

**CITY OF DELAWARE
BOARD OF ZONING APPEALS
AGENDA**

**CITY COUNCIL CHAMBERS
1 S. SANDUSKY ST.
7:00 P.M.**

REGULAR MEETING

June 13, 2018

1. ROLL CALL
2. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on March 8, 2017, as recorded and transcribed.
3. REGULAR BUSINESS
 - A. 2018-1296: A request by Ryan Homes for approval of an off-premise sign at 535 Sunbury Road on approximately 1.01 acres zoned B-3 (Community Business District) and located just east of the Sunbury Road and Bowtown Road intersection for the Old Colony Subdivision.
4. BOARD MEMBER COMMENTS AND DISCUSSION
5. NEXT REGULAR MEETING: July 11, 2018
6. ADJOURNMENT

**BOARD OF ZONING APPEALS
MOTION SUMMARY
March 8, 2017**

ITEM 1. Roll Call

Chairman Dick called the meeting to order at 7:00 p.m.

Members Present: Beth Fisher, Adam Vaughn, Todd Daughenbauh, Councilman George Hellinger, Vice-Chairman Paul Junk, and Chairman Matt Dick.

Staff Present: Lance Schultz, Zoning Administrator

ITEM 2. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on October 12, 2016, as recorded and transcribed.

Motion: Vice-Chairman Junk moved to approve the Motion Summary for the Board of Zoning Appeals held on October 12, 2016 meeting, seconded by Mr. Vaughn. Motion approved by a 6-0 vote.

ITEM 3. ELECTION OF OFFICERS

Motion: Vice-Chairman Junk moved to nominate Mr. Dick as Chairperson, seconded by Mr. Vaughn. There were no other nominations. Motion approved by a 5-0-1 (Dick) vote.

Motion: Chairman Dick moved to nominate Mr. Junk as Vice-Chairperson, seconded by Mr. Daughenbaugh. Motion approved by a 5-0-1 (Junk) vote.

ITEM 4. REGULAR BUSINESS

A. 2017-0270: A request by Mr. Lawrence Ray for approval of a rear yard building setback variance from 40 feet to approximately 22 feet to construct a building addition on approximately 0.15 acres on property zoned R-3 (One-Family Residential District) located at 24 Winbeth Lane.

Chairman Dick swore in the following participants from the public:

Lawrence Ray
24 Winbeth Lane
Delaware, Ohio 43015

Mr. Schultz provided information on the proposed site plan and addition to the building. Mr. Schultz discussed existing conditions and staff recommendations. Mr. Schultz informed the Board that there were no concerns received to staff by surrounding neighbors.

APPLICANT:

Lawrence Ray
24 Winbeth Lane
Delaware, Ohio 43015

Mr. Ray discussed conversations that he had regarding the addition with surrounding neighbors.

Motion: Ms. Fisher moved to approve application 2017-0270, along with all staff conditions, finding beyond a reasonable doubt that the decision factors for approval of a Variance according to Chapter 1128 of the Planning and Zoning Code are met, seconded by Mr. Vaughn. Motion approved by a 6-0 vote.

B. 2015-0213: Resolution of the request by Yoav and Schlomo Botach to appeal an administrative decision by the code official requiring the condemnation/demolition of 15 Flax Street on approximately 3.61 acres zoned M-1 (Light Manufacturing District) under the 2000 International Property Maintenance Code.

Anticipated Process:

a. Staff Presentation

Mr. Schultz discussed the appeal process completed by the owner since 2015. The owner appealed the BZA latest decision to the court of common pleas and resulted in an Agreed Order by the court that the improvements made by the owner achieves compliance with the zoning code and International Property Maintenance Code and past violations are rendered moot.

A discussion was held on the process if the property is not kept to code in the future.

b. Commission Action-vote to acknowledge receipt of court order.

Motion: Vice-Chairman Junk moved to acknowledge the court ruling, seconded by Mr. Daughenbaugh. Motion approved by a 6-0 vote.

ITEM 5. BOARD MEMBER COMMENTS AND DISCUSSION

Chairman Dick requested an update on replacing the First Ward seat for the Board of Zoning Appeals. Mr. Schultz provided an update on a recent interview for the seat.

