*** MEETING NOTICE ***

Please be advised that the Board of Zoning Appeals meeting will be conducted on **Tuesday, September 22nd, 2020 at 6:00 PM** both in person and using a video conferencing application called Zoom. This application can be downloaded from your app store or be accessed through your browser at [Zoom.us](http://zoom.us).

Board members and staff members will attend the meeting in person, agenda item applicants are invited to attend the meeting in person or attend the meeting using Zoom.

All others wishing to attend may do so via Zoom. Those who wish to attend must submit a request for meeting access information via email by noon on the date of the meeting. Request for meeting access may be submitted via email to Bethany Harp at [bharp@piquaoh.org](mailto:bharp@piquaoh.org).

Neighbors and others with standing in this matter may also submit public comment on an item until noon on the day of the meeting by emailing Bethany Harp at [bharp@piquaoh.org](mailto:bharp@piquaoh.org). Public comments submitted by the date/time noted will be presented to the Board at the public hearing proceedings.


Please contact this office if you have any questions pertaining to this notice.

Kyrsten French  
City Planner  

Enc.
CALL TO ORDER

ROLL CALL
Clerk Calls the Roll

MEETING MINUTES
Minutes of BZA Meeting from August 25th, 2020

OLD BUSINESS

NEW BUSINESS
1. Resolution No. 08-20
   An appeal of PC 24-20, the authorization for an automobile washing Special Use granted by the Planning Commission for 1292 E. Ash St.

2. Resolution No. 09-20
   A Resolution requesting a variance to construct an area of parking surface with an aggregate material in an I2 zoning district at parcel N44-100690

ADJOURNMENT
TO ORDER
At approximately 6:00 pm Chairperson Skip Murray called the meeting to order. The Introductory Statement of BZA Duties were outlined as well as the order of business to be followed. Meeting conduct procedures were reviewed and those in attendance were sworn in. All persons present were asked to stand and raise their right hand. The Chairman administered an oath to all present to testify before the BZA asking them to swear or affirm to tell the truth, and to acknowledge their intent to abide by the oath administered by stating, “I do” or “opposed”. All present stood and took the oath to tell the truth with all persons present stating “I do”.

ROLL CALL
Members Present: Skip Murray, Joe Wilson, April Dankworth, David Fishback
Absent: Wayde Davis

MEETING MINUTES
Approval of the minutes of July 28, 2020 Board of Zoning Appeals Meeting minutes were approved.

NEW BUSINESS
RESOLUTION BZA 06-20
A Resolution requesting a variance to increase the maximum driveway width at the property located at 3421 Ottawa Circle
Kyrsten French, City Planner provided the staff report.
Kyrsten noted that the city has a variety of residential lot sizes. For administrative ease, a minimum and maximum driveway width for residential districts ranges from 10’ to 24’. On Ottawa Circle, an average larger lot width of 80’, and general orientation toward autos as a primary transportation use means that the occasional larger curb cut should not pose any safety or comfort concerns to neighbors or pedestrians. Staff recommends that the developer takes care to serve the public interest by planting two shade trees within 15’ of the sidewalk of this lot with the remaining 47’ of lot width. This would create a balance of design to serve both private and public interests.
The board deliberated and agreed that the request is consistent and fits the context of the neighborhood.
After no further public comment or deliberation, a motion was made by David Fishback and seconded by Joe Wilson. Resolution BZA 06-20 was approved with a 4-0 vote.

**RESOLUTION BZA 07-20**

A Resolution requesting a variance to construct a driveway using aggregate material in a residential front yard at N44-095820 on Manier Ave

Kyrsten French, City Planner provided the staff report.

Kyrsten explained that it is not permitted for new driveways meeting a public road to have a gravel base, and that the applicant proposed a concrete apron to mitigate any concern of gravel spilling into right of way. The driveway apron proposed will be the total of where the driveway passes through the public right of way plus 10 feet. The applicant will also pour concrete to form a pad outside of the garage to be built.

The rural character of this location suggests the appropriateness of allowing a driveway to be partially constructed with an aggregate material. Given that the property owner owns a large tract which could potentially be subdivided to create a more suburban neighborhood landscape, it is suggested that this variance be granted with the condition that further subdivision of the property would necessitate full compliance to city standards by paving the driveway. This condition of the variance would allow a nonstandard design to be allowed while the lot remains large, open and rural in character, without the unwanted effect that the property could never be required to upgrade to city standards in the event of further development toward a suburban neighborhood.

Jim Heigel, owner and applicant, spoke on the item. He clarified and explained what was shown on the site plan that was submitted with the agenda packet. Jim noted that he has no future plans of subdividing or selling the lot for further residential development. The crop land that exists will remain intact. He also noted that he drove the area and at least 13 other nearby properties have crushed stone driveways or alley access. Jim noted that the concrete apron will prevent gravel from the right of way.

The board deliberated and agreed that the mitigation of gravel spilling into the right of way was necessary.

After no further public comment or deliberation, a motion was made by Joe Wilson and seconded by David Fishback. Resolution BZA 07-20 was approved with a 4-0 vote.
OTHER BUSINESS

None

ADJOURNMENT

With no other business before the Board, a motion was made and seconded to adjourn the meeting. With all those present in favor the meeting was adjourned at 6:23 P.M.

Attending the meeting to prepare the meeting minutes provided herein was Bethany Harp, City of Piqua Development Department. Comments requesting corrections, additions or deletions to the content of this record should be directed to Ms. Harp at bharp@piquaoh.org.
WHEREAS, Darren Bradham submitted a request to the Planning Commission seeking authorization of an automobile washing Special Use at 1292 E. Ash St; and,

WHEREAS, the Planning Commission held a public hearing and voted to authorize a Special Use to conduct an automobile washing facility in the B-General Business district at 1292 E. Ash St through Resolution PC 24-20, attached hereto; and,

Whereas, Chapter 150.106(F) of the City of Piqua Code of Ordinances identifies the Board of Zoning Appeals as the body designated to hear and decide upon all matters related to an appeal of an action taken by the code official in the administration and enforcement of the Property Maintenance Code; and,

WHEREAS, S&P Sales, LLC, has filed a request for the Board of Zoning Appeals to consider its appeal of PC 24-20, attached hereto:

NOW THEREFORE BE IT RESOLVED that _________ motioned to affirm/repeal the automobile washing Special Use authorization of PC 24-20. The motion was seconded by _________ and the request was _________ with a vote of _________ as recorded below.

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Application Requesting a Zoning Variance

1. Applicant’s Name S&P Sales, LLC Phone 937-581-3792
   Applicant’s Address 1304 East Ash Street, Piqua, OH 45356

2. Owner’s Name ___________________________ Phone ___________________________
   Owner’s Address ___________________________

3. Type of legal interest held by applicant Neighboring Business

4. Location of Variance Request
   A. Legal description (Lot No. or attach legal description) N44-078710
   B. Address 1292 East Ash Street

5. Zoning Designation ___________________________

6. Type of Variance Being Requested – Check all that Apply:
   [ ] Zoning Enforcement Appeal [ ] Area Variance
   [ ] Special Driveway [ ] Parking Variance
   [ ] Height Variance [ ] Zoning Map Boundary Line
   [ ] Setback Variance [ ] Other

7. Describe the reason for the requested variance:
   See Attached Letter

   I hereby certify that the proposed request is authorized by the “Owner of Record” and agree to
   conform to all applicable laws of the City of Piqua, Ohio.

Signature of Applicant ___________________________ Date 8/26/20

Signature of Owner ___________________________ Date ___________________________

Note: Both the owner and the applicant shall sign when application is made by someone other than the owner.

***************OFFICE USE ONLY***************

Parcel ID #: ___________________________

$25.00 Fee Paid __________ Date Fee Paid __________

Receipt No. __________ Received By __________
August 26, 2020

VIA EMAIL TO: eschmiesing@piquaoh.org
Chris Schmiesing
Community and Economic Development Director
201 W. Water St.
Piqua, OH 45356

Re: Board of Zoning Appeals

Dear Mr. Schmiesing:

As you requested in our recent discussion, this letter is intended to provide the narrative detail for the attached zoning appeal, since the application form does not neatly capture the nature of this particular appeal. I also thank you for your willingness to accept this appeal by email, and get my client on the agenda for the September 22, 2020 BZA meeting.

I represent S&P Sales, LLC, the owner and operator of the Soak-N-Suds car wash located at 1304 East Ash Street (“Soak-N-Suds”). At the Tuesday, August 11, 2020 meeting, the Planning Commission approved Resolution PC 24-20, which granted a Special Use Permit to the lot located at 1292 East Ash Street to operate as a Special Use an automobile washing facility.

The nature of this appeal is that we believe the Planning Commission should not have granted the Special Use Permit, and request that the action be overturned by the Board of Zoning Appeals. The City of Piqua Code of Ordinances, Section 154.140 requires that the Planning Commission make four findings before approving a special use permit:

“(1) The proposed special use is compatible with the stated intent of the zoning district.

