

CONCORD TOWNSHIP BOARD OF ZONING APPEALS  
LAKE COUNTY, OHIO  
SPECIAL MEETING

February 24, 2010

Concord Town Hall  
7229 Ravenna Road  
Concord, Ohio 44077

7:00 p.m.

**TRANSCRIPT OF PROCEEDINGS**

Board of Zoning Appeals members present:

Gordon Hanford, Chairman  
Richard Smith  
Christine Jarrell  
Blair Hamilton  
Kathy Miller, Alternate

Also Present:

Kathy Mitchell, Board of Zoning Appeals secretary,  
Zoning Inspector

**King & Melton Court Reporters**  
11668 Girdled Road  
Concord, Ohio 44077  
(440) 946-1350

1 7:00 p.m.

2 CHAIRMAN HANFORD: The Board of Zoning Appeals  
3 special meeting, February 24th, 2010, is now in session. I  
4 would like to introduce the Board, moving left to right, Blair  
5 Hamilton, Chris Jarrell, Richard Smith, Kathy Miller, and I'm  
6 Gordon Hanford, and to my far right, Kathy Mitchell, zone  
7 inspector.

8 On advice of our counsel, anyone wishing to speak  
9 tonight has to be sworn in, must be sworn in, so at this time I  
10 would like to do that, please. Please stand. The testimony  
11 that you are about to give will be the truth, the whole truth  
12 and nothing but the truth, so help you God? If so, say "I  
13 do."

14 (Speakers responded affirmatively en masse.)

15 CHAIRMAN HANFORD: Thank you, please be seated and  
16 then come back up.

17 Kathy, were the legal notices published in a timely  
18 manner?

19 MS. MITCHELL: Yes, they were.

20 CHAIRMAN HANFORD: Thank you. If your request is  
21 denied, you have the right to file an appeal. If this is the  
22 case, Kathy will help you with the details.

23 We have one item on the agenda tonight. I just want  
24 to read that. Appeal Number 0210-961, Mr. Bo Knez of Cayman  
25 Properties requests a variance from the 12-month expiration  
26 period issued under the Site Plan Approval Number 001 on  
27 September 8, 2008, for a proposed medical/professional office  
28 building at 7555 Fredle Drive (B-1 Restricted Retail  
29 District). In accordance with Section 36.06 F of the Concord  
30 Township Zoning Resolution, an approved site plan shall remain

1 valid for a period of 12 months following the date of issuance  
2 of the zoning permit.

3 Please come forward. Please give your name, address,  
4 and just verify that you were sworn, please.

5 MR. KNEZ: Bo Knez, Cayman Properties, 7964 Butterfly  
6 Drive, Concord, and I was sworn in.

7 We received a permit to build a building in September  
8 of '08. During the period between September '08 and September  
9 of '09, we were approached by an interested party who was  
10 proposing to be an end user for the building. There were some  
11 items that did not meet his need, so working with Ms. Mitchell  
12 and the adjacent property owner, we tried to come to a  
13 resolution that had to deal with parking. It was a due  
14 diligence period. He also required quite a bit of time for  
15 financing approval. All said and done, it didn't happen.

16 In that time that this was going on, our building  
17 permit expired. We plan on making absolutely no changes to the  
18 building permits that were issued. We are looking for a  
19 variance on the expiration date of the site plan approval that  
20 we've had for the building. We are now set and ready to start  
21 the building with, obviously, your blessing if that is the  
22 case. There are absolutely no changes to what was originally  
23 approved. We were just held back by what was potentially an  
24 end user, a very solid lead that we worked with for months and  
25 months that, unfortunately, did not happen, so we are asking  
26 for that variance.

27 CHAIRMAN HANFORD: Are there any other reasons as to  
28 why, what was the delay in getting it done?

29 MR. KNEZ: Well, the party that was interested needed  
30 more parking spaces than were, than were approved. I think we

1 have a total of 41 or 42 spaces approved. They run a traffic  
2 heavy business. And we were trying to work with Mr. Nelson  
3 next door to consolidate some of the parking in where some of  
4 the overflow could go into Mr. Nelson's parcel.

5 The financing was also, being that we are in the  
6 times that we are today, the financing also took longer than he  
7 anticipated to get, to be approved. But once the parking  
8 couldn't be resolved, the financing was not an issue anymore  
9 because it didn't meet his needs.

10 MR. SMITH: So that tenant is no longer —

11 MR. KNEZ: That tenant is no longer interested in the  
12 parcel.

13 CHAIRMAN HANFORD: Any other questions?

14 MS. JARRELL: Who is your end user now?

15 MR. KNEZ: One of the end users now is my partner,  
16 Bill Sopchak, who is a chiropractor. We have two other leads  
17 that want to see the building built before they sign the  
18 lease. Our main company, Knez Construction, may also occupy  
19 some of the, some of the space. We're now located on Crile  
20 Road, right down the street.

