on -- or sorry,
17 sixty-seven feet on Lafayette, forty-three on
18 Lake, and a hundred on -- the south one on
19 Lake Road. Sorry.

20 An accompanying section which applies to
21 all projects is 1145.10(e). This limits the
22 maximum access drive width to twenty-four feet
23 at the right-of-way and thirty-eight feet at
24 the curb for all commercial properties. And
25 again, we have widths that are wider than that.

1 The right-of-way at Lafayette Road is
2 forty-four, at the curb it's sixty-seven; the
3 north Lake Road is thirty-seven at the
4 right-of-way, forty-three at the curb; and
5 south Lake Road is sixty-five at the
6 right-of-way, a hundred at the curb. So we
7 have access points which are wider than
8 permitted and then we have one more than is
9 allowed.

10 I will note that Planning Commission
11 reviewed this prior and conditionally approved
12 it. One of the conditions was you approve the
13 variances and another one of the conditions was
14 that truck traffic could not enter off of the
15 Lafayette Road access point.

16 The applicant has responded to the
17 Standards for Variance and Appeals, concluding
18 that in order to yield a reasonable return, an
19 additional access point is needed to
20 accommodate truck traffic; the variance is not
21 substantial as the wider fueling station access
22 point will ease traffic flow; and the existing
23 access point on Lafayette Road is fifty-one
24 feet at the curb; and the essential character
25 of the neighborhood would be improved by the

1 proposed development, which requires the
2 proposed variances.

3 Thank you.

4 CHAIRMAN: Thank you.

5 The applicant present?

6 MR. BERRY: (Indicating.)

7 CHAIRMAN: Please introduce
8 yourself; name and address, please.

9 MR. BERRY: Yes. My name
10 is Stephen Berry, and I am the project
11 architect for the owners, Mr. Paul Singh
12 and Mr. Harry Singh; and my address is
13 374 Boardman Poland Road, Suite 201,
14 Youngstown, Ohio 44512.

15 CHAIRMAN: Thank you.

16 Anything you care to add to the
17 presentation?

18 MR. BERRY: Well, I think I
19 would just add to Mr. Dutton's description that
20 we are trying to design a site here that works
21 well for traffic. On the Lafayette curb cut,
22 we are proposing an access point that allows
23 one lane of traffic into the site and two lanes
24 of traffic out of the site, one to turn left
25 and one to turn right, which is essentially

1 three lanes of twelve-foot-wide, which is a
2 standard roadway width, which gives us
3 twenty -- or thirty-six feet of width, not
4 counting the radiuses.

5 We've also -- we're showing radiuses that
6 allow -- adequate turning radius not to jump
7 the curb as you're pulling in, so that results
8 in slightly larger curb cuts at the
9 right-of-way and at the curb.

10 Similarly -- or I should say -- so that is
11 the front of the convenience store, the
12 Lafayette access. We are -- designed the site
13 to segregate the automobile traffic from
14 semitrailer -- semitruck trailer traffic, and
15 so we have located two curb cuts on Lake Road
16 as far away from the intersection as possible,
17 that allows trucks to enter from Lake Road,
18 entering -- travel north into the site and get
19 their fuel and loop around and exit at the
20 northern curb cut and be able to turn at either
21 direction and exit on Lake Road and, also,
22 semitruck traffic coming south on Lake Road is
23 able to also enter the curb cut nearest to the
24 convenience store and loop around and exit.
25 And so, you know, we've got the southern part

1 of the site dedicated to automobile traffic and
2 the northern part of the site dedicated to
3 truck traffic to keep them separated.

4 That's essentially what we're proposing.

5 CHAIRMAN: Okay. Thank you.

6 Let's go directly to public comment. We'll
7 open up for public comment. Please come to the
8 microphone, introduce yourself.

9 MR. DUTTON: I'm sorry. I
10 just need to make a correction. I noticed an
11 error in the staff report.

12 So one of the variances is
13 1153.04(a)(15)(B). I note that it's a
14 maximum width of thirty feet at the curb.
15 It's actually thirty feet at the property line,
16 so the property line or the right-of-way, not
17 the curb. So I just wanted to make that
18 correction.