ITEM 6. NEXT REGULAR MEETING: April 12, 2017

ITEM 7. ADJOURNMENT

Motion: Vice-Chairman Junk moved to adjourn the Board of Zoning Appeals meeting, seconded by Mr. Vaughn. Motion was approved by a 6-0 vote. The Board of Zoning Appeals meeting adjourned at 7:22 p.m.

Matt Dick, Chairman

Elaine McCloskey, Clerk



BOARD OF ZONING APPEALS / STAFF REPORT

CASE NUMBERS: 2018-1296

REQUEST: Variance

PROJECT: 535 Sunbury Road

MEETING DATE: June 13, 2018

APPLICANT/OWNER

Ryan Homes
8351 N High Street, Suite 150
Columbus, Ohio 43235

REQUEST

2018-1296: A request by Ryan Homes for approval of an off-premise sign at 535 Sunbury Road on approximately 1.01 acres zoned B-3 (Community Business District) and located just east of the Sunbury Road and Bowtown Road intersection for the Old Colony Subdivision.

PROPERTY LOCATION & DESCRIPTION

The property is on the corner of Bowtown Road and Sunbury Road, south of Bowtown Road and north of Sunbury Road. The zoning of the property is B-3 (Community Business District) as are the properties to the east and to the northwest. The properties to the south are zoned B-4 (General Business Districts) and the properties to the north are a mix of R-3 (Single-Family Residential District), R-4 (Single-Family and Two-Family Residential District), and R-6 (Multi-Family Residential District).

BACKGROUND

The applicant is currently developing the nearby subdivision, Old Colony Estates, to the immediate northeast of the proposed sign location. The proposed sign location is on private property which would require a variance for an off-premise sign. The owner of the property, Authentic Foods LLC (Corner Café Restaurant), containing the proposed sign location has granted permission to the applicant, Ryan Homes, to construct the proposed sign on their property. The proposed sign would be a semi-permanent sign, staying in place for one year or until 85% of Old Colony Estates Phase 2 Subdivision houses has been sold. The applicant is proposing a sign area of 4 feet x 8 feet (32 square feet) and would be 8 foot tall. The proposed sign would not be illuminated.

STAFF ANALYSIS

• VARIANCE:

• **Schedule 1165.08(c)(6) Temporary Signs – Development Identification Signs (Location)**

Subdivisions or tracts of land with six (6) or more dwelling units, or non-residential developments larger than five (5) acres, may display one (1) temporary identification sign at each entrance to the subdivision or development. While the proposed sign location is not located on the parcel of land being improved.

- The proposed sign is not located on the parcel of land being improved (Old Colony Subdivision) which would require a variance for an off-premise sign
- The zoning code requires development identification signs to be a maximum five feet high and at total of 25 square feet in area.

- **VARIANCE REVIEW:** In considering whether or not a Variance shall be granted, the Board of Zoning Appeals is required to consider certain factors to determine if a practical difficulty exists. As listed below, Section 1128.09(c)(1) of the Planning & Zoning Code sets forth these factors. Following each factor in italics is a brief Staff analysis.

1. Whether the granting of the Variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.

The purpose and intent of the B-3 Ordinance is outlined in Section 1143.01 and states:

- a) *To provide in appropriate and convenient locations, sufficient areas for business activities, and the exchange of goods and services.*

- b) *To protect residential neighborhoods adjacent to business uses by restricting the types of establishments, particularly at the common boundaries, that would create congestion, noise or other objectionable influences.*
- c) *To protect and stabilize both residential and nonresidential developments from congestion by requiring off-street parking facilities.*
- d) *To carry out the following specific purposes:*
 3. *To provide Community Business Districts (B-3) that accommodate a wide range of commercial uses including automotive uses and outdoor activities as conditional uses in a manner that does not intrude upon residential areas.*

The purpose and intent of the Temporary Sign Ordinance is outlined in Section 1165.02(b)(10) and states:

- *A sign that is designed to be used only temporarily and is not permanently or not intended to be permanently, attached to a building or structure, or on the ground, and is in fact used for a time period of one year or less.*

Approval of the Variance is in accordance with the purpose and intent of the Ordinance as it would be considered inconsequential, temporary in nature, and would not likely be detrimental to the public welfare. The zoning code limits square footage, height, and location of signs to ensure such signage does not create a negative distraction to vehicular traffic and the health, safety and general welfare of the community. When referencing the proposed signage, given the scale and appearance of this particular building, the placement of the proposed identification sign would appear to be in-scale and in-balance with the building elevations. The Corner Café Restaurant at 535 Sunbury Road has an approximate frontage of 85 feet and the maximum area regulation for a permanent freestanding identification sign in a B-3 District would allow up to 42.5 square feet of signage for this parcel, which is greater than the proposed sign. In addition, there are more commercial identification signs along Sunbury Road/State Route 36/37 than Bowtown Road. Therefore, the applicant is not proposing a type of sign that is contrary to the character of the surrounding area and the size would not be disproportionate to the building on which it will be placed if the sign achieves compliance with all the other minimum zoning requirements.

2. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions.

While the subject site does not have any special conditions or circumstances, the Old Colony Estates subdivision potentially does. There is only a narrow strip of Old Colony subdivision property that fronts Bowtown Road where a potential development sign could be located but would potentially cause problems with the sight distance triangle if a sign were to be placed at that location. In addition, the stretch of Bowtown Road near the entryway of this subdivision contains only a few identification signs. These signs are setback further from Bowtown Road than the entryway to Old Colony Estates. Furthermore, the nature of the proposed sign could be characterized as a directional sign and there are no directional signs within the immediate area of Bowtown Road

3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty; there shall be deprivation of beneficial use of land.

Both the property in question and Old Colony Estates will continue to be used as such with or without approval of this Variance.

4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the Variance.

Although the request is not compliant with the sign code requirements for a B-3 zoning district (off-premise sign), the character of the neighborhood would not likely be "substantially altered" if a

development identification sign was located on the parcel of land being improved. The corridor of Bowtown Road is a relatively low-density area where there are only a few small identification signs. However, the Sunbury Road/State Route 36 and 37 corridor has several existing commercial businesses with signage which creates an identity that would be more inclusive of the proposed sign.

5. Whether the Variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

The delivery of governmental services, particularly emergency services, would not be impacted with approval of this Variance.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

Staff would not know if the applicant purchased the property that is now Old Colony Estates with knowledge of these zoning restrictions.

7. Whether special conditions or circumstances exist as a result of actions of the owner.

It is not likely any special conditions or circumstances occurred because of the actions of the owner.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

The applicant could not likely construct sufficient development identification on the subject parcel on Bowtown Road. This alternate location not only would provide adequate visibility for a new subdivision, but would have a greater impact than the subject parcel at the Bowtown Road location. The intersection of Old Colony Road and Bowtown Road has a higher concentration of residential lots while there is a higher concentration of identification signs along Sunbury Road/State Route 36/37 than along Bowtown Road.

9. Whether there is evidence of Variances granted under similar circumstances.

Staff cannot recall approving a temporary off-premise development identification or directional sign that is not located on the parcel of land being developed or otherwise unless in a master planned development with approved development text.

10. Whether the granting of the Variance is necessary for the reasonable use of the land or building, and the Variance as granted is the minimum Variance that will accomplish that purpose.

The property is currently zoned B-3 (Community Business District) and will continue to be used as such with or without approval of this Variance. As a result, a Variance is not necessary for the reasonable use of the land. However, the granting of this variance could be construed as necessary for the reasonable use of the Old Colony Subdivision as identification signs are permitted for new developments. Granting of this Variance would provide directional visibility from the primary travel-way to this site

11. Whether the proposed Variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.

The variance would not likely have an impact on any of the aforementioned issues.

12. Whether the granting of the Variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

If the Board finds that the standards for approval of a Variance (with conditions) are met then no special privilege is granted.

CONCLUSION

Staff would recommend approval of the subject variance if the adjacent residents do not have significant opposition for the following reasons: 1.) The proposed off-premise sign would be compatible with the existing commercial signage in the corridor along US 36/37; 2). The Old Colony Subdivision Phase 2 only has frontage on its internal subdivision streets and does not have exposure to a non-residential street for a development identification sign; 3). The subject temporary off-premise development identification sign would have to achieve compliance with all other zoning requirements (size, height, location, etc.)

