

FEBRUARY 7, 2022

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Call to Order

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~~The Miami Township Board of Zoning Appeals met in a regular session on Monday, February 7, 2022, at 7:00 p.m. at the Miami Township Civic Center, 6101 Meijer Drive, Miami Township, Ohio 45150.~~

Pledge of Allegiance

Chairman Steve Reece called the meeting to order and led the Pledge of Allegiance.

Appointment of Acting Board Secretary

Mr. Loudermilk moved to appoint Misty Brents as the Acting Board Secretary, seconded by Mr. Merrill. The motion carried by unanimous consent.

Roll Call

Board of Zoning Appeals Members Present: Wayne Loudermilk, Steve Reece, Randy Merrill, Greg Horn, and Board Alternate Cheryl Eckelman. Todd Munro was absent with notice.

Also present: Township Planner Jamie Kreindler, Planning & Zoning Administrator Brian Elliff, Zoning Inspector John Langenheim, Acting Board Secretary Misty Brents, and Legal Counsel Margaret Cunningham from Strauss Troy.

Review and Approval of the Minutes

Ms. Kreindler noted two changes to the minutes: (1) page one, paragraph one, to correct the date from January 4 to January 3, 2022; and (2) page one, under board organization, the chair and vice chair terms were adjusted from one-year terms to two-year terms.

Mr. Loudermilk moved to approve the minutes of the January 3, 2022, Board of Zoning Appeals as amended, seconded by Mr. Horn. The motion carried by a vote of 5-0.

Administration of Oath

Mr. Elliff, Ms. Kreindler, Mr. Langenheim, and Ms. Cunningham were sworn in by Chairman Reece.

Continuation of Public Hearing

Case 997 – Appellants: Amy & Alex Tulip, 6177 Cook Road.

Mr. Loudermilk recused himself from this portion of the meeting.

Chairman Reece opened the public hearing. Ms. Brents read the notice of public hearing. Mr. Elliff explained that the appellants were appealing a zoning violation notice that was served on September 23, 2021. Mr. Elliff summarized the process for the case as outlined in their bylaws, noting that three affirmative votes were needed to overturn staff's decision.

Mr. Elliff used a PowerPoint presentation that included staff's summary, notice of violation, findings of the case, staff report, maps, and photographs of the property. He noted that the zoning violation included:

1. Failure to obtain the required zoning certificates
2. Failure to meet minimum setbacks for animal containment structures
3. Keeping agricultural animals outside of a required containment structure
4. Failure to obtain a permit for and exceeding the maximum allowable size for a chicken coop
5. Failure to obtain a fence permit

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Held 6. Outside storage of junk 20

Chairman Reece administered the oath to Kyle Murray, Alex Tulip, and Amy Tulip.

Kyle Murray, 5561 Falling Wood Court, legal counsel for Mr. and Ms. Tulip, testified that the Tulips purchased the property at 6177 Cook Road in January of 2020. He noted that the Tulips initially had two chickens on their property and contacted his office asking if they were permitted to add additional animals and were advised that the use was permissible. He added that the Tulips received a zoning violation after they added additional animals on their property, consisting of chickens, a couple of sheep, and a couple of goats.

Mr. Murray referenced Ohio Revised Code (ORC) Section 519.21 and argued that the zoning department didn't have authority to regulate the Tulip's property for agricultural purposes. He noted that the Township Zoning Resolution allows for the regulation of any platted subdivision or any area consisting of fifteen or more lots approved under Section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road. Mr. Murray pointed out that the property in question was not in a subdivision. He noted that an ORC Section 711.131 transfer of a proposed division of a parcel of land along an existing public street and involving no more than five lots after the original tract has been completely subdivided may be submitted to the planning authority for approval without plat. He stated that the Tulip property didn't meet those criteria. Mr. Murray submitted an image of the property that included 14 surrounding lots; corresponding deeds for the surrounding lots; plats; surveys; and an opinion from his office dated May 13, 2022 stating that Miami Township may not regulate the Tulip's property under the exceptions stated in Section 519.21 (B) of the ORC.

Mr. Tulip stated that they didn't move to the property with the intention of making it a farm, but when shortages began and people started losing their jobs, he decided to raise animals for meat to provide for his family.

Mr. Elliff reviewed and submitted the following exhibits:

- Exhibit A – Notice of Violation
- Exhibit B – Email Messages
- Exhibit C – Email Messages
- Exhibit D – Neighbor Complaint (C. Hite)
- Exhibit E – Courtesy Violation Notice
- Exhibit F – Photos, Location conditions on or around June 25, 2021
- Exhibit G – Photos, Location conditions on or around November 19, 2021
- Exhibit H – Location parcel dimensions
- Exhibit I – Miami Township staff report, BZA Case 997
- Exhibit J – Miami Township Zoning Resolution, Chapter 25
- Exhibit K – Zoning Map

Mr. Elliff noted that the Township consulted legal counsel, Margaret Cunningham, who determined that there was insufficient evidence to determine if the property qualified for the ORC exemption.

Mr. Murray stated that if the Board determines that the statute does not apply, his client would not dispute the Township's findings.

Ms. Cunningham stated that the evidence provided did not support the argument that the property at 6177 Cook Road met the exemptions described in Sections 519.21 or 711.131 of the ORC. Based upon her research, it was Ms. Cunningham's opinion that the property in question should be regulated by the Miami Township Zoning Resolution and that the zoning letter was accurate.

Mr. Elliff stated that the Board will be determining if the administrative decision should be overturned or upheld based upon whether or not the ORC provides an exemption for the

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Held property in question. _____ 20 _____

Mr. Merrill asked if it could be determined how the lots were platted. Ms. Cunningham stated that she requested that Mr. Murray provide evidence as to how the lots were created and nothing was provided that indicated that the land was an ORC 711.131 transfer. The evidence also did not indicate that the land had ever been titled as agriculture.

Mr. Murray stated that the deeds provided include references to plots. He questioned what type of plat was required. He added that the deeds reference consolidation plats and identify different plats. He provided plats from the County showing how the property was developed. He stated that the overarching parcel was owned by Weber and a portion of the property was developed as a subdivision and additional parcels were developed. Mr. Murray stated that there were not 15 contiguous lots that were transferred through ORC 711.131.

Mr. Murray indicated that when the Tulips purchased the property the previous property owner left trash and debris behind, which was referenced in the violation notice. He reported that the Tulips have resolved that issue.

Chairman Reece invited concerned residents and/or adjoining property owners to testify.

Chairman Reece administered the oath to Christopher Hite.

Christopher Hite, 6187 Cook Road, noted that he lived adjacent to the property in question. He stated that all the homes in the neighborhood were zoned residential and no one else has farm animals. He said that if a person wanted to raise animals for food or wanted to operate an agriculture business, they should live in an area zoned agricultural or commercial. Mr. Hite assumed that his property values would be diminished by his neighbor having farm animals. He said this was a neighborhood for homes and families not for the breeding of sheep or miniature goats that routinely escape and eat his flowers. Mr. Hite stated that zoning regulations provide a standard for the harmonious existence of neighbors. If the Board overturns the administration decision, Mr. Hite said that he could not build a privacy fence high enough or grow a natural barrier fast enough to block the view. He asked the Board to enforce the Township's zoning rules and statutes.

Mr. Elliff presented the determination that could be made by the board: (1) find that the appeal in this case is not well taken, affirm the notice of violation, and direct the appellant to comply with the directives contained within the notice of violation; or (2) find that the appeal is well taken, which vacates the notice of violation.

Chairman Reece closed the public hearing, and the Board deliberated the facts of the case.

Mr. Merrill asked how long the property has been zoned Residential, R-2. Mr. Elliff stated that he was unable to answer that question at that moment. Mr. Merrill asked if the zoning had been in place for the last 10 to 20 years. Mr. Elliff confirmed that the zoning has been in place for that time period. Mr. Merrill pointed out that when the Tulips purchased the property it was zoned R-2, which has restrictions.

Mr. Murray argued that there were exceptions to the zoning.

Mr. Elliff clarified that the appellant believes State law provides an exception for agricultural usage.

Chairman Reece asked if ORC Section 519 gave the Township authority to regulate the land. Ms. Cunningham explained that the appellant was referencing exemptions to that section.

Mr. Horn expressed concerns about the logic of contiguousness and how far it could extend, potentially perverting the intent of the rule. Mr. Merrill stated that an R-2 zone was not intended to be agricultural and he didn't want to set a precedent that changed that intent.

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Held — Mr. Merrill moved to uphold the Township's decision. Mr. Horn seconded the motion. The motion carried by a vote of 4-0.

Mr. Loudermilk returned to the meeting.

Common Rules of Conduct

Chairman Reece waived the formal reading of the Common Rules of Conduct.

Public Hearing

Case 998 – Applicant: Mark Haase, Parcel 182406B078 on the White Farm Boulevard.

Chairman Reece opened the public hearing. Ms. Brents read the notice of public hearing.

Ms. Kreindler explained that the applicant was requesting a variance to reduce the front yard setback from the current 50' setback requirement to a 30' setback from the street right-of-way line. Ms. Kreindler used a PowerPoint presentation to illustrate the current and proposed setback of the property in question, site plan, elevation plans, and applicable zoning codes. Ms. Kreindler indicated that similar requests have been made in the Township and the Board of Zoning Appeals approved a 30' front yard setback from the right-of-way on four nearby lots in the Whitegate Farm subdivision. She added that the steep terrain on the property presents a unique hardship. Ms. Kreindler noted that the property owner stated that if he has to adhere to the 50' setback, the house will have to be built on steep terrain, which will increase construction costs and make it unfeasible for him to build a house on the property.

Chairman Reece administered the oath to Brian Ramer, Director of Architecture with Redknot Home who was representing the applicant.

Mr. Ramer noted that the property consists of 20 acres, but the buildable portion of the property was very narrow and adjacent to the existing roadway and existing homes. He added that the adjacent homes were granted 30' setbacks. Mr. Ramer stated that the variance would allow Mr. Haase to put his home in the same proximity of other homes and be consistent with the look of the neighborhood. He confirmed that the 50' setback would increase the construction costs for Mr. Haase.

Chairman Reece invited concerned residents and/or adjoining property owners to testify.

Chairman Reece administered the oath to Eric Scholz.

Eric Scholz, 1216 Oakbrook Ridge Court, stated that he fully supported the variance.

Ms. Kreindler recommended that the Board approve the variance request because a hardship was present, and no determinative facts were raised during the public hearing.

Chairman Reece closed the public hearing, and the Board deliberated the facts of the case.

Mr. Merrill moved to reduce the front yard setback for Parcel 182406B078 from the current 50' setback requirement to a 30' setback from the street right-of-way line. Mr. Loudermilk seconded the motion. The motion carried by a vote of 5-0.

Old Business

There was no old business before the Board.

New Business

Mr. Elliff announced that the Board of Zoning Appeals will begin meeting on the first

RECORD OF PROCEEDINGS
MIAMI TOWNSHIP BOARD OF ZONING APPEALS

Minutes of

Meeting

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~~He~~ Wednesday of the month, with the next regularly scheduled meeting being held on Wednesday, March 2, 2022, at 7:00 p.m.

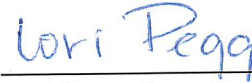
Adjournment

There being no business to come before the Board, Chairman Reece adjourned the meeting at 8:15 p.m.

Respectfully submitted,



Steve Reece, Chairman



Lori Pegg, Secretary

cc: Board of Zoning Appeals Members