

ORDINANCE NO. 12-24

**AN ORDINANCE TO AMEND THE SPECIAL USE PERMIT GRANTED
TO B & L TRIO PROPERTIES, LLC (MISENCIK FUNERAL HOME, LESSEE),
TO ALLOW CONSTRUCTION OF A SIX (6) FOOT FENCE ALONG
THE PROPERTY LINE AT 36363 DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, pursuant to ACO §1280.05(g) of the zoning regulations for the City of Avon a Special Use Permit is required to operate a funeral home in a C-2 District; and

WHEREAS, pursuant to Ordinance No. 35-05, passed February 28, 2005, Joseph & Marilyn Misencik applied for and were granted a Special Use Permit to operate and maintain the Misencik Funeral Home located at 36363 Detroit Road; and

WHEREAS, the property was purchased by William B. & Lucy A. Greany on December 16, 2005, and on September 19, 2006, the owners of the property became B & L Trio Properties, LLC; and

WHEREAS, pursuant to Ordinance No. 113-09, passed on August 10, 2009, B & L Trio Properties, LLC (Misencik Funeral Home, Lessee) was granted an amendment to their Special Use Permit to construct an addition to an existing garage and add additional parking spaces; and

WHEREAS, B & L Trio Properties, LLC, (Misencik Funeral Home, Lessee), submitted an application and presented plans and specifications to the Planning Commission on December 20, 2023, for the installation of a six (6) foot fence along the southern property line at Misencik Funeral Home located at 36363 Detroit Road; and

WHEREAS, the Planning Commission held a public hearing on December 20, 2023, and by a vote of Five (5) to Zero (0), recommended approval of the Special Use Permit; and

WHEREAS, Council, after reviewing the application, plans and specifications and the recommendation of the Planning Commission, deems it in the best interests of the health, safety, and welfare of the community that the Special Use Permit be amended to allow for the installation of a six (6) foot fence along the property line at Misencik Funeral Home located at 36363 Detroit Road.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That having considered the matter of amending the Special Use Permit to allow for the installation of a six (6) foot fence along the property line at Misencik Funeral Home located at 36363 Detroit Road, Council hereby accepts the recommendations of the Planning Commission and agrees to amend the Special Use Permit subject to the conditions set forth in this ordinance.

Section 2 - Conditions. (1) That the project must proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its December 20,

2023 meeting; (2) the first 20 feet of fencing coming off of the Holly Lane Right of Way and extending north will be restricted to a height of 4 feet or less; (3) the Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to Chapter 1230, 1280.02, 1280.03, 1280.05(g), and 1280.06(m); and (3) Any other expansion, development, enlargement, improvement, change in ownership, tenancy, use or the like, other than maintenance of the property in its current condition, will require an additional amendment to this Special Use Permit, with a recommendation of Planning Commission and approval by Council.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to amend the Special Use Permit to allow for the installation of a six (6) foot fence along the property line at Misencik Funeral Home located at 36363 Detroit Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: January 22, 2024 DATE SIGNED: January 23, 2024

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR January 23, 2024

Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

Ordinance No. 12-24 (Con't)

POSTED: January 24, 2024
Electronically and at City Hall as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 12-24, passed by the Council of said City on January 22, 2024.

IN WITNESS WHEREOF, I have on this 23rd day of January, 2024, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio