

**CHARTER TOWNSHIP OF YPSILANTI
ZONING BOARD OF APPEALS
Wednesday, March 2, 2022
6:30 pm**

COMMISSIONERS PRESENT

Marsha Kraycir – Chair
Elizabeth El-Assadi - Vice Chair
Jimmie Wilson
Gage Smith
Edward Burnett-ALT

STAFF AND CONSULTANTS

Jason Iacoangeli, Planning Director
Amy Steffens - AICP Planning and Zoning Coordinator
Fletcher Reyher, Staff Planner
Dennis McLain - Township Attorney

i. CALL TO ORDER/ESTABLISH QUORUM

MOTION: Ms. Kraycir called the meeting to order at 6:30 pm.

ii. APPROVAL OF AGENDA

MOTION: Ms. El- Assadi **MOVED** to approve the agenda as presented. The **MOTION** was **SECONDED** by Mr. Wilson and **PASSED** by unanimous consent.

iii. APPROVAL OF NOVEMBER 3, 2021 MEETING MINUTES

MOTION: Ms. El-Assadi **MOVED** to approve the previous Board Meeting Minutes as presented. The **MOTION** was **SECONDED** by Mr. Smith and **PASSED** by unanimous consent.

iv. PUBLIC HEARING

A. APPLICANT: Phantom Fireworks – Richard Tapper

LOCATION: 2243 Ellsworth Rd, Ypsilanti MI 48198

PARCEL: K-11-18-100-003

REQUEST: To consider the request for a temporary use permit to allow for the storage, display, and sale of State of Michigan-approved fireworks within the existing Roundtree Shopping Center.

Mr. Iacoangeli, the Township Planning Director, presented the request and handed it over to Fletcher Reyher, Staff Planner with the Charter Township of Ypsilanti.

Mr. Reyher informed the Board that he was representing Richard Tapper (Phantom Fireworks). Mr. Tapper is seeking a temporary use permit to erect a 40 x 40-foot display tent for the display and sale of Class C fireworks. In addition to the tent for display and sale of fireworks, there is a proposal for an 8x 40 fireproof shipping container to store items that are not currently on display. The shipping container will be located within the parking lot area of the Roundtree Shopping Center. The hours of operation would be from 10 am to 10 pm.

The map indicates the proposed location of the structure that would be up from June 22, 2022 - July 4, 2022. The large square indicates the location of the tent, and the rectangle indicates the proposed shipping container, this would be on the north side of the parking lot closest to Ellsworth. The parcel is currently zoned B3, General Business. The Roundtree Shopping Center is home to numerous retail businesses. The adjacent uses to this parcel are all general business with the new zoning ordinance which would be enrolled in the future.

Mr. Reyher informed the Board that in January 2012, the State of Michigan enacted new legislation in relation to the sale of fireworks. As part of this new legislation, the local municipalities no longer have the authority to inspect or regulate the sale of fireworks. These inspections will be done by state inspectors. It is the opinion of the staff that the ZBA has the authority to grant a temporary use permit for the erection of a tent and the outdoor display and storage of fireworks.

The ZBA has the authority to permit the temporary erection of buildings and uses for periods of time that do not exceed two years. For periods of time, that do not exceed two years and undeveloped sections of the township, and for periods that do not exceed six months and develop sections. The Roundtree Shopping Center is a developed section of the township.

The applicant (Phantom Fireworks) is requesting a couple of weeks to display and sell their fireworks. The granting of this temporary use permit would not change the basic uses that are in the B3 zoning district.

Conditions to be considered while granting a temporary use should be in writing stating all conditions as to the time and nature of development permitted and arrangements for removing the use at the termination of the temporary permit. All setbacks, lane coverage of street parking, lighting, and protecting the public health safety of the inhabitants of the township of Ypsilanti. The tent and storage containers are in an area that would not hinder traffic flow or promote unsafe conditions at the shopping center. In classifying uses as not requiring capital improvement, the zoning board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as but not limited to the golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections. The planning department states that this use is in harmony with the current permitted use of the zoning district. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this ordinance.

