

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
December 14, 2016 – Regular Meeting**

MEMBERS PRESENT: Mr. Whited, Mr. Lenz, Mr. Riddell, Mr. Gilliam, Mr. Cavens
MEMBERS ABSENT: Mr. Simmons
STAFF PRESENT: Cathy Walton, Property Advisor
Aaron Wiegand, Community Development Director
CALL TO ORDER: 6:30 PM
ADJOURNMENT 7:28 PM

Mr. Whited called the meeting of the West Chester Board of Zoning Appeals to order.

Mr. Lenz motioned to move BZA case 16-31 to the first hearing.

Mr. Riddell seconded the motion.

Aye: Mr. Gilliam, Mr. Riddell, Mr. Lenz, Mr. Cavens, Mr. Whited

Nay:

BZA 16-31 Propstone, LLC for Beckett Springs Hospital

**Applicant: Patrick Warnement, The Kleingers Group
6305 Centre Park Drive
West Chester, Ohio 45069**

Mr. Warnement stated the architectural aspects of the building and landscaping will match what's there currently. He also stated access will be added from Union Centre Boulevard. He stated they are in agreement with the fencing requirement and that they currently have 2 private transport companies.

Mr. Whited asked the applicant if they were in agreement with all sixteen conditions.

Mr. Warnement stated someone from Propstone would have to answer.

Mr. Lenz questioned if the fencing was on the drawings.

December 14, 2016

Mr. Warnement stated the fencing is not on paper yet, it has only been discussed.

Mr. Lenz asked if there if fencing around the recreation area.

Mr. Warnement stated there is and it will be consistent with what is there now.

Applicant: Steve Tooman
9032 Union Centre Boulevard
West Chester, Ohio 45069

Mr. Tooman stated he didn't believe condition 11 had been discussed. He stated he wasn't sure how it relates to zoning and a conditional use. He stated since it wasn't discussed, he doesn't understand the rationale behind it.

Mr. Cavens asked if the conditions were the new code for these types of facilities.

Ms. Walton stated the conditions are a template.

Mr. Cavens stated that was the answer.

Staff: Austin Musser, Frost Brown Todd
Attorney for West Chester Township

Mr. Musser stated his understanding was that staff believed they had discussed the condition with the applicant and the rationale behind it is to ensure the Township's EMS and services can be provided adequately. He stated the Township has done research and has noted that institutional care facilities tend to have a higher usage rate for EMS runs and in order to ensure the Township services are adequate there is a certain number of unreimbursed runs that would be ok but in order to make sure coverage is adequate, the Township would look to the facility to cover the cost if the patient's insurance does not reimburse the Township.

Mr. Gilliam asked Mr. Tooman if he had experience handling zoning cases.

Mr. Tooman stated he did.

Mr. Gilliam asked if Mr. Tooman had ever seen a provision that deals with reimbursement of ambulance fees.

Mr. Tooman stated he has not and stated with Austin's explanation they can agree to the condition.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Cavens stated he likes it.

Mr. Whited stated it was pretty clear.

Mr. Cavens stated no one spoke out against it and he likes it.

Mr. Gilliam stated condition 11 gave him pause as its not typical language you see for zoning but stated that since the applicant is in agreement he is ok with it.

Mr. Cavens stated he believes it's a good thing to have since this is the template moving forward.

Mr. Lenz made a motion to approve BZA case 16-31 with the stated conditions.

Mr. Cavens seconded the motion.

Aye: Mr. Gilliam, Mr. Riddell, Mr. Lenz, Mr. Cavens, Mr. Whited

Nay:

BZA 16-31B Propstone, LLC for Beckett Springs Hospital

Mr. Tooman withdrew BZA case 16-31B

BZA 16-29 Debbie Stellar for Chuy's

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance from the Building Sign requirements.

Mr. Lenz asked for clarification that this property is one lot in the development that was before the Board for signage.

Ms. Walton stated it was.

Mr. Lenz asked if these signs were in addition to the ground signs that were approved.

Ms. Walton stated that was correct.

December 14, 2016

Mr. Lenz stated he thought there was a document that pertained to all signs in this area.

Ms. Walton stated the document does not dictate signage. She stated it dictates building material and the zoning resolution requires sign bases match the building material.

Mr. Gilliam asked for clarification that this request was only for building signs.

Ms. Walton stated that was correct and also stated that the Board approved ground signs separately.

Mr. Cavens asked if this site was on Interstate 75.

Ms. Walton stated it was.

There was discussion regarding the amount of increase for the requested signs.

**Applicant: Debbie Stellar, Starlight Signs
7923 East McKinney Ave.
Denton, TX 76208**

Ms. Stellar stated that Chuy's is a great neighbor and they try to create ambience. She stated their signs are a part of that. She stated this would be the 5th restaurant in a 25 mile radius and would be a destination place. She stated they would add to the entertainment district. She stated they have requested signs on all four elevations and after driving the area she stated she agreed because each building elevation addressed traffic from a different direction. She gave the percentage of signage on each elevation.

Mr. Cavens stated the scale looks appropriate for each side.

Mr. Riddell stated he really likes the drawings and they are of good quality.

Mr. Lenz stated there have been a lot of approvals for sign variances in this area and asked if staff knew the percentage of overages for the others.

Ms. Walton stated she did not.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Whited stated Mr. Cavens made a good point about the signs being proportional.

Mr. Cavens stated this is on Interstate 75 and people will need to know where they are heading.

Mr. Gilliam stated the number does look big on paper but when you look at the drawings, the signs are proportional.

Mr. Lenz stated it was not the percentage that bothered him but whether they needed signs on all four sides.

Mr. Cavens stated it was an odd shaped property and that only the front elevation really has a larger sign on it.

Mr. Riddell stated he believes the sign restrictions are too overbearing and believes it looks appealing and appropriate.

Mr. Cavens stated if they put up the permitted signage the building would look horrible because the scale would be wrong.

Mr. Whited agreed and stated he has always seen this as an entertainment area.

Mr. Gilliam stated he concurred with everything and looking at the standards he feels like this enhances the entire zone. He stated he believes for identification it needs signs on all four sides.

Mr. Cavens made a motion to approve BZA case 16-29.

Mr. Gilliam seconded the motion.

Aye: Mr. Gilliam, Mr. Riddell, Mr. Lenz, Mr. Cavens, Mr. Whited

Nay:

BZA 16-30 Mark Walker for Weber Huff

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance from the rear yard depth requirement.

**Applicant: Mark Walker
5090 Nature Trail
Cincinnati, Ohio 45244**

Mr. Walker stated he is the engineer for the owner and stated they need the additional room for storage. He explained that the property behind them is uneven terrain and undevelopable.

Mr. Lenz asked if it was impractical to build new buildings from the other direction.

December 14, 2016

Mr. Walker stated that was correct and reiterated that the building will align in the back with both neighboring buildings.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Lenz asked if the request conformed to the lot coverage requirement.

Ms. Walton stated it did.

Mr. Cavens stated no one showed up to protest.

Mr. Lenz made a motion to approve BZA case 16-30 as submitted.

Mr. Cavens seconded the motion.

Aye: Mr. Riddell, Mr. Lenz, Mr. Cavens, Mr. Whited, Mr. Gilliam

Nay:

BZA 16-32 Duluth Holdings, Inc.

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance from the Building Sign requirements.

Mr. Cavens asked for clarification on the location of the roof sign.

Mr. Whited showed Mr. Cavens the location on the submitted drawings.

**Applicant: Louis Zachary
400 Water Street, Suite 200
Excelsior, MN 55331**

Mr. Zachary commended the Board on the Chuy's case as many of the things brought up were points he was going to bring up. He stated that Duluth Trading truly is a destination location. He explained that this is one of only two stores in Ohio and the other is 190 miles away. He stated stores typically draw from a 120 mile radius. He stated with that kind of a draw, he feels

December 14, 2016

the signage is appropriate. He stated the building is not typical and is iconic. He stated the signs fit the building architecturally.

Mr. Lenz stated the sign on the roof appears to be the sign people will see coming down Civic Centre Boulevard.

Mr. Zachary stated that was correct.

There was discussion regarding the Civic Centre elevation being too low for signage.

Mr. Lenz asked if there was precedent for roof signs.

No one could recall any previous roof sign.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Whited it looked like a no brainer to him.

Mr. Riddell stated if they weren't situated the way they are, they wouldn't need signs on the back but the location gives them a unique need.

Mr. Gilliam stated no one could remember precedent for a roof top sign but when you look at the iconic look of the building you would expect to see a sign on the building.

Mr. Gilliam made a motion to approve BZA case 16-32 as submitted.

Mr. Lenz seconded the motion.

Aye: Mr. Riddell, Mr. Lenz, Mr. Cavens, Mr. Whited, Mr. Gilliam

Nay:

ADMINISTRATIVE MATTERS

Meeting minutes from November 9, 2016 were approved.

The next meeting will be Wednesday February 8, 2017 at 6:30 pm.

The board adjourned the December 14, 2016 meeting at 7:28 pm.

December 14, 2016

These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

BZA Chairman:



Larry Whited

BZA Secretary:



Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-29**

WHEREAS, Kenneth Thompson, for Chuy's, on October 18, 2016 filed Application No. 16-29 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance from the sign regulations as applied to the property at 9538 Civic Centre Boulevard and containing Parcel # M5610-032-000-138 in Section 33, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on December 14, 2016 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

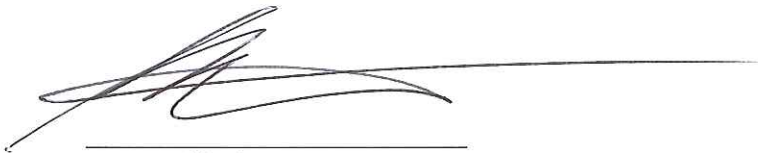
WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

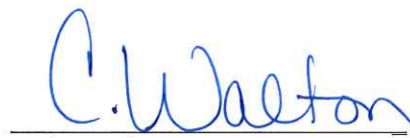
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow 416.9 SF of wall signs.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 14th day of December, 2016 and journalized on the 8th day of February, 2017.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-30**

WHEREAS, Mark Walker, for Weber Huff, on November 3, 2016 filed Application No. 16-30 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a building addition to reduce the rear yard depth requirement to 20.73' as applied to the property at 9099 Sutton Place , West Chester Ohio 45069 and containing Parcel # M5620-362-241-038 in Section 9, Town 2, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on December 14, 2016 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

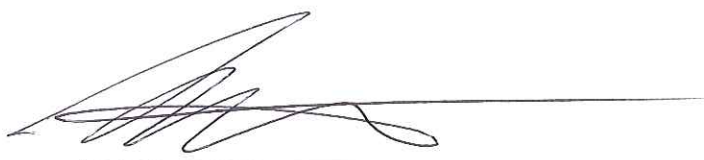
WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

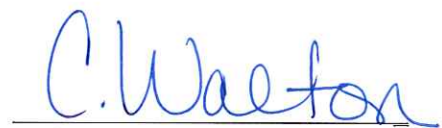
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a building addition to reduce the rear yard depth requirement to 20.73'.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 14th day of December, 2016 and journalized on the 8th day of February, 2017.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-31**

WHEREAS, Propstone, LLC, for Beckett Springs Hospital, on November 16, 2016 filed Application No. 16-31 with the Board of Zoning Appeals under Article 8 of the Zoning Resolution, seeking a conditional use from Article 25.035 as applied to the property at 8614 Shepherd Farm Drive, containing parcels # M5620-440-000-031 and M5620-440-000-032 in Section 4 Town 2, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on December 14, 2016 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8.023 of the West Chester Township Zoning Resolution empowers the Board to have the power to authorize upon application, conditional use or special exception zoning certificates for those uses which are specified as such by this Resolution.

WHEREAS, the Board has considered all of the information and testimony presented at the public hearing and concludes that the requested conditional use will not be contrary to the public interest and are consistent with West Chester Township Zoning Resolution Article 8.023

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to operate an institutional care facility with the following conditions:

1. The terms and conditions of this Conditional Use approval shall run with the land. As such, these terms and conditions will apply equally to any properly licensed successor organizations to Beckett Springs performing the same services as provided for in this Conditional Use approval.
2. A Zoning Certificate will be issued for use of the property, pursuant to and compliant with any other applicable provisions of the West Chester Township Zoning Resolution, as an institutional care facility. Beckett Springs is currently licensed by the State of Ohio Department of Mental Health and Addiction Services, and Conditional Use approval is granted for: residential alcohol and drug addiction programs; outpatient alcohol and drug addiction programs; a 96 bed private psychiatric hospital. Nothing in this Conditional Use shall be construed to allow Beckett Springs to operate an outpatient Methadone or other opioid dispensed drug clinic, as identified in the West Chester Township Zoning Resolution, on the property.
3. Any Zoning Certificate issued in accordance with this Conditional Use approval will relate exclusively to the site, building, and proposed uses as described above. Should Beckett Springs later desire to provide any other services at (or make any other use of) this facility, Beckett Springs will be required to file an application for a revised Zoning Certificate with the West Chester Township Community Development Department in accordance with the provisions of the West Chester Township Zoning Resolution at that time.
4. A site plan depicting the approved development and approved uses is attached as an exhibit to this Conditional Use approval.

5. Notwithstanding anything contained herein, Beckett Springs will at all times be required to comply with applicable federal, state, and local laws, including provisions of any applicable building or zoning code, and also maintenance of a valid license or certificate as may be required by any applicable regulatory agency.
6. Beckett Springs shall provide prompt written notice to West Chester Township of suspension or revocation of any such licensure. Notwithstanding the foregoing, in the event that the Beckett Springs' license is suspended or revoked by the applicable licensing agency or agencies, the Zoning Certificate shall be suspended until such suspension or revocation is cured by Beckett Springs.
7. Beckett Springs must provide West Chester Township annually, or more frequently if warranted, each of the following documents submitted to or received from the Ohio Department of Mental Health and Addiction Services:
 - a) All licenses;
 - b) Any inspection reports, incident reports or notifications, or notices of deficiency or non-compliance with licensure rules;
 - c) Any documents similar to the foregoing.
8. Any proposed signage must be consistent with the applicable zoning provisions of the West Chester Township Zoning Resolution for the proposed use and zoning district for which the property is zoned unless granted differently by the Conditional Use approval.
9. Install and maintain a minimum 6' high decorative metal fence, or a minimum 6' high opaque fence that is well kept and properly maintained, along the proposed west, north and east property lines of the parcel containing the proposed facility, encompassing the building. The minimum 6' high fence must be consistent with the applicable zoning provisions of the West Chester Township Zoning Resolution.
10. The outdoor recreation areas are shown and approved to be enclosed by a 10' high fence, where 8' high is permitted by West Chester Township Zoning Resolution Article 23.10.
11. Beckett Springs agrees to reimburse West Chester Township for any non-reimbursed EMS medical transports to and from the proposed facility that exceeds 18 non-reimbursed transports annually starting from January 1st each year. Proof of failure to be reimbursed for services will be submitted to Beckett Springs with invoice. Beckett Springs will pay the Township within 30 days from receiving the invoice. The invoiced amount will be reasonable and comparable to other cities and townships in the county for same or similar EMS services.
12. Beckett Springs will at all times maintain a contract with a 24 hour private medical transportation service provider for non-life threatening injuries or illnesses.
13. Provide limited and secured internal access to and from the residential treatment areas. Residential wings will be secured and separate from the outpatient services areas. There will be no ability to enter the facility from the outside into the outdoor courtyard area designated for the residential treatment areas.
14. Beckett Springs is approved for a total of 221 parking spaces, versus the minimum requirement of 356 parking spaces per the West Chester Township Zoning Resolution Article 17.041.

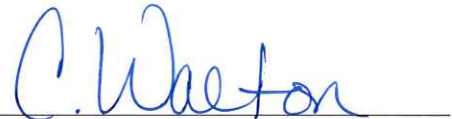
15. Approval of this Conditional Use request is conditioned on formal adoption of West Chester Township Resolution 32-2016: *Resolution approving text amendments to the West Chester Township Zoning Resolution Case #ZTA 04-16 concerning sexually oriented businesses, institutional care facilities, cellular wireless telecommunication towers, variance standards and permissible uses by district table.*
16. Approval of this Conditional Use request is conditioned on West Chester Township Resolution 09-2016: *Resolution declaring and authorizing a moratorium effective the date of this Resolution until December 31, 2016 on the issuance of a zoning certificate or other approval for treatment or professional services, uses, or facilities for addiction or other similar services, uses, or facilities and declaring an emergency and dispensing with the second reading expiring or the West Chester Township Trustees terminating the moratorium.*

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 14th day of December, 2016 and journalized on the 11th day of January, 2017.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-32**

WHEREAS, Duluth Holdings, Inc. November 17, 2016 filed Application No. 16-32 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance from the sign regulations as applied to the property at 9578 Civic Centre Boulevard and containing Parcel # M5610-032-000-140 in Section 33, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on December 14 , 2016 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow 614.68 SF of wall signs and a roof sign to extend 5' above the roof line.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 14th day of December, 2016 and journalized on the 8th day of February, 2017.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary