

STAFF REPORT

Application:	Requests related to the expansion of an existing business. Approvals required include a Conditional use permit to exceed 35% impervious coverage on a parcel used for a truck repair, parts and towing business.
Applicant:	John and Bonnie Farrington
Property Owner:	JB Farrington Properties LLC
Agenda Item:	4(b)

Background Information:

- **Proposal:** The applicants are proposing to construct an addition to their existing building that will put the property over the 35% impervious coverage limit. Impervious coverage is allowed to go up to 50% only by conditional use.
- **Location:**
 - Property address: 19451 139th Ave
 - Parcel number(s): 27.50.00210 (PIDs 27.50.00100 and 27.15.02620 are also adjacent and used by the same business/property owners)
- **Zoning:** Commercial
- **Lot size:** Approx. 11,650 sq ft (0.27 acres) according to County GIS estimate.
 - Existing Impervious Coverage: About 2,700 sq ft (23.18%)
 - Proposed Impervious Coverage: About 5,770 sq ft (49.53%)
- **Septic System Status:** The property is served by private sewer and water. The sewer system is indicated as being located north of the existing building and not in the area of the proposed addition.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain.
 - Bluff/Steep Slopes: The lot does not contain a bluff. The lot does not contain steep slopes that would impact the proposed improvement(s) to the property.
 - Wetlands: There are not wetlands that are likely to be impacted by the proposed improvement(s) to the property.

Planning Commission Action: The Planning Commission may recommend approval of the variance request, denial of the request(s), or tabling the request(s) if the Commission should need additional information from the applicant. If the Commission should recommend approval or denial of the request, the Commission should state its recommended findings which support either of these actions.

Staff Comments:

1. To exceed 35% impervious coverage, the Township ordinance requires "The allowable impervious coverage may be increased to 75% on legal nonconforming lots smaller than 0.5 acres, or to 50% on lots of at least 0.5 acres, by conditional use permit and with the submittal and implementation of a comprehensive stormwater management plan acceptable to the Township that emphasizes the onsite treatment and storage of stormwater and any irrigated water through a combination of methods which may include buffer strips, swales, rainwater gardens, retention or infiltration ponds or other acceptable best management practices. The Township may require such plans to be designed by an engineer or other qualified professional and reviewed by an independent engineer or other qualified professional before approving such plan."

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Conditional Use only if it is found that the standards for approval have been met.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. The applicant implement a plan for managing stormwater that promotes infiltration of water on the property rather than it running off the property.
2. Applicant shall reimburse the Township for all reasonable administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, enforcement or execution of said CUP application or this CUP. Applicant agrees to pay all such reasonable costs within 30 days of billing by the Township. Bills not paid within 30 days of billing by the Township shall accrue interest at the rate of 6% per year. Further, if Applicant fails to pay said amounts within the time permitted, the Township may specially assess such costs against Applicant's Property. Applicant by accepting this CUP knowingly and voluntarily waives any and all rights to appeal any certification/assessment under any applicable statutes, the Constitution, and case law.
3. A certified copy of the Variance shall be recorded by Applicant with the Hubbard County Recorder or Registrar of Titles. It shall include the legal description and property identification number of the parcel as identified herein.
4. Applicant shall at all times comply with all Township, County, State and Federal laws applicable to the property.
5. Applicant shall at all times comply with the conditions of this Variance. Upon written notice of any violation the Applicant shall promptly remedy the violation within the time period specified by the Township. Any violation not remedied or addressed shall be subject to Variance review and may be basis for Variance termination.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) The maintenance of safe and healthful conditions as well as the general health, safety and welfare of the residents.

Findings Supporting Approval

The primary impact on the health, safety and welfare of Township residents would likely be from excessive runoff from the property creating property damage or devaluing neighboring properties. The conditions of approval require the implementation of a suitable stormwater management plan designed to promote the infiltration of water as much as feasible before leaving the property.

Findings Supporting Denial

The primary impact on the health, safety and welfare of Township residents would likely be from excessive runoff from the property creating property damage or devaluing neighboring properties. The property does not contain enough space for proper management of stormwater before leaving the property to prevent potential negative impacts to neighboring properties.

2) The prevention and control of water pollution including sedimentation.

Findings Supporting Approval

All stormwater that would be running off of the proposed improvements would be adequately handled on-site without creating a negative impact on public waters or wetlands.

Findings Supporting Denial

The property does not contain enough space for proper management of stormwater before leaving the property to prevent potential negative impacts to neighboring properties.

3) The impact on existing topographic and drainage features and vegetative cover on the site.

Findings Supporting Approval

The proposed use will not significantly change the topography of the site and will not significantly alter drainage onto neighboring properties.