The Applicant (Richard Tapper) presented and informed the Board that the temporary use permit is for June 22, 2022 - July 4, 2022. July 5th would be a day for checking inventory and packing the unsold and sending it back to Ohio. Mr. Tapper informed the Board that they have been using this location for the last 11 years and the same spots were used for the tent and the storage units. The fireworks would be secured at night in the storage unit, which would be secured by two locks (paddle and disc locks).

Ms. Kraycir requested Mr. Tapper to inform his customers while selling the fireworks at the ordinance in the township and when they can be used. The reason is that in 2020 – 2021 excessive use of fireworks had affected the community. Mr. Tapper stated that the State of Michigan requires that with every sale, the customer would be provided with a flyer informing them of the regulations.

MOTION: Ms. El-Assadi **MOVED** to approve the temporary use permit application to rent the storage display and sale of State of Michigan approved fireworks from June 22, 2022, through July 4, 2022, from the hours of 10 am to 10 pm within a 40 x 40-foot display tent and an 8 x 40 storage container to be located within the existing Roundtree shopping center parking lot 2243 Ellsworth Road, parcel K-11-18-100-003 with the following conditions.

- All necessary building and or trade permits shall be obtained from the Office of Community Standards prior to occupancy of the tent.
- The applicant shall post and make available to the public, Township Municipal Code Section 42-210 “Fireworks” outlining when fireworks may be discharged within Ypsilanti Township.

The **MOTION** was **SECONDED** by Mr. Smith and **PASSED** by unanimous consent.

B. APPLICANT: Phantom Fireworks – Richard Tapper

LOCATION: 3020 Washtenaw Ave, Ypsilanti, MI 48198

PARCEL: K-11-06-325-031

REQUEST: To consider the request for a temporary use permit to allow for the storage, display, and sale of State of Michigan-approved fireworks within the existing shopping center located at 3020 Washtenaw Ave.

Fletcher Reyher informed the Board of another request from Phantom Fireworks for a temporary use permit to allow for the storage display and sale of state of Michigan-approved fireworks from June 22, 2022, through July 4, 2022, located at 3020 Washtenaw Avenue, parcel K-11-06-325-031. The location of the proposed tent and storage unit would be in the Crunch Fitness parking lot, located at the corner of Washtenaw Ave. and Golfside Rd. Richard Tapper proposes to erect a 40 x 40- foot tent for the display and sale of Class C fireworks. In addition to the sales area, the applicant is proposing the utilization of an 8 x 40 fireproof shipping container for the storage of items not on display. Both the shipping container and the tent would be in the parking lot area of Crunch Fitness.

The applicant is proposing to operate at this location from June 22, 2022, to July 4, 2022 (10 am to 10 pm).

Mr. Reyher pointed out to the Board that Crunch Fitness and At Home has a shared parking agreement where patrons of the gym utilize the parking in front of the building as well as the parking on the parcel. The parcel is currently zoned B-3, General Business. The shopping center is home to Crunch Fitness, At Home Goods Store, Washtenaw Auto Care Center, and Victory Lane Quick Oil Change. Adjacent to this parcel there are residential properties north of Crunch Fitness and commercial and automotive uses around the proposed tent and storage container.

Mr. Reyher informed the Board that in January 2012, the State of Michigan enacted new legislation in relation to the sale of fireworks. As part of this new legislation, the local municipalities no longer have the authority to inspect or regulate the sale of fireworks. These inspections will be done by state inspectors. It is the opinion of the staff that the ZBA has the authority to grant a temporary use permit for the erection of a tent and the outdoor display and storage of fireworks.

The ZBA has the authority to permit the temporary erection of buildings and uses for periods of time that do not exceed two years. For periods of time, that do not exceed two years and undeveloped sections of the township, and for periods that do not exceed six months and develop sections. This proposal will only last a few weeks and is in a developed area.

The Zoning Board of Appeals in granting permits for the above temporary uses shall do so under the following conditions:

- The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted the storage and retail sale of fireworks and falls in line with the three general business zoning districts retailing a principal permitted use.
- The granting of temporary use shall be granted in writing stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of the said temporary permit.
- In classifying uses as not requiring capital improvement, the zoning board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as but not limited to the golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections. The planning department states that this use is in harmony with the current permitted use of the B-3 zoning district.
- The tenant and storage containers meet building and fire codes, and the Crunch Fitness parking lot is large enough to accommodate this type of use.
- No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this ordinance.