19 CHAIRMAN: Okay.

20 Introduce yourself, please.

21 MR. MAKHLOUF: Sure. Thank you
22 very much, Mr. Chairman. My name is
23 Majeed Makhoulf. I am a partner with the law
24 firm of Berns, Ockner & Greenberger in
25 Beachwood, Ohio, and I represent Minit Mart,

1 LLC and the property owner at 1010 Lafayette
2 Road, an impacted property owner right across
3 the street, and I have with me here
4 Mr. William Deluca who is the regional
5 operations manager.

6 We believe that these variances are
7 quite substantial and inappropriate and we
8 ask the Board to deny them. But if I may,
9 before we get into the argument section, I
10 would like to cross-examine the applicant
11 on a number of issues and obviously would
12 like to -- the Board to subpoena the
13 City Engineer to appear to answer questions
14 as well.

15 But with the Board's permission, I'll
16 begin by answering the -- by questioning the
17 applicant, if the Board is okay with that.

18 CHAIRMAN: Andrew, our law
19 director is not currently present.

20 MR. BERRY: Sir, we're not
21 represented by counsel either.

22 CHAIRMAN: I understand.
23 We'll allow it. Go ahead and --

24 MR. MAKHLOUF: Thank you.

25 - - -

1 Whereupon, Minit Mart, LLC, to
2 maintain the issues to be maintained by them,
3 called one STEPHEN BERRY, who, after having
4 been previously sworn, was examined and
5 testified as follows:

6 CROSS-EXAMINATION OF STEPHEN BERRY

7 BY MR. MAKHLOUF:

8 Q The first question is -- I'm trying to
9 understand the answer to the very first factor for
10 the variances, which is whether the property will
11 yield a reasonable return without the variance. The
12 answer that was provided in the written -- in the
13 written submission to the Board is that, yeah, it
14 will have a better return with these variances
15 granted, but I think the ultimate question itself,
16 whether there's a reasonable return without these
17 variances, was never answered.

18 So I'd like to ask the applicant, what is
19 the basis for the argument that the property will not
20 have a reasonable return absent the variances? If
21 the Board were to deny these variances, how will this
22 property not have a reasonable return to the property
23 owner?

24 A Well, as I said, I really don't think it's
25 ethical to be answering questions from an attorney

1 without representation myself, but I would offer to
2 say that the client is trying to get the highest and
3 best use out of this property, and so the ability to
4 service semi tractor-trailers in addition to
5 automobiles would go along with that, and so without
6 the variances, the truck serviceability would be not
7 possible.

8 It would be possible to have two lanes of
9 access at Lafayette Road without the variance, and
10 there could be a convenience store and a gas station.

11 MR. BERRY: But I think the
12 real issue here is the property owner across
13 the street is afraid of competition and,
14 therefore, they're going to find any type of an
15 argument they can to have you turn this project
16 down.

17 MR. MAKHLOUF: So, sir, I'll
18 leave that on its own and I won't dignify that
19 with a response.

20 And I ask the Board to take all of that
21 into consideration.

22 But I -- I'll --

23 MR. BERRY: Certainly the
24 case.

25 MR. MAKHLOUF: Sir, I'm not here

1 to argue with you.

2 MR. BERRY: Apparently you
3 are.

4 MR. MAKHLOUF: This will go a
5 lot quicker if you just answer my questions.

6 Q Let me -- the other question I have is, the
7 design that you have here with the number of curb
8 cuts, if you were putting this project somewhere else
9 in the city, would you have the same number of curb
10 cuts?

11 A Really a theoretical question that you can't
12 answer unless you're looking at another property.

13 Q What is the need for the three curb cuts?

14 A Well, the need is to segregate the truck
15 traffic from the automobile traffic and to have a
16 smooth traffic flow in and out of the site,
17 especially with the tractor-trailers with the one way
18 in and one way out, so I think that's rather obvious.

19 Q Okay. So is there something unique about the
20 configuration of this site, the topography, anything
21 that requires the three curb cuts? Or is it the
22 operation itself needing to segregate the traffic?

23 A I think that was asked and answered.

24 Q Okay. The property owner here has not yet
25 purchased the property, is under a contract to

1 purchase the property, correct?

2 A Yes. That's what I understand, correct.

3 Q And knows of all the zoning restrictions that
4 exist on the property. That is correct?

5 A Correct.

6 Q Okay. What other designs did you look at to
7 achieve the outcome without having to require the
8 variances?

9 A Well, this is a result of trying to find a
10 solution to accommodating semi tractor-trailers and
11 automobiles on the site and, frankly, this is one of
12 the only configurations that we researched, and
13 through alternative designs, that makes that happen,
14 so that's why we are proposing this layout.

15 MR. MAKHLOUF: Thank you.

16 For the Board, I would just quickly
17 mention, as I think the Board is very familiar
18 with the Duncan against Middlefield criteria
19 for the granting of any variance, and I think
20 we just went through the most essential
21 elements.

22 Will the property have a reasonable return
23 without these variances? There's absolutely
24 nothing before the Board that says otherwise.
25 I think the applicant tells you that you can't

1 achieve the highest and best use, you can't
2 have the highest return without these
3 variances, but quite respectfully, that is not
4 the standard for the granting of the variance.
5 The question is, absent the variances, will the
6 property have a reasonable return? And
7 obviously the property was used before and you
8 could have a use of the property without -- in
9 accordance with the zoning without requiring
10 the variances. This is the applicant's desire
11 to have the maximum return on the property,
12 which is not the standard for the granting of
13 the variance.

14 I think you heard the testimony that
15 there's nothing unique about the
16 characteristics of the property that would
17 necessitate these variances. It's the use that
18 the property owner is proposing here and their
19 need to segregate the tractor from the other
20 traffic that's necessitating these variances.
21 It's nothing about the property itself that
22 requires them. If this were anywhere else in
23 the city, I think you'd be in the same place.
24 Again, that is not the criterion for granting a
25 variance.

1 And I think -- you've also heard the
2 architect testify that they really went with
3 this criteria without a proper and thorough
4 consideration of any alternative designs that
5 would obviate the need for a variance.

6 So with that, we submit that the Board
7 should deny the variances.

8 I apologize, I always feel like the guilty
9 party having to say this on the record, but the
10 Ohio Supreme Court requires me to say this, so
11 if -- I'm compelled to say that if the Board
12 were to grant the variances, my client intends
13 to appeal to a court. And again, the only
14 reason I say that is because the Ohio Supreme
15 Court requires us to say it as a requirement,
16 so --

17 And with that, I'll turn it to Mr. Deluca.

18 MR. DELUCA: My name is
19 William Deluca. I work as the regional
20 operations manager for the location at
21 1010 Lafayette. I've been overseeing that
22 location for the last seven years for
23 Minit Mart.

24 And that -- that area is -- there's a lot
25 of traffic there. There's a lot -- an

1 industrial park in the back, there's a train
2 station. I submitted pictures earlier today.
3 The train and the traffic that was held up
4 because of the train on Smith Road, I had some
5 pictures that I submitted in front of our
6 location roughly about ten to 3:00. You know,
7 there were a couple tractor-trailers, there
8 were cars. There was roughly about ten cars
9 just along our side of the road at roughly
10 three o'clock.

11 The impact of the traffic will create,
12 if these variances are allowed -- we know
13 that there is William -- I believe it's
14 Williams Lake Church, which is not far down
15 the road on Lafayette. On Sunday they have
16 police officers directing traffic because of
17 the amount of impact of traffic. So Lafayette
18 is a -- you know, a single lane on both sides
19 until you get to that intersection, and already
20 there's an impact of a lot of traffic, and this
21 is just going to create, you know, additional
22 safety hazards for the area and that's why we
23 are opposing.

