

**MINUTES  
FOR THE June 21, 2012  
AVON BOARD OF ZONING APPEALS  
REGULAR MEETING**

**I. Call to Order/Pledge of Allegiance – 7:03pm**

**II. Roll Call/Determination of a Quorum**

**III. The Avon Board of Zoning Appeals held a regular meeting on June 21, 2012 at the Avon Town Hall. In attendance were: Kashif Khan, Vernon Lorenz, Corey Herbert, and Paul Guckenberger as were Assistant Planner Joe Smoker and Attorney Darren Chadd.**

**IV. Consideration of meeting minutes:**

Voice vote called to approve the May 17, 2012 meeting minutes. Minutes approved 4-0-1.

**V. Requests for Continuances and Other Agenda Modifications:**

**VI. Old Business:**

**VII. New Business:**

**VAR (U) 12-05: 187 & 203 N. SR 267** for a use variance to: 1) allow multiple primary uses on a single lot; 2) allow an outdoor garden center as a permitted use currently not listed in the C-2 District; 3) allow a mulch parking lot; and 4) allow a fence in the front yard of a commercial district. The property is a 2.06 acre parcel in the Town of Avon, Section 2 Township 15N, Range 2E and Section 3 Township 15N, Range 1E Parcel Number(s) 32-10-02-353-001.000-031 and 32-10-02-353-002.000-031 located at 187 and 203 North State Road 267 near the intersection of N SR 267 and Maple Drive in a C-2: General Commercial District.

Joe Smoker presented for staff.

The Plan Commission Staff recommends denial of VAR (U) 12-05: 187 & 203 N SR 267.

Mr. Guckenberger asked if the flawed notice got corrected.

Mr. Smoker stated it did not; it is up to the board to decide if notice was available.

Mr. Chadd stated details are on the Rules of Procedure.

Mr. Guckenberger believes the notice should include all the information.

Roger Day discloses steps for filing information, claims form and staff misled the notice.

Mr. Day believes board should make decision.

Mr. Chadd references the notice letter.

Mr. Khan asked Mr. Chadd to read requirement.

Mr. Guckenberger made motion to continue petition for adequate legal notice.

Motion made by Mr. Guckenberger to continue VAR 12-05(U): 187 & 203 N. SR 267. Motion seconded by Mr. Lorenz. Roll call vote called.

Mr. Herbert                      against

Mr. Guckenberger            for

Mr. Childs                      absent

Mr. Khan                        against

Mr. Lorenz                      for

2 for, 2 against, 1 absent. Motion failed 2-2-1.

Mr. Guckenberger made motion to not waive ROP. Motion is withdrawn.

Mr. Chadd references complete notice in newspaper.

Mr. Khan made motion to move forward with the petition.

Motion made by Mr. Khan to move forward with hearing VAR 12-05(U): 187 & 203 N. SR 267. Motion seconded by Mr. Guckenberger. Roll call vote called.

Mr. Herbert	for
Mr. Guckenberger	against
Mr. Childs	absent
Mr. Khan	for
Mr. Lorenz	for

3 for, 1 against, 1 absent. Motion carried 3-1-1.

Roger Day – Petitioner

Mr. Day stated he has resided in Avon for 27yrs and home with intention to start a business.

Mr. Day references Shirley Meece as the owner of property at 187 & 203 N. SR 267.

Mr. Day stated 11 other users were interested in property and have been turned down.

Mr. Day believes himself and Shirley Meece are being singled out.

Mr. Day stated he was told he could do something and then told he couldn't.

Mr. Day provided photos of surrounding commercial properties.

Mr. Day stated he thinks Avon needs a center in the heart of Avon.

Mr. Day stated financial constraints as reason for not locating on US 36.

Mr. Day provided more photos of structures outside of Avon, similar to request.

Mr. Day references outside displays in other places.

Mr. Day would like to develop Lot 2 as a "Tropical Garden".

Mr. Day stated he would like to bring other small business owners.

Mr. Day submitted additional photos of indoor items for sale.

Mr. Day also stated he plans on teaching classes.

Mr. Day provided more photos of landscaping.

Mr. Day stated the fence would be used to store items behind the fence. He also stated is would provide security and seclusion.

Mr. Day stated he wants to do a mulch parking lot to absorb water and oils.

Mr. Herbert opened the public hearing at 8:03am.

Mr. Jim Austin – 204 Venable Drive – against.

Mr. Austin stated he has concerns about depreciation of property values.

Mr. Austin stated the last 3 months of Mr. Day's lease has had weeds, mulch piles, and outdoor storage on the property.

Mr. Austin also has concerns about upkeep and health hazards.