(2) The proposed special use does not threaten the general health, safety, and welfare of the surrounding properties, and the adjacent property values will not be negatively affected.

(3) The proposed special use is compatible with the general economic development policies of the city.

(4) The proposed special use conforms to all other applicable codes and regulations of the city.”

As detailed below, we submit that the Planning Commission incorrectly determined that the second and third considerations were met in this case.
Negative Affect on Soak-N-Suds

With regard to the second finding, the proposed special use clearly impacts the welfare and property value of Soak-N-Suds, which is adjacent\(^1\) to the 1292 East Ash lot. While the Code is generally not intended to protect businesses from ordinary competition, the unique nature of the car wash business provides a different context than other types of business, and having two car washes in such close proximity creates a direct negative affect on the property value of Soak-N-Suds.

**General Economic Development Policies of the City**

With regard to the third finding, we submit that the proposed special use is not compatible with the economic development policies of the City. Having two car washes in such close proximity will inevitably lead to one or both of the businesses failing, as the area simply cannot support two such specialized business right next to each other. The end result will be another empty lot - and possibly two - in a part of town that is well-suited to multiple types of businesses that could thrive and serve the community.

**Conclusion**

At the hearing, we can provide more information and data to support our contentions, and we reserve the right to challenge other aspects of the Planning Committee’s process and decision. But the above summary fairly represents the grounds for this appeal. Thank you for your consideration.

Sincerely,

Todd Bryant
The Bryant Firm, LLC
937-581-3792
todd@thebryantfirm.com

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\(^1\) One may claim that the lots are not adjacent, but legally speaking, they are. In interpreting the meaning of the term “adjacent” in various property law contexts - including zoning ordinances - Ohio courts have adopted the Black’s Law Dictionary definition, which is “Lying near or close to, but not necessarily touching.” ([See e.g. Wilkins v. Village of Harrisburg](https://www.ohiojudiciaries.gov/scd decisión/015-Ohio-5472, p30-35).)
The applicant has requested authorization of a Special Use permit for a car wash facility at 1292 E Ash St.

STAFF CONSIDERATIONS
The applicants at 1292 E Ash have proposed a car wash facility along with a site plan to show how traffic will flow through the site.

With the redevelopment of this site, this business has proposed 5’ sidewalk that connects to the E. Ash St. crossing, as well as pedestrian access to the Dairy Queen location next door. This pedestrian/paved connectivity through the site will help alleviate a major problem that pedestrians and elderly residents on scooters (living in the independent/assisted living facilities along Kienle) have been experiencing at this intersection.

Along with this increased connectivity, generous landscaping has been integrated into the design. The developer appears to be making an effort to balance the interests of pedestrians traveling to the site and their future auto-oriented customer base in their redevelopment of this vacant site. Staff recommends approval of this request.

REQUEST
The applicant has requested authorization of a Special Use permit for a car wash facility at 1292 E Ash St.

STAFF CONSIDERATIONS
The applicants at 1292 E Ash have proposed a car wash facility along with a site plan to show how traffic will flow through the site.

With the redevelopment of this site, this business has proposed 5’ sidewalk that connects to the E. Ash St. crossing, as well as pedestrian access to the Dairy Queen location next door. This pedestrian/paved connectivity through the site will help alleviate a major problem that pedestrians and elderly residents on scooters (living in the independent/assisted living facilities along Kienle) have been experiencing at this intersection.

Along with this increased connectivity, generous landscaping has been integrated into the design. The developer appears to be making an effort to balance the interests of pedestrians traveling to the site and their future auto-oriented customer base in their redevelopment of this vacant site. Staff recommends approval of this request.
WHEREAS, Darren Bradham, applicant, has submitted a request seeking authorization of an automobile washing facility Special Use at the address 1292 East Ash St, parcel number N44-078710; and,

WHEREAS, the City of Piqua Code of Ordinances section 154.025 (D) provides that automobile washing facilities may be permitted as a Special Uses in the B- General Business zoning district; and,

WHEREAS, the City of Piqua Code of Ordinances section 154.140 provides the procedure for reviewing an automobile washing facility Special Use; and,

WHEREAS, the Planning Commission has studied the request, conducted a public hearing on the matter, and has established findings that indicate the proposed Special Use:

☒ Will be compatible with the intended use of the real property.
☒ Will not threaten the general health, safety, and welfare of the surrounding properties, and the adjacent property values will not be negatively affected.
☒ Is compatible with the general economic development policies of the City.
☒ Conforms to all other applicable plans, policies and regulations of the city.