Mr. Reyher informed the Board that the public notices were sent out and Mr. Tapper has provided the Planning Department with a property permission form, insurance information, a map detailing the location of the tent and the storage container, dates, retail operation hours, and a submitted application to the office of Community Standards.

Mr. Burnett shared his concern about the parking lot that it was still unfinished, it hasn't been resurfaced and there is not much parking legally. And if there were people to drive through that north side, all the way to that West Side Exit, they would be driving parallel to the tent and storage unit, which could be unsafe.

Mr. Reyher mentioned that in recent history, there was a parcel split done on these parcels and the Shopping Centre as a whole. This left Crunch Fitness with a small chunk. However, there has been a shared parking agreement established between all the retail spaces and the homes parcel to the left. Patrons of Crunch Fitness often use the front entrance and utilize parking that is not necessarily on crunch fitness as property.

Mr. Tapper reassured the Board by stating that they have used this location over the last three years, and customers used to park in front of Crunch Fitness or parked on the street at the side of the location and there weren't any problems that were faced.

MOTION: Ms. El-Assadi **MOVED** to approve the temporary use permit application for the storage display and sale of State of Michigan approved fireworks from June 22, 2022, through July 4, 2022 hours of operation 10 am to 10 pm within a 40 x 40-foot display tent and an 8 x 40 storage container to be located within the former Farmer Jacks parking lot located at 3020 Washtenaw Avenue, parcel K-11-06-325-031 with the following conditions.

- All necessary building and or trade permits shall be obtained from the Office of Community Standards prior to occupancy of the tent.
- The applicant shall post and make available to the public, Township Municipal Code Section 42-210 "Fireworks" outlining when fireworks may be discharged within Ypsilanti Township.

The **MOTION** was **SECONDED** by Mr. Smith and **PASSED** by unanimous consent.

C. APPLICANT: LynxDx, Inc. – Steven Riggs

LOCATION: 2515 Ellsworth Rd, Ypsilanti MI 48198

PARCEL: K-11-18-100-013

REQUEST: To consider the request for a temporary use permit to allow for a temporary outdoor Covid-19 Testing Drive-Thru Clinic located at 2515 Ellsworth Rd.

Mr. Iacoangeli, the Township Planning Director, presented the request for LynxDx Inc, who is requesting a temporary use permit to allow for the operation of a COVID-19 testing drive-through, to be located at 2515 Ellsworth Road for a period of six months. The applicant is Steven Riggs

(LynxDx, Inc of Ann Arbor). The subject property is located near the corner of South Hewitt Rd and Ellsworth Rd in the parking lot of the former Walmart.

In a request dated January 28 2022. The applicant has proposed to erect a 40' x 8' x 9.6' shipping container/mobile office with an interior restroom. The facility is covered by a 12' x 25' fire resistant commercial-grade containment tent. The testing facility is powered by a 36k diesel generator with fuel supplied by a 500-gallon double-wall fuel tank. This generator and fuel tank are lined and surrounded by a commercial-grade containment berm. Hours of operation will be seven (7) days a week, 9am to 5pm. There are six (6) to eight (8) staff members at the facility at any given time. The applicant has estimated that 200-400 people visit the site per day. An online scheduling system is used to prevent traffic congestion around the facility. The certificate of liability insurance was submitted to the township.

Mr. Iacoangeli presented the aerial of the layout and the facility arrangement located in the parking lot. The diagram was provided by the applicant as a part of the application showing the container and then the tent location and the other facilities including the generator berm. The shopping plaza and the Roundtree shopping center are zoned B-3 general business. All of the other surrounding uses are general business in nature and to the east is an undeveloped parcel that zoned multiple families.

The townships staff believes that ZBA has the authority to grant a temporary use permit for the erection of a tent shipping container and related facilities, the LynxDx is a medical diagnostic company to operate an outdoor COVID facility for a period of six months.