24 MR. MAKHLOUF: And just I want
25 to make sure that I don't leave the record

1 unclear on this issue. Obviously if the Board
2 ends up voting to deny the variances, it's not
3 an issue, but if the intent is to -- is to
4 approve, we specifically request the
5 opportunity to cross-examine the City Engineer
6 on the record and ask that the Board table this
7 issue and -- to allow the Engineer to be here
8 to testify on this issue. Obviously if the
9 intent is to deny, then it's not an issue.

10 CHAIRMAN: Any other public
11 comments? Anyone wishing --

12 MR. GERSPACHER: Troy Gerspacher,
13 Gerspacher Real Estate Group; 5734 Trystin Tree
14 Drive. I represent the seller of the property,
15 and I just would like to put in my
16 recommendation to approve the variances.

17 The property, or the site itself, is
18 surrounded by industrial users. A truck stop
19 for a gas station, in my opinion, I think is
20 ideal. I think the -- allowing the -- the car
21 traffic to come in one location and keep it
22 separate from the truck traffic is a good
23 separation for safety purposes and, you know, I
24 just recommend that you approve it.

25 Thank you.

1 CHAIRMAN: Anyone else from
2 the public wishing to comment?

3 (No response.)

4 CHAIRMAN: And we turn it
5 over to the Board for questions and comments.
6 Anyone?

7 (Whereupon, a discussion amongst the
8 board members was then had out of the hearing
9 of the notary.)

10 MR. DUTTON: I guess while
11 Paul is moving, I would just like to add, so
12 we also had a site plan and conditional use
13 for review. The City Engineer gets those plan
14 sets for comment. He had no -- he did not
15 identify an issue with the number of curb cuts
16 and he did not require a traffic analysis or a
17 traffic impact study.

18 Thank you.

19 MR. ROSZAK: So the truck
20 traffic has been eliminated from Lake Road, so
21 I would suggest -- first of all, I don't think
22 I have an issue with three curb cuts, three
23 driveways. I think the issue is the width of
24 them for me. I think the one, if there's no
25 truck traffic along Lafayette Road, that one

1 you have three lanes, ingress and egress, you
2 know, you need twelve-foot lanes, so I would
3 recommend that one you reduce to thirty-six
4 feet.

5 And I also would suggest that you have a
6 turning movement study performed for the truck
7 movements along Lake Road so we know what --
8 actually what we do need.

9 MR. BERRY: Sir -- yeah, we
10 have done that internally in our office with
11 the truck turning radiuses - radii I should
12 say - and they are indicated on the plan,
13 which is indicated as dash lines that show the
14 maneuvering of the tractor-trailers in and out
15 of the site and how they can make their turns
16 onto Lafayette Road without going off the road,
17 and how they can enter the site without, you
18 know, jumping the curb or going over the grass,
19 but it's certainly possible that we could get a
20 more formal study of that done.

21 MR. ROSZAK: Where is that in
22 the plan? Which plan is that on?

23 MR. BERRY: Well, actually,
24 if you look on the screen there, you can see
25 some of the dash lines that represent traffic

1 flow of the trucks. I'll represent the leading
2 edge and the trailing edge, it's a little
3 difficult to see at that distance, but we
4 attempted to take the most critical turn limits
5 of the tractor-trailers and indicate how they
6 can get in and out of the site --

7 MR. ROSZAK: Is that --

8 MR. BERRY: -- within the
9 paved areas and within the curb cuts.

10 MR. ROSZAK: Is that in our
11 packet?

12 CHAIRMAN: Yes, it was.

13 MR. ROSZAK: I'm not finding
14 it in here.

15 CHAIRMAN: I had to use a
16 magnifying glass to see it, but I did find it
17 in the drawing.

18 MR. BERRY: I've got a
19 full-size drawing here if you'd like to look,
20 sir.

21 (Approached board members.)

22 (Inaudible.)