21 So financing is in place. We just need to renew our  
22 permits and we can begin construction of the building.

23 MR. SMITH: Do you anticipate, Mr. Knez, starting  
24 then the spring of this year or summer?

25 MR. KNEZ: Yes, yes, sir. We have to go through  
26 our — Obviously, we were fully ready. Our building permits  
27 were ready, everything. Soil and water was complete. The lot  
28 was actually even cleared. We met with Ms. Mitchell, met with  
29 the potential client, tried to work, tried to make it adhere to  
30 his needs. It didn't happen. Now we have to go through the

1 renewal process all over. Again —

2 MR. SMITH: I am sorry.

3 MR. KNEZ: Again, nothing is changed whatsoever in  
4 any way, shape, or form.

5 MR. SMITH: Your landscaping plan that was approved  
6 September '08 is still going to be complied with?

7 MR. KNEZ: Absolutely, absolutely.

8 MR. SMITH: I remember there was a big issue with the  
9 Hunt Club, some of the residents over there about the  
10 landscaping.

11 MR. KNEZ: There was, and we worked with — I can't  
12 remember the gentleman.

13 MS. MITCHELL: Fitzgerald.

14 MR. KNEZ: Mr. Fitzgerald. We redid the landscaping  
15 to his satisfaction and their board's satisfaction, which is  
16 probably three times more than we would typically put in, into  
17 a building. But they, at the very end, they were very happy  
18 with what we did.

19 MR. SMITH: Thank you.

20 CHAIRMAN HANFORD: We don't see anyone in the  
21 audience but I have to ask this: Is there anyone speaking for  
22 the appeal? Obviously, nobody is doing that. Or anyone  
23 against the appeal? Since no one is there —

24 Mr. Miller is sitting out in the audience. Kathy is  
25 here helping us. I do want to say that Jim is, Jim Rowe, is  
26 out of town, so that's why he is being filled in for by Kathy  
27 Miller.

28 Any further questions? No. All right. The public  
29 hearing for Appeal 0210-961 is now closed. The chair will  
30 entertain a motion to approve the appeal.

1 MR. SMITH: So moved, Mr. Chairman.

2 MR. HAMILTON: Second.

3 CHAIRMAN HANFORD: The appeal is moved and seconded.

4 Rather than get into some discussion right now on the Board, I  
5 thought it would be kind of interesting to give us some  
6 background on the procedural aspect of approving, so I was  
7 wondering if we could ask Kathy give us a background on the  
8 procedures for the site plan approval process so that, I guess,  
9 this doesn't keep occurring, please.

10 MS. MITCHELL: When a project goes in front of the  
11 Board of Zoning Appeals or the Zoning Commission, the  
12 particular board takes action by way of either an approval or  
13 conditional approval or denial. In the case of all our site  
14 plans to date, they've all been conditionally approved. The  
15 expiration does not start until we actually receive provisions  
16 and final plans. And so in some of the cases, we have  
17 conditional approvals still out there and we don't have final  
18 approvals received because the plans have not been submitted in  
19 to us.

20 So in the case of Mr. Knez, they anticipated being  
21 ready to go. We did sign off on the actual site plan  
22 application, which, as noted on the plan, on the actual  
23 application, it becomes the permit. That's when the clock  
24 starts ticking. So, in this instance, it was almost a  
25 disadvantage to actually some of the other ones that we have  
26 out there that are still open. And so, actually, in evaluating  
27 the text, I think, in-house, we have talked about possibly  
28 making some modifications to that so that those that are open  
29 don't stay open forever because that's problematic, too.

30 I think they will be limited in number only because

1 we have such a good working relationship with most of the folks  
2 that they're usually not ready to sign off until they are, in  
3 fact, ready to go. Just, I think, the circumstances  
4 surrounding their project just prevented that from happening.

5 CHAIRMAN HANFORD: Thank you. Just one question on  
6 that. Let's suppose now it is approved. When does the clock  
7 start ticking again, once he comes in and says, "All right, for  
8 sure I've got financing, for sure we're going to start," and  
9 signs off, or how does that —

10 MS. MITCHELL: I guess you could place a condition on  
11 your approval so that — because you're allowing for a  
12 variance. So you could say, you know, approved with the  
13 condition that it would, the project would commence within X  
14 number or a certain time frame.

15 MR. SMITH: Isn't that already stated in the  
16 resolution, that it has to commence within a certain period  
17 after the variance is approved?