NOW THEREFORE BE IT RESOLVED, board member Jim Oda hereby moves to approve the request made, as described by this resolution, the testimony provided, and the documents attached hereto, the motion is seconded by board member Eddie Harvey, and the voting record on this motion is hereby recorded as follows.

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RESOLUTION No. BZA 9-20

WHEREAS, Thomas Dusa, applicant, has filed a variance request to construct a parking surface with an aggregate material at parcel N44-100690 in the City of Piqua, Ohio; and,

WHEREAS, the City of Piqua Code of Ordinances section 154.081 (H) General Regulations, establishes that:

All parking lots, parking spaces, and driveways shall be surfaced with a bituminous or portland cement concrete pavement or other similar dust free material deemed equal by the enforcing official [...] 

WHEREAS, the Board of Zoning Appeals has considered whether the variance requested:

☐ Is necessary to permit the owner a reasonable use of the land.
☐ Is justified due to peculiar exceptions and unusual circumstances found at this location that are not generally found within the neighborhood concerned.
☐ Will constitute a change in the district map.
☐ Will impair an adequate supply of light and air to adjacent property.
☐ Will increase the congestion in public streets.
☐ Will increase the public danger of fire and safety.
☐ Will materially diminish or impair established property values within the surrounding area.
☐ Will in any other respect impair the public health, safety, comfort, morals, and welfare of the citizens of the city.

NOW THEREFORE BE IT RESOLVED that _______ motioned to approve the request for a variance at parcel N44-100690. The motion was seconded by _______ and the request was _______ with a vote of _______ as recorded below.

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REQUEST
The applicant, Mr. Tom Dusa of Haley-Dusa Engineering and Survey, has requested to create a new gravel storage lot in the rear yard of 226 RM Davis Parkway.

DISCUSSION
226 RM Davis hosts US Storage Centers, a self-service storage facility. The front two-thirds of the lot is developed with a paved asphalt surface. The applicant has requested to construct the last third of the lot with an aggregate material to site RV storage. Heavy equipment storage is a principal permitted use in this I2 zoning district.

An additional plan, not pertaining to the variance request directly, is to fence the perimeter of the site for security.

The City has discussed with the applicant concerns about aesthetics of the proposal. Given the metal construction of the storage building, the gravel lot, and the RV storage use to be hosted, the applicant has proposed to screen the entire north side of the site with tree plantings, as well as the south side of the site where the gravel lot is proposed.

Variances have been granted recently in some instances for gravel storage pads in industrial districts. In most cases, those pads were in the rear yard and vegetative screening was proposed to hide them.

If a variance were approved by the Board, staff would work with the applicant to select an appropriate evergreen species to screen the rear, and could permit a choice of shade or evergreen trees to screen the front of the site.
A mix of land use categories in the area

View of the facility from RM Davis Parkway

A second view of the facility from farther south on RM Davis Parkway
Application Requesting a Zoning Variance

1. Applicant’s Name: Thomas Dusa
   Phone: (513) 543-2280
   Haley-Dusa Engineering Group
   Applicant’s Address: 270 Regency Ridge Dr, Ste 203
   Dayton, Ohio 45459

2. Owner’s Name: Lynda Russo
   Phone: (312) 819-4740
   Owner’s Address: 11 E. Adams Street, Ste 900
   Chicago, Illinois 60603

3. Type of legal interest held by applicant: Site Engineer

4. Location of Variance Request
   A. Legal description (Lot No. or attach legal description): Lot No. 314
   B. Address: 2260 Robert M. Davis Pkwy
   Piqua, Ohio

5. Zoning Designation: I2 (Industrial 2)

6. Type of Variance Being Requested – Check all that Apply:
   [ ] Zoning Enforcement Appeal
   [X] Special Driveway
   [ ] Height Variance
   [ ] Setback Variance
   [ ] Area Variance
   [X] Parking Variance
   [ ] Zoning Map Boundary Line
   [ ] Other
   *Requesting to use a gravel surface instead of asphalt/concrete

7. Describe the reason for the requested variance:
   Developing the back third of an existing storage facility. The front two-thirds consists of storage building and asphalt drives. The back third is an open, parking lot.
   I hereby certify that the proposed request is authorized by the “Owner of Record” and agree to conform to all applicable laws of the City of Piqua, Ohio.

Signature of Applicant: Thomas Dusa
Date: 9/4/2020

Signature of Owner
Date

Note: Both the owner and the applicant shall sign when application is made by someone other than the owner.

**********************OFFICE USE ONLY**********************

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