Findings Supporting Denial

The addition will put significant additional building near to neighboring properties without adequate plans submitted to show how the stormwater on the property will be managed to prevent negative impacts.

4) The location of the site with respect to existing or future access roads.

Findings Supporting Approval

The proposed use would not appear to create the need for any future access roads.

Findings Supporting Denial

None

5) The compatibility with uses on adjacent land.

Findings Supporting Approval

The proposed use is commercial in nature and is compatible with the historical use of the property as a auto/truck repair business.

Findings Supporting Denial

None

6) The compatibility with a desirable pattern of development in the area and in the township.

Findings Supporting Approval

The proposed use should not have any significant impact on the development of surrounding land as the primary use of the property will remain commercial in character.

Findings Supporting Denial

None

7) The adequacy of the proposed wastewater treatment system for the new use.

Findings Supporting Approval

The site is served with an existing septic system installed in 2002 that will not be negatively impacted by the proposed addition.

Findings Supporting Denial

None

8) The compliance with the Todd Township Community Comprehensive Plan and other Todd Township Ordinances, as amended or any other ordinance, rule or statute.

Findings Supporting Approval

The proposed use is allowed by the Todd Township ordinance. The applicant is also requesting a variance from the required side yard setback.

Findings Supporting Denial

None

9) The proposed use can be accommodated with existing public services and will not overburden the town's service capacity.

Findings Supporting Approval

The proposal should have no significant impact on public services as the site is already served with electric service and is accessed via existing public roads.

Findings Supporting Denial

None

10) The traffic generated by the proposed use is within the capabilities of the roads serving the property.

Findings Supporting Approval

The proposal will not significantly change traffic levels beyond what already occurs,

Findings Supporting Denial

None

11) The effect of the proposed use on groundwater, surface water and air quality.

Findings Supporting Approval

With proper management of stormwater, the impact on groundwater, surface water and air quality will be minimal.

Findings Supporting Denial

The property does not contain enough space for proper management of stormwater before leaving the property to prevent potential negative impacts to nearby surface waters.

12) Whether such use will tend to or actually depreciate the value of other properties in the area in which it is proposed.

Findings Supporting Approval

Given that the use of the property will remain as it already is and adequate stormwater management practices, the use shall not have any significant impact on nearby property values.

Findings Supporting Denial

The property does not contain enough space for proper management of stormwater before leaving the property to prevent potential negative impacts on the value of neighboring properties.

Appendix A

Applicable Statutes and Ordinances

Todd Township/Hubbard County Regulations

3.13 CONDITIONAL USES

All applications for conditional use permits will be submitted to the zoning administrator for presentation to the planning commission. The zoning administrator will notify all property owners within five-hundred (500) feet and/or the ten (10) nearest adjoining landowners near the affected property, whichever is greater. The zoning administrator shall publish notice of the public hearing in the official newspaper at least ten (10) calendar days prior to the date of the public hearing of which the Hearing date cannot be counted. The planning commission will hear requests for conditional use permits in accordance with the rules that it has adopted for the conduct of business.

3.13.01 Conditional Use Review Criteria

In reviewing an application for a conditional use permit; the planning commission will evaluate the effects of the proposed use using criteria including but not limited to the following:

- A. The maintenance of safe and healthful conditions as well as the general health, safety and welfare of the residents; and
- B. The prevention and control of water pollution including sedimentation; and
- C. The impact on existing topographic and drainage features and vegetative cover on the site; and
- D. The location of the site with respect to existing or future access roads; and
- E. The compatibility with uses on adjacent land; and
- F. The compatibility with a desirable pattern of development in the area and in the township; and
- G. The adequacy of the proposed wastewater treatment system for the new use; and
- H. The compliance with the Todd Township Community Comprehensive Plan and other Todd Township Ordinances, as amended or any other ordinance, rule or statute; and
- I. The proposed use can be accommodated with existing public services and will not overburden the town's service capacity; and
- J. The traffic generated by the proposed use is within the capabilities of the roads serving the property; and
- K. The effect of the proposed use on groundwater, surface water and air quality; and
- L. Whether such use will tend to or actually depreciate the value of other properties in the area in which it is proposed.; and

3.13.02 Additional Information for Conditional Use

In considering the application for a conditional use permit, the planning commission may recess the hearing to a future time and may defer action or consideration until further information from the applicant is submitted as required by either the planning commission and/or the town board. Such information may include, but is not limited to, the following:

- A. A plan of the area showing contours, soil types, ordinary high-water level, groundwater conditions, bedrock, slope and vegetative cover.
- B. Location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping.
- C. Plans of buildings, wastewater treatment systems, water supply systems, and arrangements of operations.
- D. Specifications for areas of proposed filling, grading, lagoons, or dredging.
- E. Other pertinent information necessary to determine whether the proposed use meets the requirements of this ordinance.