18 MS. MITCHELL: No. There is nothing in there with  
19 regard to variances, no.

20 MR. SMITH: There is now or will be.

21 CHAIRMAN HANFORD: Since we're not on TV —

22 MR. SMITH: What is site plan approval, Kathy,  
23 comprised of? Does it have to come back from, like, Lake  
24 County engineer and sewer or — well, yeah, sewer and  
25 sanitation review?

26 MS. MITCHELL: Certain aspects of the county  
27 approval, we do rely on before we issue final approval, for  
28 example, sewer capacity. We ask for a letter from the county,  
29 the utilities department that just says capacity exists. It  
30 doesn't mean that they've approved it but it gives us some sort

1 of verification that they can move forward. All of the other  
2 departments usually give us a letter of confirmation that  
3 things are moving forward.

4 MR. SMITH: Would you compile all that and then,  
5 after the approval is given, then issue a zoning permit?

6 MS. MITCHELL: Well, we can't hold up the zoning  
7 permit based on the county approvals but getting them on board  
8 at the time of the review, we have a pretty good idea if we're  
9 going to have any hang-ups. So, you know, when we get the  
10 staff reports and we list all of the county comments, it's  
11 usually pretty clear at that point what issues they might have  
12 with the county.

13 CHAIRMAN HANFORD: I am just concerned, because of  
14 the financial climate in the state right now, that we may see  
15 this. This may not be unique. And I am just seeing whether or  
16 not we can come up with something to put a hole and plug the  
17 dyke, if you will, so we don't keep seeing this over and over  
18 again because this could be setting a precedent.

19 And I believe, personally, and in discussion with the  
20 Board here — I don't know how the other ones are going to  
21 vote — but I think this is a case where we have a hardship  
22 because of financial aspects. But I just want to see whether  
23 or not we have any ideas, the Board has any ideas. Do we want  
24 to do what Kathy just suggested, put down some time?

25 MS. JARRELL: Absolutely.

26 CHAIRMAN HANFORD: Yeah?

27 MS. JARRELL: Um-hum.

28 MS. MILLER: And then maybe consider what will happen  
29 at the end of that time, should it not happen, you know, that  
30 you're not able to commence then at the end of our time limit,

1 what is required, that you have to start from square one again?

2 CHAIRMAN HANFORD: Yeah.

3 MR. SMITH: Null and void and resubmit?

4 MS. JARRELL: I would agree with that.

5 CHAIRMAN HANFORD: Blair, any thoughts?

6 MR. HAMILTON: No. I guess, nothing to add.

7 MS. JARRELL: So have you obtained an approval letter  
8 from the bank?

9 MR. KNEZ: Oh, yeah. We're approved.

10 MS. JARRELL: So they're good with just going on —

11 MR. KNEZ: Middlefield Bank, we are financially able  
12 to start this building in time. The reason for the hold was  
13 more — In these days, we had the building listed at \$2.6  
14 million. If you have a client that's looking to buy a building  
15 that's for sale for \$2.6 million, you're going to cater to  
16 their wants and to their needs, and that's what our attempt  
17 was.

18 Sure, our financing ran out. Our financing ran out  
19 with them, but we are fully ready with financing in place with  
20 Middlefield Bank to start the project.

21 MR. SMITH: You can build some of the, you can build  
22 the total with the banking —

23 MR. KNEZ: Absolutely, yes. We have the capacity to  
24 do that, yes.

25 MS. JARRELL: What's your anticipated start date?

26 MR. KNEZ: Well, now we have to go to the building  
27 department, and this was our first stop. We want to see how  
28 long that process is going to take us. We're, financially,  
29 we're ready to start tomorrow. Permits which were available to  
30 us, to the very last permit needed, have all expired because of

1 this time, so now we have to go back to the building  
2 department, resubmit once this is — if this is approved or  
3 denied. If it's denied, obviously, then we have to start all  
4 over again.

5 So what is my — It would probably be 30 to 60 days  
6 after we get all of our approvals. And, that, I would  
7 anticipate taking another 60 days to get full approvals.

8 CHAIRMAN HANFORD: So once he has all the approvals,  
9 Kathy, and he signs off and then starts, certain time — I'm  
10 still confused about that.

11 MS. MITCHELL: Yes. If you were to approve this with  
12 the condition, you would probably put a timeline on it of  
13 either six months or give him six to eight months or whatever  
14 you feel comfortable doing. And then if it's still, at the end  
15 of that time, then I would agree with the comments made that he  
16 would just have to start over.