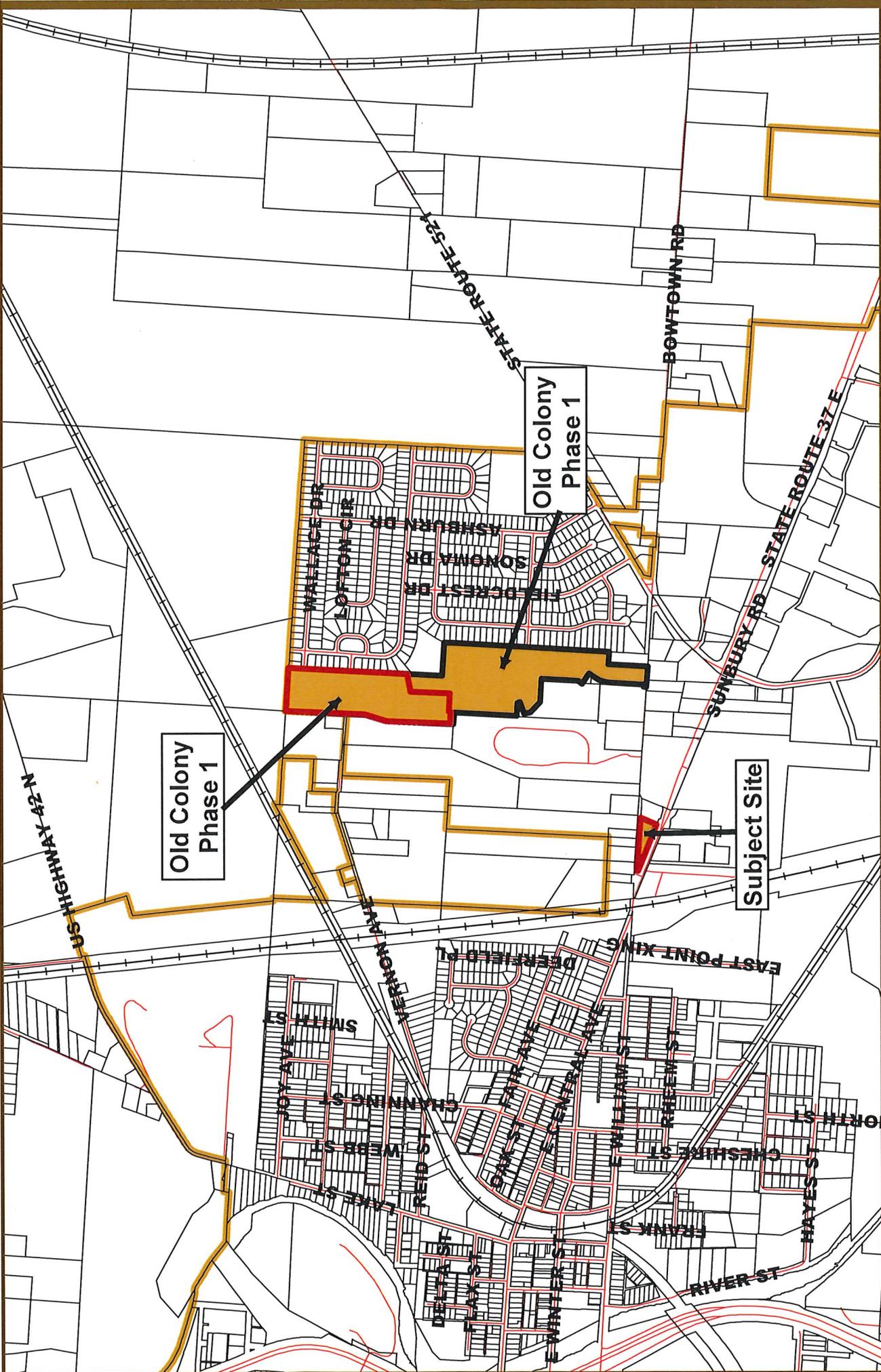
STAFF RECOMMENDATION – VARIANCE (2018-1296)