Mr. Day references the 8' fence on Jim Austin's property.

Mr. Day questioned property value question from Mr. Austin.

Mr. Day stated he will employ 7 full time and 7 part time employees.

Mr. Day comments on the staff's finding of facts report.

Mr. Day stated business pays more than residence.

Mr. Austin had no additional comments.

Mr. Hebert closed the public hearing at 8:12pm.

Mr. Khan asked if he plans to uses professionals to develop site.

Mr. Day stated he plans to develop the site in the future, but needs revenue first.

Mr. Day stated he will develop as Planning Staff requires in the future.

Mr. Lorenz stated the Zoning Ordinance exists to ensure proper development, not thrown up items.

Mr. Lorenz stated if you place a permanent structure on Lot 2 that would be good.

Mr. Lorenz stated Town wants to ensure proper development.

Mr. Lorenz stated Town is not against Mr. Day, as a person.

Mr. Day references to existing resident in hopes of staying.

Mr. Lorenz stated Mr. Austin's concern about surroundings, not direct visual.

Mr. Day references discussing plans with surrounding businesses.

Mr. Guckenberger stated parking lot of mulch would allow oil to seep through.

Mr. Day stated the mulch acts like a filter; the mulch would be changed out 1 time per year and replaced.

Mr. Day stated he does not want to contaminate the well.

Mr. Smoker responds to questions and comments by petitioner.

Motion made by Mr. Lorenz to deny VAR 12-05(U): 187 & 203 N. SR 267, requests A, B, C, D. Motion seconded by Mr. Guckenberger. Roll call vote called.

Mr. Herbert	for
Mr. Guckenberger	for
Mr. Childs	absent
Mr. Khan	for
Mr. Lorenz	for

4 for, 0 against, 1 absent. Motion carried 4-0-1.

**SE 12-02: 7367 BUSINESS CENTER DRIVE** to allow an indoor firing range within a C-2 District. The property is a .57 acre parcel in the Town of Avon, Section 11 Township 15N, Range 1E, Parcel Number(s) 32-10-11-140-001.000-031, located at 7367 Business Center Drive near the intersection of US Highway 36 and Business Center Drive in a C-2: General Commercial District.

Mr. Guckenberger excuses himself at 8:32pm.  
Mr. Johnson is introduced as alternate.  
Mr. Smoker presented for staff.  
Mr. Lorenz asked if monitoring sound is possible.  
Mr. Smoker stated technology exists to monitor the sound.  
Andy Kult – Comer Law Office – for Petitioner  
Mr. Kult speaks to case details.  
Mr. Kult provided a packet to the board.  
Mr. Kult stated site plan indicates bollards.  
Mr. Kult provides details on building retrofit and sample of sound proofing.  
Mr. Kult stated they will offer classes on firearms training.  
Mr. Kult stated noise issue, will provide block walls interior to existing wall.  
Mr. Kult provided letters of support.  
Mr. Kult provided details noise concern and provisions.  
Mr. Kult references letter of support from police members.  
Mr. Khan asked about parking available.  
Mr. Lorenz leads discussion about police support and use.  
Mr. Herbert opened public hearing at 8:57pm.  
Mr. Austin – for petitioner- supports use for gun owners and a need for the area.  
Mr. Herbert closed public hearing 8:58pm.  
Mr. Lorenz asked if staff is okay with parking numbers.  
Mr. Smoker stated staff calculated and number is okay.  
Mr. Lorenz made motion for approval.  
Mr. Kult asked if petitioner can agree to meet CH 14 standards.  
Mr. Lorenz amended motion to petitioner will ensure to meet standards.  
Mr. Khan asked about company used to develop gun range.  
Joe Sellmer confirms.  
Mr. Khan would prefer actual information on sound barrier.  
Mr. Sellmer state information and materials are on the website.  
Mr. Lorenz asked if conditions ensured outside of BZA.  
Mr. Smoker and Mr. Chadd both confirm.

Motion made by Mr. Lorenz to approve SE 12-02: 7367 Business Center Dr. Motion seconded by Mr. Johnson. Roll call vote called.

Mr. Herbert	for
Mr. Guckenberger	Dismissed
Mr. Childs	absent
Mr. Khan	for

Mr. Lorenz                    for  
Mr. Johnson                for

4 for, 0 against, 1 absent, 1-dismissed. Motion carried 4-0-1-1.

**VIII. Other Business - None**

**IX. Adjournment – 9:10 p.m.**

**NEXT BOARD OF ZONING APPEALS MEETING  
Thursday, August 16, 2012**

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**Corey Herbert – President**

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**Joe Smoker-Secretary**