

AUSTINTOWN ZONING COMMISSION – MARCH 31, 2016

PUBLIC HEARING  
AUSTINTOWN ZONING COMMISSION  
March 31, 2016

In accordance with Section 519.12 of the Ohio Revised Code, the Austintown Township Zoning Commission held a public hearing on Thursday, March 31, 2016, at the Township Hall, 82 Ohltown Road, Austintown, Ohio, for consideration of and recommendation to the Board of Township Trustees amendment request 2016-02-Z.

The following Commission members were in attendance:

Ron Latone - Chairman  
Bonnie Sovik  
Keith Marstellar  
Atty. Robert Price  
Brett Hendricks – Vice Chairman  
Sam Swoger

The Public Hearing was opened at 6:00 P.M. by Mr. Latone leading the Pledge of Allegiance.

Court Reporter in attendance, complete transcript taken of the hearing.

Motion by Mrs. Sovik to **APPROVE** the minutes of the February 25, 2016 public hearing.

Seconded by Mr. Marstellar.

Roll call vote: Atty. Price- Yes; Mrs. Sovik – Yes; Mr. Marstellar – Yes; Mr. Hendricks - Yes; and Mr. Latone – Yes.

Mr. Latone read the following statement:

The Public Hearing before the Austintown Township Zoning Commission for March 31, 2016 is now in session. Let the record show that under the provisions of Ohio Revised Code 519.12, notice of this hearing has been given in one newspaper of general circulation in the Township at least ten (10) days before the date of this hearing and notice was given by first class mail to property owners of interest. The mailing list of the property owners will be incorporated into the case record.

After a reading of the legal notice and the recommendation of the Mahoning County Planning Commission, the Zoning Commission will first hear testimony from the applicant, than all testimony in support of the proposed amendment, then all testimony

against the amendment. If testimony is offered against the request, the applicant will be given a short rebuttal opportunity.

When all testimony has been given, the Zoning Commission will act by motion upon the recommendation of the Mahoning County Planning Commission and our recommendation will be forwarded to the Board of Trustees for a future hearing and a final decision.

All testimony and questions are to be directed to the Zoning Commission. We ask that only one person speak at a time as we have a court reporter present. Prior to testifying you must state your name and address.

**AMENDMENT 2016-02-Z**

Atty. Brian M. Ridder, 20 Federal Plaza West, Suite M6, Youngstown, Ohio, 44503, on behalf of Green Leaf Landscape Supply, Inc. 1430 South Canfield-Niles Road, Austintown, Ohio, 44515, requests the rezoning of a 145.33' x 361.22' x 145.42 x 366.52 (1.214 acre) rectangular south westerly portion of a parcel of land containing a total of approximately 5.794 acres, Tract 9, Parcel 48-120-0-009, 1430 South Canfield-Niles Road, Austintown Township, from an Agricultural A-SER District to a Business B-2 District for a total depth of approximately 312 feet. Said property is irregular in shape, has a frontage of approximately 362 feet on South Canfield-Niles Road and a frontage of 189.08 feet on Notre Dame Avenue, a mean depth of 530 feet, is located approximately 260 feet south of the Notre Dame-South Canfield-Niles Road intersection and approximately 328.37 feet west of the Notre Dame-South Canfield-Niles Road intersection; and is zoned as a Business B-2 District for a depth of 167 feet with the westerly remainder zoned as an Agricultural A-SER District.

Zoning Inspector Crivelli read the applicant's letter dated February 18, 2016 into the case record, referenced a plat map submitted with the letter of request, the case mailing list, and three plat maps provided by the zoning office.

Zoning Inspector Crivelli read the following recommendation into the case record: **MAHONING COUNTY PLANNING COMMISSION:** Recommended **APPROVAL** of the request per the agenda.

Atty. Brian M. Ridder, 20 Federal Plaza West, Youngstown, Ohio, 44503, stated he is legal counsel for Green Leaf Landscape Supply, Inc. The corporation consists of two shareholders who are in attendance and both have operated a landscape business at this location for a number of years but would know like to retire and sell this piece of real estate which is there most substantive asset. Atty. Ridder reviewed the B-2 zoning and stated most of the area is small retail and business. The existing small B-2 area makes redevelopment of the lot difficult. His clients have had appraisals done comparing the requested zone change and the current zoning and the actual market value amounts to a six figure difference with extended B-2 zoning. Their objective is to get as much value out of the land as possible as this is essentially their retirement. Having this small

section rezoned B-2 will provide enough depth to make it a viable property for someone who may wish to do a small office and would be consistent with the flavor of the area. He pointed to the map and observed the A-SER buffer that is heavily wooded and advised there will be no change in exposure from his clients property to the residential subdivision.

