

MINUTES
MILLCREEK TOWNSHIP BOARD OF ZONING APPEALS
JUNE 13, 2018 PUBLIC HEARING
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PUBLIC HEARING

DATE & TIME: Wednesday, June 13, 2018 @ 7:00 p.m.

LOCATION: Millcreek Township Hall, 10420 Watkins Road, Marysville Ohio 43040

CALL TO ORDER: The Public Hearing to consider Board of Zoning Appeals (BZA) Conditional Use Permit (CUP) application #130 was called to order by the Chairman at 7:00 p.m.

ROLL CALL: Zoning Administrator Phil Honsey called the roll of members present.

Members Present: *Steve Cameron*
 Brian Clark
 Jason Comstock, Chairman
 Jim Teitt
 Greg Wisniewski

Members Absent: *Jeff Pieper*

Others Present:

Don Bouic
Terrie Shank
Bill Jordan
Phil Honsey
Bill Lynch
Tom Kugel
Keith Conroy
Sam Shank
Vicky King
Scott King
Catherine Doran
Mike Stover
Forrest Day
Paul Detwiler
Shelly Detwiler
Liz Neds
Robert Shank
Thayne Gray, Prosecutor's Office
Phil Honsey, Zoning Administrator
Terri Bloom Tisch, Court Reporter

RULES OF CONDUCT: Chairman Comstock read the rules for public participation at the public hearing.

OATHS: Court reporter Terri Tisch administered the oath to those planning to speak.

STAFF REPORT: The chairman asked the Zoning Administrator (ZA) to present his report. The ZA referred to the printed handout which had also been distributed previously by e-mail to the Board, applicant and property owner (see attached). He indicated the following legal notice was mailed on May 23, 2018 to the applicant, the property owners and all property owners adjacent to and across the street from the proposed application. He noted it was also published in the Marysville Journal Tribune on May 29, 2018, in compliance with the requirement of publication at least ten (10) days prior to the hearing:

LEGAL NOTICE:

The Millcreek Township Board of Zoning Appeals will hold a public hearing on Wednesday, June 13, 2018 at 7:00 p.m. at the Millcreek Township Hall, 10420 Watkins Road, Marysville, Ohio 43040. The board will be considering an application by Robert Shank for a Conditional Use Permit for a proposed landscape company to be located at 11471 Watkins Rd., Marysville OH, 43040. The public is invited to attend. A copy of the application is available on the township website at www.millcreektwpohio.us.

*Phil Honsey, Zoning Administrator
Millcreek Township
(937) 644-3449 phone
zoning@millcreektwpohio.us*

The ZA described the location and zoning of the property, noted it was requesting a Conditional Use for a landscaping company, and pointed to the relevant code sections reproduced in his report.

APPLICATION REVIEW: The Chair invited the applicant, Mr. Shank, to present his application. Ms. Tisch administered the oath to the applicant, who had arrived after the others had taken their oaths.

Mr. Shank said he would like to run a landscape company out of the property and would do screening and landscaping.

In response to questions from the BZA, he indicated he was presently located in New Dover. He said he would not reside at the property, but his son would. He characterized the business as having generally 6-8 employees, with 3 International 4600 trucks, 2 equipment trailers, an asphalt roller with a trailer, and 2 skid steers. He said work hours would normally be daytime during weekdays and half days maybe on some Saturdays.

Mr. Wisniewski asked for clarification on employee parking plans. Mr. Shank indicated the employee parking would be behind the residential house and in front of the barn.

In response to a questions from Mr. Cameron, Mr. Shank indicated equipment would be stored inside or behind the barn. Mr. Shank defined propagation and holding, saying he wants to start growing some of his own plant material.

Mr. Teitt asked for clarification on the numbers of employees planned to be parking at the site, noting apparent conflicts between the plan drawing and the application text. Mr. Teitt asked Mr. Gray who an eligible applicant may be. Mr. Gray indicated any person can apply, but whether or not they meet the criteria set out in the Zoning Resolution is subject to the BZA's interpretation.

M. Teitt expressed noted the requirements that apply regarding a business owner living at the site and pointed out the Township has areas zoned for business. He asked Mr. Gray if the applicant not yet owning the property was an issue. Mr. Gray noted the real estate contract supplied with the application and said that arrangement was not

unusual in zoning matters. However, if the applicant didn't intend to live at the site, Mr. Gray said that may be a disconnect.

Mr. Wisniewski pointed out the home occupation requirements of Section 10024 of the Zoning Resolution require the business to be located within the interior of the structure. Mr. Shank responded propagation falls under agricultural exemption language. Mr. Gray indicated propagation does not make the entire operation exempt. Mr. Gray provided some Ohio case law examples.

Chairman Comstock indicated the Board would accept public comments at this time. Mr. Forrest Day indicated he lives next to an existing CUP and expressed concerns that numbers of trucks, hours and days of operations and other aspects of a CUP need to be defined in detail. He provided a handout entitled "Concerns with a CUP" (see attachment). There was some discussion regarding ownership of the CUP referenced by Mr. Day.

Mr. Tom Kugef indicated he had a CUP for 20 years, and he tried to keep it nice and put up a fence. He said if rules were established and enforced, he was OK with this CUP application.

Mr. Shank indicated he was not trying to create an eyesore. He indicated he wanted to keep his equipment behind the buildings to deter employee theft and have employees park out front. He said he once had 32 employees, currently had 6, and would like to grow, but not to 32 again. Some discussion occurred regarding current vs. projected company size.

Ms. Vickie King asked where Mr. Shank planned to get employees and what type of employees he would hire, noting she has a nearby daycare on Watkins Rd. Mr. Shank noted the tight labor market, his goals to promote from within, and his desire to make his site presentable to clients.

Ms. Kathy Doran said she was concerned about the wide-open view of the subject property affecting nearby property values. She said it was hard for her to imagine all equipment would be inside.

Some discussion among BZA members occurred regarding the 35% floor area size limitations of a Home Occupation CUP, with the question posed as to whether the limitations applied to just the residence or included all buildings.

Mr. Cameron noted that Zoning Resolution Section 10024 (A) requires a business owner to reside at the property and that Section 10024 (B) limits non-residence employees to no more than 2. He indicated Sections A and B are "black and white."

Additional discussions occurred regarding the applicants traffic generation, ingress and egress, and hours of operation.

Mr. Day indicated concerns regarding potential effectiveness of future enforcement, if the CUP would be approved.

Mr. Shank asked if a CUP owner can sell, once the CUP is approved. Chairman Comstock indicated yes - a CUP approval runs with the land, not the applicant.

Mr. Shank asked about signage requirements and commented that the limit of 2 square feet made a sign "not even worth hanging."

There being no other comments, Chairman Comstock suggested the BZA recess to a private room for executive session. *Mr. Cameron moved to recess. Mr. Teitt seconded. Roll call was taken. Mr. Teitt – yes. Mr. Wisniewski – yes. Mr. Cameron – yes. Mr. Comstock – yes. Mr. Clark – no. Motion passed at 8:13 p.m.* Chairman Comstock asked Assistant Prosecutor Thayne Gray to accompany the BZA in executive session.

At 8:34 p.m. Mr. Cameron moved and Mr. Wisniewski seconded to come out of executive session. All ayes. Motion passed.

Mr. Cameron moved to deny BZA CUP Application #130, based upon the requirements of Section 4260 and 10024. Mr. Teitt seconded. All ayes. Motion passed. The application was denied.

Mr. Teitt moved and Mr. Clark seconded to close the public hearing. All ayes. The public hearing was closed at 8:35 p.m.

PUBLIC MEETING

At 8:39 p.m. Chairman Comstock opened the BZA public meeting.

ROLL CALL: The roll call remained the same as for the above Public Hearing.

MINUTES: Mr. Cameron moved and Mr. Clark seconded to approved the minutes from the February 19, 2018 BZA meeting. All ayes. The minutes were approved.

OLD BUSINESS: None

NEW BUSINESS: Mr. Gray suggested the Zoning Administrator send the applicant of CUP #130 a certified letter, return receipt requested, of the BZA action and his rights to appeal, along with a photocopy of the card of the court reporter.

After some discussion regarding ordering transcripts, Mr. Gray clarified that the entity seeking a transcript would be responsible to pay for it.

ADJOURN

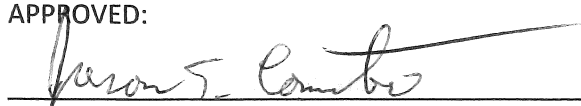
There being no other business, Chairman Comstock asked for a motion to adjourn. Mr. Wisniewski moved adjournment and Mr. Cameron seconded. All ayes. The meeting was adjourned at 8:48 p.m.

PREPARED BY:


Phil Hensey, Zoning & Planning Administrator

1/30/19

APPROVED:


BZA Chair

DATE APPROVED:

1/30/19