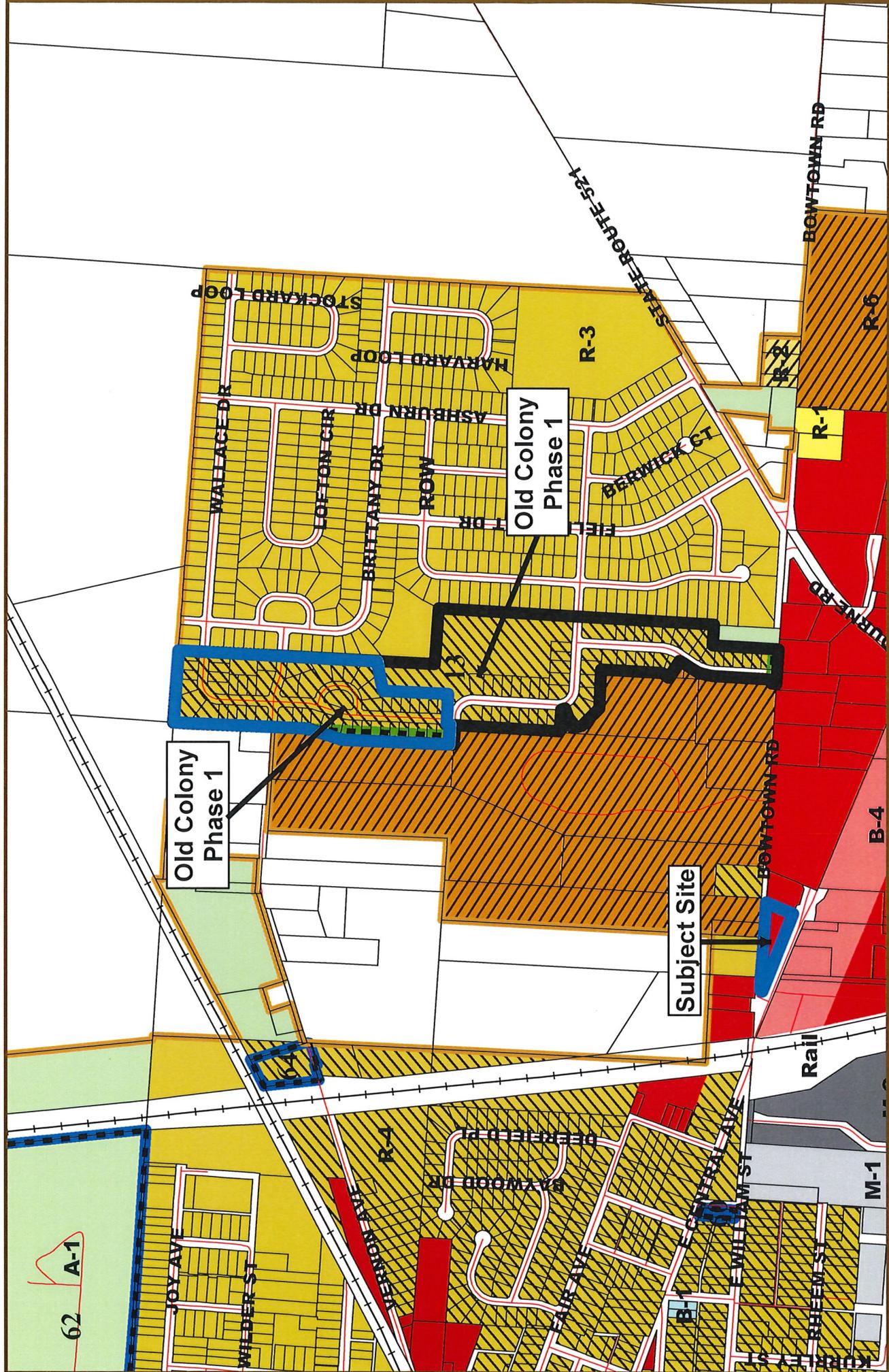
Staff recommends a request by Ryan Homes for an off- premise sign at 535 Sunbury Road on approximately 1.01 acres zoned B-3 (Community Business District) and located just east of the Sunbury Road and Bowtown Road intersection for the Old Colony Subdivision, with the following conditions that:

1. The proposed sign shall be temporary and limited to one year from the date of the BZA approval or until 85% of Old Colony Estates Phase 2 Subdivision houses have been sold, whichever is less.
2. The proposed sign shall not exceed 5 feet in height..
3. The proposed sign area shall not exceed 25 square feet.
4. The proposed sign shall be setback a minimum 10 feet from the right-of-way.
5. The proposed sign shall not be illuminated.