Atty. Price observed the reason for the rezoning request appears to be enhancing the value of the property and observed this could lead to further requests from future property owners to extend the B-2 zoning deeper into the buffer. He asked how they are proposing a permanent no-build zone within the A-SER. Atty. Ridder advised any person who buys the property will have to go through this process and notice and due process will be given as required under Ohio law. The property would also be limited to B-2 uses and the A-SER currently allows similar style buildings such as school uses and the building abutting this lot. He stated the request does not change anything but will allow for a more viable office complex in conformity with the balance of the market in the area. Atty. Ridder stated they would consider a no-build easement within the A-SER. Atty. Price expressed concern that the A-SER would remain until someone in the future decides to go thru the process to change it. Atty. Ridder stated if there is a hurdle to overcome that will be considered by his clients.

Mr. Hendricks inquired about the zoning districts to the north and south. Zoning Inspector Crivelli stated the zoning was changed in 1988 to a Business B-2 District for a depth of 180 feet and subsequently reduced by 13 feet due to the widening of Route 46. The abutting property to the north is an assisted living facility approved by a conditional use in the late 1990's. The southerly property is zoned residential and A-SER. He also observed that State Route 46 south of the Panera plaza is zoned as Business B-1 Districts or residential until you approach Kirk Road where the Business B-2 Districts begin again.

Mr. Latone inquired about zoning permits issued at this location. Zoning Inspector Crivelli advised that Elliot's Landscaping received a variance in front setback in 1994 for the existing building. The most recent permit was issued August 25, 2014 for a cell tower and accessory building to be placed within the rear A-SER District. It was not constructed. Zoning Inspector Crivelli reviewed the Ohio Supreme Court decision that allows for towers in agricultural districts but requires a conditional use hearing for proposed towers in residentially zoned districts. Mr. Latone observed rezoning the A-SER rear buffer to R-1 would require a hearing before the Board of Appeals if a cell tower were to be proposed again.

Mr. Latone asked the applicants if they had any objections to rezoning the buffer to R-1 to avoid a cell tower being placed there in the future if they decide to vote for the requested B-2. Tim Ouane, a property owner, said he has talked to a gal in Chicago recently and was advised that due to advancing technology cell towers are becoming a thing of the past and you probably won't see one built there. He stated there is a new black box that can be mounted in various locations in the community and will provide cell phone reception. He also stated cell towers are starting to be vacated and he was glad to hear it as they do not want to be responsible for taking a cell tower down from

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their property. He stated the point is gone and there is no real fear of a cell tower being placed there. He also stated they will operate this year and probably sell in the future. He also stated he is paying commercial tax on the whole property and would like to increase the value of the property being used.

Mr. Latone observed it appears they are already using the requested area for their business. Mr. Ouane stated they have trees, plant material, and some mulch stored on the property.

Bruce Byatt, 675 Purdue Avenue, asked how close the zone change is to the houses. Zoning Inspector Crivelli reviewed the map with him. Mr. Byatt had no further questions.

No one else in attendance to speak in favor of the request.

No one in attendance to speak in opposition of the request.

The Zoning Commission adjourned at 6:25P.M.

The Zoning Commission reconvened at 6:33 P.M.

**2016-02-Z-Green Leaf Landscape Supply, Inc.**

Motion by Mr. Hendricks to reject the recommendation of the Mahoning County Planning Commission and recommend **DISAPPROVAL** of the request.

Seconded by Mrs. Sovik.

Roll call vote: Atty. Price – Yes; Mrs. Sovik – Yes; Mr. Marsteller – Yes; Mr. Hendricks – Yes; and Mr. Latone – Yes.

Atty. Price made a motion to adjourn the public hearing.

Seconded by Mrs. Sovik.

Roll call vote: Atty. Price – Yes; Mrs. Sovik – Yes; Mr. Marsteller – Yes; Mr. Hendricks – Yes; and Mr. Latone – Yes.

There being nothing further to come before the Commission, the hearing was adjourned at 6:35 P.M.

AUSTINTOWN ZONING COMMISSION

Darren L. Crivelli, Zoning Inspector

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APPROVED: \_\_\_\_\_  
Mr. Latone – Chairman

DATE: \_\_\_\_\_