23 NOTARY: I can't hear what
24 he's saying. He can't talk like that.

25 MR. DUTTON: I'm sorry. Can

1 you speak into the microphone? We need to hear
2 what you're saying.

3 NOTARY: I need to hear
4 what you're saying.

5 MR. BERRY: Okay. We depict
6 a tractor-trailer on Lake Road traveling north,
7 and from the corner of the tractor-trailer we
8 show a dash line that enters the site, and then
9 that loops around. We try to actually -- this
10 one would come in like this (indicating), and
11 you see the leading edge to get to the --

12 MR. ROSZAK: Yes.

13 MR. BERRY: The trailing edge
14 of the tractor -- of the trailers are also
15 shown.

16 For example, as this trailer pulls around
17 on this leading edge, the trailing edge of the
18 tractor is this line (indicating). And then a
19 truck can loop around here and they have to go
20 out into the other lane (indicating), but they
21 can make it.

22 I'll leave this here.

23 MR. WILLIAMS: Mr. Berry, thank
24 you. I like the design overall. I love the
25 concept. I'm very close to that residentially

1 and commercially, and I like that you took the
2 public safety into account. I think the
3 question is whether three curb cuts is
4 appropriate. I think I'm with Paul. I'm not
5 as comfortable with the width of the passenger
6 car.

7 And if I may finish.

8 The reason I say that is, again, I live
9 very close to there - I'm very, very familiar
10 with the traffic - and having cars turning
11 simultaneously in both directions at that
12 intersection at that point does not bring --
13 I would have to see it. I'd have to see some
14 studies. Not that that driveway is not that
15 width now. I'm sure that it is. I drove by
16 there this afternoon.

17 However, the level of traffic that's
18 proposed, I'm sure the owner would like to see
19 that level of traffic go in. At that light, at
20 that point, having cars turn simultaneously in
21 both directions on 42 concerns me.

22 And that's really my only major concern
23 with the plan. I think the three curb cuts
24 makes perfect sense for what the building is.
25 I think it takes into account public safety and

1 governmental services as best as can be done.

2 MR. BERRY: Sir, if I may
3 just make a comment on that?

4 MR. WILLIAMS: Sure.

5 MR. BERRY: I think the
6 result -- yes, if we had two lanes, the result
7 would be you would have a stacking effect
8 within the property, you know, gas station
9 property, because a right turn is going to be
10 easier to make, unless of course you have
11 traffic stacked up, and the left-hand you might
12 be waiting longer, so I don't think it would be
13 simultaneously as much as being able to get
14 somebody to egress, at least in one direction,
15 while -- you know, depending on what the
16 traffic is at the time.

17 But I suppose we could choke that down to
18 thirty feet wide and still, you know, try to
19 get three lanes, because three cars would fit
20 there, but it's not ideal. And we could
21 certainly have, you know, one way in and one
22 way out, you know, two lanes, which would be --
23 again, I think just lessen the convenience to
24 the public that's using the site.

25 MR. WILLIAMS: Sure. One

1 thing that strikes me as we were talking
2 about that is, just for example, on Route 42,
3 North Court Street going out of Medina,
4 there are a number of places where you are
5 restricted in your direction of turn. I know
6 that's not the most convenient
7 customer-friendly thing --

8 MR. BERRY: Yes.

9 MR. WILLIAMS: -- but for safety
10 sake, having a divider in the middle and saying
11 "You're turning right out of there," I think
12 it's maybe a safer option. If you guys would
13 consider that, I think that would make this a
14 lot more palatable.

15 MR. BERRY: Well, I see that
16 a lot with the traffic engineering, and I also
17 see a lot of people just driving right over the
18 pork chop and turning left and right - however
19 they want to do it - anyway. So I think that's
20 effective to some extent but, you know, it's
21 not always used in that manner.