17 CHAIRMAN HANFORD: Yeah. I was thinking six months.  
18 I don't know about anybody else.

19 MR. KNEZ: Which is acceptable.

20 MR. SMITH: You should be able to have all of those  
21 other approvals by then, for sure. The county building  
22 department, they'll take less than 30 days. Do you have to go  
23 back to Al Saari?

24 MR. KNEZ: Soil and water, yes.

25 MR. SMITH: Since they've already reviewed?

26 MR. KNEZ: That's exactly — We're hoping that it's  
27 going to be, you know, but everybody has their procedures and  
28 we have to follow the procedures.

29 CHAIRMAN HANFORD: Sure. Okay.

30 MS. JARRELL: Is the bank okay with the time frame?

1 MR. KNEZ: Absolutely.

2 MS. JARRELL: They didn't put any kind of expiration  
3 on their approval letter?

4 MR. KNEZ: No. They're actually invested in a  
5 positive rather than a negative, so they're fine.

6 CHAIRMAN HANFORD: Any more questions? I would like  
7 to propose that we consider six months as a start time. Is  
8 that all right, Kathy?

9 MS. MITCHELL: Sure.

10 CHAIRMAN HANFORD: Condition of six months.

11 MS. JARRELL: That takes us to August.

12 MS. MITCHELL: Is that realistic?

13 MR. KNEZ: If it's six months from today would be end  
14 of August.

15 MS. MITCHELL: It would be back to the timeline.

16 MR. KNEZ: Yes.

17 MS. MITCHELL: Well, you could do that, too. You  
18 could say a year from — you could say September because then  
19 it's exactly a year. That's 12 months from the time to  
20 expire. You could do that, too.

21 CHAIRMAN HANFORD: Yeah.

22 MR. HAMILTON: That's fine.

23 CHAIRMAN HANFORD: What's the date on that?

24 MS. MITCHELL: September 8th.

25 CHAIRMAN HANFORD: Do you want to reword that?

26 MS. JARRELL: September 8th.

27 CHAIRMAN HANFORD: Oh, there is one here. Okay. All  
28 right. Be started before September 8th, before but not after.

29 MS. MITCHELL: To begin construction within one year  
30 from date of original approval.

1 CHAIRMAN HANFORD: Yes, all right. Do you agree with  
2 that?

3 MR. KNEZ: (Nodding affirmatively.) I apologize for  
4 having this meeting today.

5 CHAIRMAN HANFORD: All right. Do you want to call  
6 for a vote on that, Kathy, please?

7 MS. MITCHELL: Mr. Smith?

8 MR. SMITH: Yes.

9 MS. MITCHELL: Ms. Jarrell?

10 MS. JARRELL: Yes.

11 MS. MITCHELL: Mr. Hamilton?

12 MR. HAMILTON: Yes.

13 MS. MITCHELL: Ms. Miller?

14 MS. MILLER: Yes.

15 MS. MITCHELL: Mr. Hanford?

16 CHAIRMAN HANFORD: Yes. Okay. The appeal is passed.

17 MR. KNEZ: Thank you very much. Thank you for having  
18 the special meeting. I appreciate it.

19 CHAIRMAN HANFORD: Please see Kathy when you leave.

20 And we just have one more thing before I close the  
21 meeting. The next meeting is on March 10th and we are going to  
22 have a Board work session/site plan overview and powers and  
23 duties. Plus, we're electing the new chair and vice chair, so  
24 keep that in mind. Okay. The meeting is now adjourned. Thank  
25 you.

26 (The proceeding was concluded at 7:19 p.m.)  
27  
28  
29

1 STATE OF OHIO )  
2 ) CERTIFICATE  
3 COUNTY OF CUYAHOGA )  
4

5 I, Melinda A. Melton, Registered Professional  
6 Reporter, a notary public within and for the State of Ohio,  
7 duly commissioned and qualified, do hereby certify that, to  
8 the best of my ability, the foregoing proceeding was reduced  
9 by me to stenotype shorthand, subsequently transcribed into  
10 typewritten manuscript; and that the foregoing is a true and  
11 accurate transcript of said proceedings so taken as  
12 aforesaid.  
13

14 I do further certify that this proceeding took  
15 place at the time and place as specified in the foregoing  
16 caption and was completed without adjournment.  
17

18 I do further certify that I am not a friend,  
19 relative, or counsel for any party or otherwise interested  
20 in the outcome of these proceedings.  
21

22 IN WITNESS WHEREOF, I have hereunto set my hand and  
23 affixed my seal of office this 15th day of March 2010.  
24  
25  
26  
27

28 \_\_\_\_\_  
29 Melinda A. Melton  
30 Registered Professional Reporter

31 Notary Public within and for the  
32 State of Ohio  
33

34 My Commission Expires:  
35 February 4, 2013  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45