2018-1296
Variance
535 Sunbury Road
Location Map





2018-1296
 Variance
 535 Sunbury Road
 Zoning Map



2018-1296
Variance
535 Sunbury Road
Aerial (2016) Map



May 24, 2018

The City of Delaware

Variance application for signage on the corner of 36 & Bowtown Road

To Whom It May Concern,

We are proposing to have a sign placed on the corner of 36 & Bowtown Road for our Old Colony community in Delaware, Ohio. This will be a semi-permanent sign, staying in place until 85% of the community is sold or one calendar year. We agree to keep the sign in good working condition for the duration it is in place. The proposed location is on private property and we have received permission from the property owner. We understand that signage in this location is typically prohibited, but we will make sure to follow all legalities regarding the right of way and not to cause any distraction to the roadways. This signage will not only create awareness for our Old Colony community, but will also drive business to Delaware City. I've attached a proof of the signage with this letter as well as a map of the proposed location. We thank you for your consideration and understanding.

Sincerely,

Megan Carnes

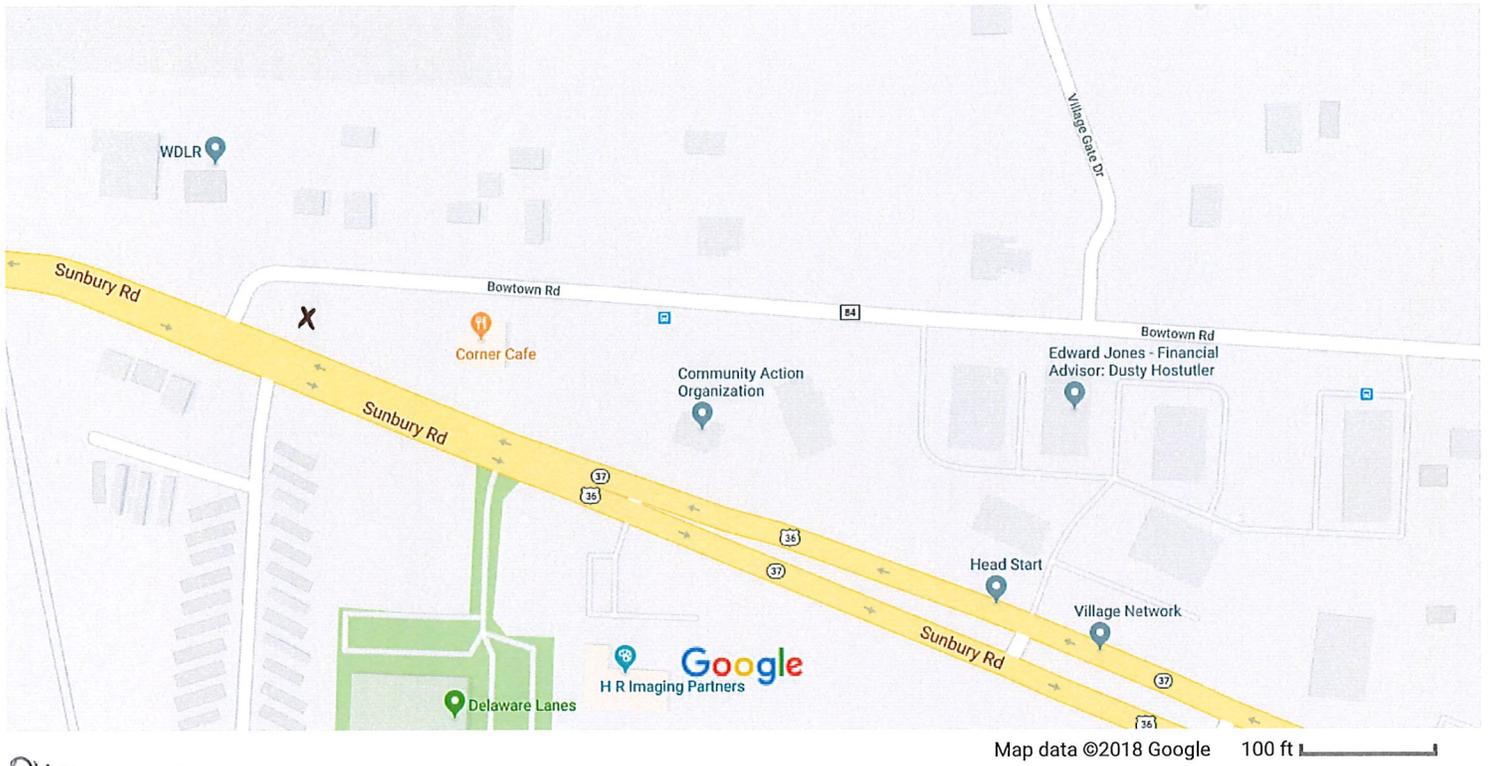
Regional Sales Specialist

Columbus Division

8351 N High Street Ste. 150

Columbus, OH 43235

Direct: (614) 468-7110



Owner: Authentic Foods LLC
Parcel #: 619-443-01-002-000

48"