22 MR. MAKHLOUF: Mr. Chairman, if
23 I may, just a few follow-ups with the comments
24 that were made.

25 | - - -

1 RECROSS-EXAMINATION OF STEPHEN BERRY

2 BY MR. MAKHLOUF:

3 Q The question to the applicant, you said that
4 somebody at your office studied the traffic pattern
5 inside -- the circuitry of traffic inside the site.
6 Is that true?

7 A I said that we are indicating the turning
8 radiuses of the truck on this drawing and we did that
9 internally within our office.

10 Q Who did that? Did you do it or did somebody
11 else do it?

12 A I did it with -- in conjunction with my
13 associate.

14 Q Okay. Are you a civil engineer?

15 A No. I'm a registered architect, sir.

16 Q Okay. Are you a traffic engineer?

17 A No.

18 Q Okay. Do you know what the level of service is
19 at the --

20 A Are you a traffic engineer?

21 MR. MAKHLOUF: I would ask the
22 Chairman to instruct the witness to answer the
23 question.

24 MR. BERRY: Well, first of
25 all, how come you're allowed to ask questions

1 but I'm not?

2 MR. MAKHLOUF: The Ohio
3 Constitution allows me to ask those questions.

4 MR. BERRY: Oh, really?
5 Well, thank you.

6 Q Okay. The -- the -- do you know what the
7 level of services at the intersection is?

8 MR. BERRY: Ladies and
9 Gentlemen, I really don't feel I'm obligated to
10 answer these questions. I think -- you know,
11 I'd be happy to answer your questions, but I'm
12 not represented by counsel; therefore, I'm not
13 comfortable answering.

14 MR. MAKHLOUF: And, sir, I'm
15 more than happy to adjourn if he wants to get
16 legal counsel at the next board meeting.
17 That's perfectly fine with me.

18 CHAIRMAN: Question first.

19 Andrew, I thought you suggested that
20 City Engineer Patrick has reviewed?

21 MR. DUTTON: He reviewed the
22 site plan and application. Every time we get a
23 site plan, we send it out to the City Engineer
24 and other City departments, and I noted in that
25 case he did not identify any issue with the

1 number of access points or anything about the
2 access points and did not require a traffic
3 study or traffic analysis.

4 CHAIRMAN: And he apparently
5 wasn't concerned about traffic flow as an issue
6 in our city at this point?

7 MR. DUTTON: That was -- he
8 did not have a comment that he stated that.

9 MR. MAKHLOUF: Mr. Chairman, I
10 think part of the problem is he's not here for
11 us to ask him questions. He's human. Humans
12 make mistakes. You know, we're talking about
13 left-turn traffic -- left-turn access on a road
14 with industrial uses, cars coming in to fill
15 gas and then making left-turn access on a road
16 that has semis traveling on it. We're talking
17 about -- you know, we're asking for variances
18 here. The applicant bears the burden of proof,
19 and respectfully there is nothing -- it's
20 premature at best in terms of what's been
21 submitted to the Board for the Board to be able
22 to make an intelligent decision on this.

23 We're even sitting here talking about, you
24 know, three lanes. Has anybody looked at the
25 visibility of, you know, your turning left

1 lane, right lane, at these things? None of
2 that is before the Board when the variances are
3 being asked for.

4 CHAIRMAN: Let me suggest
5 for what it's worth, Board, whether I find it
6 humorous or not, I happen to drive a
7 thirty-nine-foot diesel motor home. I frequent
8 truck stops because it's almost the only place
9 I can fuel. I'm comfortable with this proposed
10 layout. I can sit -- imagine sitting behind
11 the wheel of my RV and know where I'm going and
12 how the traffic is flowing and what's proposed
13 on the drawing, so I have no difficulty with
14 the curb cuts.

15 Other Board comments? Questions?

16 MR. ROSZAK: I -- based on
17 this turning movement study, which I see, I see
18 why you need those widths for those turn
19 movements on Lake Road, and I did -- I do see
20 on Lake Road -- I'm sorry, on Lafayette you are
21 showing thirty-six feet already at the
22 narrowest point.

23 CHAIRMAN: Any thoughts or
24 questions? Are we, Board, to the point of a
25 motion?

1 MR. DUTTON: I guess I would
2 ask the applicant if they'd like to table it as
3 well, if that's what their prerogative is.

4 CHAIRMAN: Table for the --

5 MR. DUTTON: If the applicant
6 would like to do that, that's what they
7 request, or if they --

8 MR. BERRY: Sir, we would not
9 like you to table it. We would ask that you
10 approve the variance.

11 CHAIRMAN: Thank you.

12 Board, anything?

13 (No response.)

14 CHAIRMAN: Is someone
15 willing to make a motion either to approve or
16 to deny?

17 MR. WILLIAMS: I would say if I
18 was to make a motion, I would make a motion for
19 the three curb cuts. I'm not -- I'm not so
20 sure about the widths at this moment.

21 (Whereupon, a discussion amongst the
22 board members was then had out of the hearing
23 of the notary.)

24 MR. DUTTON: Are those -- are
25 your mics on? I don't know if you're having

1 twenty-four feet at the right-of-way,
2 thirty-eight feet at the curb, but that
3 specific one for fueling stations increases
4 that twenty-four feet.

5 MR. WILLIAMS: Okay. That's the
6 question -- thank you, that's the question I
7 was asking.

8 MR. MAKHLOUF: And,
9 Mr. Chairman, if I may, just for clarity of the
10 record, the thirty feet under this variance
11 request becomes how much? The width is being
12 increased by how much?

13 MR. DUTTON: It depends on
14 which of the access points --

15 MR. MAKHLOUF: Let's go through
16 them one-by-one. So how much do they -- so the
17 record is clear with the size of the variances.
18 The thirty feet goes to how much?

19 MR. DUTTON: As you can see on
20 the screen, it's thirty-seven on the north
21 Lake, sixty-five on the south Lake, and
22 forty-four on the Lafayette.

23 MR. ROSZAK: Is that at the
24 curb?

25 MR. DUTTON: That's at the

1 right-of-way, so that would be -- thirty-foot
2 restriction applies to that.

3 MR. MAKHLOUF: And sixty-five is
4 more than double thirty, right?

5 MR. BERRY: Mr. Chairman, if
6 I could make a comment?

7 CHAIRMAN: Yes.

8 MR. BERRY: The existing curb
9 cut at Lafayette, we have an existing survey, a
10 survey of existing conditions in the set of
11 drawings, and that existing curb cut exceeds
12 our thirty-six feet that we're proposing into
13 what was the car lot.

14 In addition to that, the gas station across
15 the street, I believe that the attorney here
16 represents, also has two oversized curb cuts
17 that are -- appear to be about at least
18 thirty-six-feet-wide, and so apparently they,
19 you know, believe that what is good for them is
20 not good for anybody else or something to that
21 effect.

22 CHAIRMAN: Thank you.

23 MR. ROSZAK: Just for
24 clarification, I'm a little confused on the
25 widths.

1 So on Sheet AS100, are those widths
2 accurate as you're proposing them?

3 MR. BERRY: They're
4 dimensioned to the throat of the curb cut. As
5 you can see the two turning radiuses, they're
6 dimensioned to the -- what would be the
7 narrowest throat.

8 As Mr. Dutton pointed out, you know, in the
9 zoning regulations, as the radius approaches
10 the property lines, to allow a good turning
11 radius for cars to come in and out, then it
12 curves outward and increases that curb cut
13 slightly, and then as it hits the actual road
14 surface, it's even wider because of those
15 radiuses, or the radii. But in effect, it's a
16 thirty-six-wide access point.

17 Now, the radii of the turning -- shall we
18 say the edges of the -- the turning radii of
19 the curb cut could be adjusted and manipulated
20 to be less than what they are.

21 MR. ROSZAK: I'm just asking
22 if what's shown on AS100 --

23 MR. BERRY: Yeah. We have
24 dimensioned --

25 MR. ROSZAK: -- is what you're

1 actually proposing. Is that accurate?

2 MR. BERRY: The dimension we
3 have is thirty-six-foot, and we call it
4 thirty-six-foot curb cut because it is
5 dimensioned to the throat --

6 MR. ROSZAK: I get it. I'm
7 just asking, is this accurate?

8 MR. BERRY: Yes, sir. That's
9 based on an accurate survey.

10 MR. DUTTON: Well, I think
11 we're just taking the measurements from
12 different places on the curb. So the
13 dimensions are kind of in the middle, but I'm
14 taking it from the right-of-way or the property
15 line exactly and the largest flare of the curb
16 cut, which I think is what the code regulates.

17 MR. ROSZAK: Yeah, I'm just
18 looking at this in terms of the turning
19 movements of the truck and the widths that are
20 indicated on here, and I want to make sure this
21 is what is presented in the chart that's up
22 front.

23 MR. BERRY: I'm sorry. You
24 want to make sure it's --

25 MR. ROSZAK: Does this

1 coincide with what's presented on the third
2 page of the packet?

3 MR. BERRY: The third page
4 being AS110, the survey drawing?

5 MR. ROSZAK: No. The third
6 page of the packet itself.

7 MR. BERRY: Is this of the
8 staff report?

9 MR. ROSZAK: Yes.

10 MR. BERRY: I'm not sure
11 what's in the staff report.

12 MR. DUTTON: So that's what I
13 was trying to explain.

14 So we're just basically measuring from
15 different spots of the curve, so he's got it
16 measured from kind of the center, where I'm
17 measuring it from right at the right-of-way or
18 the property line and then right at the
19 greatest extent.

20 MR. ROSZAK: Got you. But
21 what you're showing on this chart on the third
22 page coincides with what is shown on AS100?

23 MR. DUTTON: Yeah. If it's
24 scaled out, yeah. Just the --

25 MR. ROSZAK: Okay.

1 MR. DUTTON: The labels he has
2 are just from a different part of the --

3 MR. BERRY: And those are
4 scale drawings, which are based on an accurate
5 survey that was recently performed on the site.

6 MR. ROSZAK: Based on these
7 turning movements on AS100, it seems to me
8 those are the minimum widths to allow a truck
9 to access the site, and along Lafayette we're
10 already at thirty-six feet at the narrowest
11 point for those -- for that drive width,
12 which would be what would be needed for three
13 lanes.

14 Mark, what did you come up with?

15 (Whereupon, a discussion amongst
16 board members was then had out of the hearing
17 of the notary.)

18 CHAIRMAN: Go ahead, Paul --
19 Paul and Mark.

20 MR. ROSZAK: I make a motion
21 to approve the variance in that the essential
22 character of the neighborhood would not be
23 substantially altered, and the property owners'
24 predicament cannot be feasibly obviated through
25 some other method, and the spirit and intent

1 behind the zoning code would be observed and
2 substantial justice done by granting the
3 variance.

4 MR. WILLIAMS: I'll second the
5 motion.

6 CHAIRMAN: Call the roll,
7 Sarah, please.

8 MS. TOME: Humpal?

9 CHAIRMAN: Yes.

10 MS. TOME: Johnson?

11 MR. JOHNSON: No.

12 MS. TOME: Roszak?

13 MR. ROSZAK: Yes.

14 MS. TOME: Williams?

15 MR. WILLIAMS: Yes.

16 MS. TOME: Funk?

17 MR. FUNK: Yes.

18 MS. TOME: Motion carried.

19 CHAIRMAN: Thank you.

20 MR. BERRY: Thank you very
21 much.

22 CHAIRMAN: Good luck.

23 MR. BERRY: Thank you.

24 (Case concluded.)

25 - - -

CERTIFICATE

I further certify that said hearing was held at the time and place specified in the above case and was concluded on the 13th day of March, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my seal of office at Medina, Ohio this
28th day of March, 2025.

Makenzie J. Sabo

Makenzie J. Sabo, RPR
and Notary Public within and for
the State of Ohio.
My commission expires 09/19/28.

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