The Zoning Board can grant temporary permits under the following conditions:

- The granting of temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein temporary use is permitted. They need to be consistent with a medical office or a medical facility permitted under the B-3 district.
- The granting of temporary use shall be granted in writing stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
- All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the Township of Ypsilanti, shall be made at the discretion of the zoning board of appeals or township planning commission.
- Scheduling software for testing is being used to limit traffic congestion around the testing facility. The property is currently vacant which limits conflict with this service and abutting businesses.
- In classifying uses as not requiring capital improvement, the zoning board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.

- The use shall be in harmony with the general character of the district and in harmony with the permitted uses of the zoning district. The property this testing site is located on is currently vacant.
- No temporary use permit shall be granted without first giving notice to owners of adjacent property. Pursuant to this public hearing, 300-foot notices were sent to all property owners within 300 feet of this property for this evening's meeting.

This facility is currently in operation. On Wednesday January 5, 2022, the Charter Township of Ypsilanti Planning Department became aware of the Covid-19 testing site through local newspaper articles, but there was no formal notification to the Township. The Township has agreed to allow LynxDx to formalize the process and submit all required materials to seek temporary use approval from the ZBA. On January 28th 2022, the Township received an application by LynxDX and scheduled a formal ZBA meeting for March 2nd 2022.

Anne Wagner representing LynxDX Inc informed the Board that LynxDX had partnered with the Washtenaw County Health Department since the beginning of the pandemic in 2020. And they requested LynxDX to open a site in Ypsilanti. This was deployed quickly due to a spike at the time. And with other municipalities that they have dealt with, they were granted a grace period to set up and then fulfill all the paperwork afterwards. Due to some miscommunication LynxDX assumed that Washtenaw County Health Department had asked LynxDx to set it up that they had already been in talks with Ypsilanti Township, but unfortunately, that that wasn't the case.

LynxDx has partnered with Washtenaw County Sheriff's Department, to assist with traffic. There were problems at the South Wagner location, and the Sheriff's Department had assisted. At the Ypsilanti location, the operation has been smooth. The number of patients a day is around 200. The reason for the delay in submission of the paperwork to the Board was the landlord was negotiating the lease and one of the provisions of the Board was the submission of the lease document.

Public Comment

Debbie Swanson, an Ypsilanti township resident and a trustee shared her concern that LynxDx Inc operation became aware to the public through media, when there was no formal notification to the Township. When partnering with the county and other organizations there are policies and processes that need to be followed and respected. There are zoning ordinances and the Zoning Board of Appeals that need to be respected by the community.

Public Comment Ended

The Board also shared their concern that LynxDx Inc did not follow protocols and has put the township in a very precarious position publicly. The Board suggested to Anne Wagner (LynxDx Inc) and to the leaders of the company that in the future, going forward that before any structure or any kind of intervention is made, they would need to contact the local municipality.

MOTION: Mr. Wilson **MOVED** to approve the temporary use permit applications permitting the operation of a COVID-19 drive through testing facility located at 2515 Ellsworth Road, parcel K-11-18-100-013, for a period of six months with the following conditions are necessary building and or trade permits shall be obtained from the Office of Community Standards. The **MOTION** was **SECONDED** by Ms. El-Assadi and **PASSED** by unanimous consent.

v. **OPEN DISCUSSION FOR ISSUES NOT ON AGENDA**

A. **PLANNING DEPARTMENT REPORT**

Mr. Iacoangeli updated the Board on the upcoming projects:

- Project Yoga, 181,000 square foot last mile distribution center at the corner of Rossville and Textile Road.
- Hercules Materials a concrete mixing plant proposal to build on Watson and State Street.
- Range U.S.A to be developed on James L. Hart Parkway.
- RNL carriers had a pre-construction meeting last Friday about the expansion of that freight terminal that's located on Emerick.

B. **CORRESPONDENCE RECEIVED**

None

C. **ZONING BOARD OF APPEALS MEMBERS**

None

D. **MEMBERS OF THE AUDIENCE/PUBLIC**

None

vi. **ANY OTHER BUSINESS THAT MAY COME BEFORE THE ZONING BOARD**

None

vii. **ADJOURNMENT**

MOTION: Ms. El-Assadi **MOVED** to adjourn at 7:38 pm. The **MOTION** was **SECONDED** by Mr. Wilson and **PASSED** by unanimous consent.

Respectfully Submitted by: Minutes Services