48"



OHIO'S TOP BUILDER

Ryan Homes

Old Colony

From the Mid

\$200's

740-417-4290

RyanHomes.com



OHIO'S TOP BUILDER

Ryan Homes

Old Colony

From the Mid

\$200's

740-417-4290

RyanHomes.com

96

proposed second sign
5/3/18



**CITY OF DELAWARE, OHIO
PLANNING & COMMUNITY DEVELOPMENT
MASTER APPLICATION FORM**

RECEIVED

MAY 25 2018

EST 1808

CITY OF

DELAWARE

OHIO

CITY OF DELAWARE
PLANNING & COMMUNITY DEV.

Project # _____

Case # 2018-1296

Planning Commission

- | | | |
|--|---|---|
| <input type="checkbox"/> Amended Final Development Plan | <input type="checkbox"/> Final Development Plan Extension | <input type="checkbox"/> Substitution of a Non-Conforming Use |
| <input type="checkbox"/> Amended Final Subdivision Plat | <input type="checkbox"/> Final Subdivision Plat | <input type="checkbox"/> Vacation-Alley |
| <input type="checkbox"/> Amended Preliminary Development Plan | <input type="checkbox"/> Final Subdivision Plat Extension | <input type="checkbox"/> Vacation-Easement |
| <input type="checkbox"/> Amended Preliminary Subdivision Plat | <input type="checkbox"/> Floodplain Permit | <input type="checkbox"/> Vacation-Street |
| <input type="checkbox"/> Annexation Review | <input type="checkbox"/> Lot Split | Board of Zoning Appeals |
| <input type="checkbox"/> Combined Preliminary & Final Development Plan | <input type="checkbox"/> Pre-annexation Agreement | <input type="checkbox"/> Appeal Administrative Decision or Interpretation |
| <input type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Preliminary Development Plan | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Concept Plan | <input type="checkbox"/> Preliminary Dev Plan Extension | <input type="checkbox"/> Substitution of Equal or Less Non-Conforming Use |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Sub Plat | <input checked="" type="checkbox"/> Variance |
| <input type="checkbox"/> Determination of Similar Use | <input type="checkbox"/> Preliminary Sub Plat Extension | |
| <input type="checkbox"/> Development Plan Exemption | <input type="checkbox"/> Rezoning | |
| <input type="checkbox"/> Final Development Plan | <input type="checkbox"/> Subdivision Variance | |

Subdivision/Project Name Old Colony Address 108 Old Colony Drive

Acreage _____ Square Footage _____ Number of Lots _____ Number of Units _____

Zoning District/Land Use _____ Proposed Zoning/Land Use _____ Parcel # _____

Applicant Name Ryan Homes Contact Person Megan Carnes

Applicant Address 8351 N High Street Ste. 150

Phone 614-468-7134 Fax 7110 E-mail mcarner@nvrinc.com

Owner Name Authentic Foods LLC Contact Person Tenia

Owner Address Sunbury Rd + Bontown Rd

Phone 740-816-0385 Fax _____ E-mail teniavel@gmail.com

Engineer/Architect/Attorney _____ Contact Person _____

Address _____

Phone _____ Fax _____ E-mail _____

The undersigned, do hereby verify the truth and correctness of all facts and information presented with this application and authorize field inspections by City Staff.

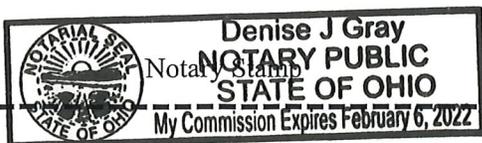
T. Velatis
Owner Signature

Theoplasti Velatis
Owner Printed Name

[Signature]
Agent Signature

JEFF WAYNE
Agent Printed Name

Sworn to before me and subscribed in my presence this 21st day of May, 2018



[Signature]
Notary Public



Sarah Fuller 5/23/18