

Village of Bolivar, Ohio

Resolution Number: R-6-2024

TITLE: A RESOLUTION TO GRANT PERMISSION TO PLACE AND MAINTAIN A STRUCTURE ON THE SIDEWALK AREA OF 157 CANAL STREET, BOLIVAR, OHIO; AND DECLARING AN EMERGENCY

WHEREAS, on April 8, 2024, the Village of Bolivar (“Bolivar”), through its Zoning Director, received an Application for Building Permit from the owner of real property located at 157 Canal Street, Bolivar, Ohio (the “Property”); and

WHEREAS, the owner of the Property sought a permit to allow construction of three (3) gazebos in the exterior areas of the Property where a diner is operated to allow customers to dine outdoors; and

WHEREAS, on that same date, April 8, 2024, the Zoning Director approved the Application and allowed construction of the gazebos at the Property; and

WHEREAS, at the time the owner of the Property made application for the permit, the owner informed the Zoning Director of the intention to construct one of the gazebos on a sidewalk owned, maintained, or under the control of Bolivar; and

WHEREAS, on April 8, 2024, the Zoning Director approved construction of a gazebo on the sidewalk area of the Property; and

WHEREAS, thereafter, on April 24, 2024, the owner of the Property submitted a plot plan prepared by Tsantis Real Estate LLC which confirmed that the owner of the Property sought to install a gazebo on the sidewalk area of the Property; and

WHEREAS, the plot plan stated that the owner of the Property would not place any tables or other obstructions under the gazebo on the sidewalk area and would not cover any side of the gazebo located on the sidewalk; and

WHEREAS, Section XII(A) of Bolivar’s Zoning Ordinance allows for placement of structures within a road right of way within the Village of Bolivar and prescribes a two-step process involving written approval of the Zoning Director/Inspector and permission to maintain such a structure to be granted by Council for the Village of Bolivar (“Council”); and

WHEREAS, Section XII(A)(2) requires the owner of the Property to submit its written request “with Council for permission to maintain” the gazebo on the Property; and

WHEREAS, the owner of the Property has submitted its written request for permission to Council and a true copy of all relevant documents are attached hereto as Exhibit A; and

WHEREAS, Council now desires to grant permission for the owner of the Property to maintain the gazebo on the sidewalk as contemplated by Exhibit A and only under the terms set forth herein.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF BOLIVAR, COUNTY OF TUSCARAWAS, STATE OF OHIO, A MAJORITY OF ITS MEMBERS ELECTED THERETO CONCURRING, THAT:

SECTION 1. The Village Council for the Village of Bolivar hereby grants permission for the owner of the Property to construct and/or maintain a gazebo on the sidewalk area of the Property in the same general manner (relating to size and area) as the gazebo is presently situated.

SECTION 2. In accordance with representations made by the owner of the Property through the plot plan, the gazebo located on the sidewalk area shall not be permitted to be covered on any side and no tables or other obstructions may be placed underneath or near the gazebo.

SECTION 3. The owner of the Property shall execute an agreement with the Village of Bolivar agreeing to hold harmless, indemnify, and defend against any and all risk of loss or liability associated in any way with the placement and locating of a gazebo on the sidewalk area of the Property.

SECTION 4. This Resolution and the permission granted herein may be repealed or withdrawn at any point with or without prior notice to the owner of the Property.

SECTION 5. This Resolution repeals all previous Ordinances, Resolutions, or parts thereof in conflict herewith.

SECTION 6. It is found and determined that all formal actions of this Council concerning and related to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 7. This Resolution is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety, and general welfare for the reason that the Village of Bolivar must timely and in a reasonable manner act on applications and requests under its Zoning Resolution; and, this Resolution shall be in full force and effective immediately upon its passage.

PASSED IN COUNCIL this 2 day of May 2024.

Attest:

Mayor Robert Lloyd

Maria App, Fiscal Officer

Approved as to Legal Form by:

Stephan P. Babik, Village Solicitor