3.13.03 Conditional Use for Unusual Conditions

In recommending a conditional use permit, the planning commission may recommend additional conditions, in addition to the requirements specified by this ordinance, which the planning commission considers necessary to protect the best interest of the surrounding area and the township as a whole. Violation of any of these conditions will be a violation of this Ordinance. Such conditions may include, but are not limited to the following, specifications for type of shore cover, increased setbacks, screening, wastewater treatment and water supply systems, landscaping and screening, period of operation, operational control, sureties, deed restrictions, parking and signs, type of construction or any other requirements necessary to fulfill the purpose and intent of this Ordinance.

3.14 Failure to Act

Failure to act on a conditional use permit or establish the use by the property owner within six (6) months, unless extended by the township board prior to expiration, will void the permit. Applicant must submit in writing one month prior to expiration a request for an extension. The township, at its discretion, shall determine whether or not the property owner(s) has acted or failed to complete work.

3.14.01 Authority to Grant Conditional Use

Town board grants conditional use permit upon review and recommendation with findings and by the town board passing a resolution granting the conditional use permit from the planning commission. Conditions may be applied to the granting of the permit.

5.05 Commercial District

The purpose of this district is to promote the concentration of a wide range of commercial and recreational establishments into a general commercial area to service residents and the traveling public. A commercial district is near existing business areas. The commercial district varies in size and depth from the road rights-of-way as shown on the Todd Township Official Land Use Map. This district is intended to meet the following Todd Township Comprehensive Plan goals:

- o Regulate scattered and fragmented commercial uses
- o Support living wage opportunities
- o Identify the types of suitable commercial growth in township

5.05.01 Lot Requirements

- A. Minimum acreage: 43, 560 square feet (1 acre)
- B. Minimum lot width: 200 Feet
- C. Setbacks from:
 - Property line - 10 feet
 - Public road right of way - 35 feet (from right-of-way) or 65 feet from the centerline of the traveled roadway, whichever is more restrictive.
 - County right of way - 35 feet
 - Township and other rights-of-way - 35 feet
- D. Maximum impervious lot surface - 35%
 1. The allowable impervious coverage may be increased to 75% on legal nonconforming lots smaller than 0.5 acres, or to 50% on lots of at least 0.5 acres, by conditional use permit and with the submittal and implementation of a comprehensive stormwater management plan acceptable to the Township that emphasizes the onsite treatment and storage of stormwater and any irrigated water through a combination of methods which may include buffer strips, swales, rainwater gardens, retention or infiltration ponds or other acceptable best management practices. The Township may require such plans to be designed by an engineer or other qualified professional and reviewed by an independent engineer or other qualified professional before approving such plan.

5.05.02 Permitted Uses

The following uses are permitted subject to any applicable performance and general development standards contained in Sections 6 and 7 of this ordinance:

- A. Accessory uses and structures that are incidental to the principal use
- B. Antennas - receiving short wave/private transmitting, personal wireless service and microwave, subject to the conditions of Section 6 & 7 of this ordinance
- C. Bait shops
- D. Beauty shops
- E. Churches
- F. Community buildings
- G. Commercial Day care centers
- H. Eating and drinking establishments
- I. Essential services - distribution and utility substations
- J. Financial institutions
- K. Golf courses and club houses
- L. Government and administrative buildings
- M. Grocery stores
- N. Health clubs

- O. Landscape, nursery, greenhouse or garden sales
- P. Liquor-off sale - must have pre-approved license
- Q. Lumber sales/warehouse
- R. Offices, clinics
- S. Outdoor display
- T. Retail uses
- U. Self-service storage facilities
- V. Solar Energy Systems - Accessory
- W. Veterinary clinics

5.05.03 Conditional Uses

The following uses may be allowed as conditional uses following the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Section 6 and 7 of this ordinance.

- A. Contractor shop (i.e. plumber/electrician/landscaper
- B. Drive in businesses
- C. Grain and seed sales and storage
- D. Gas Station (minor repairs) and/or convenience stores
- E. Hotels, motels
- F. Kennels, commercial, boarding only
- G. Motor Vehicle Repair
- H. Outdoor sales lots, including used cars, trucks, trailers and farm implements
- I. Packaging/warehouse
- J. Salvage yard
- K. Solar Farm
- L. Theatres - indoors
- M. Churches
- N. Schools

5.05.04 Interim Use Permits

The following uses may be allowed as interim uses subject to the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Sections 6 & 7 of this ordinance:

- A. Outside storage/display of goods less than 2 months
- B. Temporary uses/special events Rural Tourism and Event Center