

**XENIA TOWNSHIP ZONING COMMISSION**  
**PUBLIC HEARING**  
**ZONING MAP AMENDMENT 1075 JASPER ROAD RESIDENTIAL SINGLE FAMILY**  
**(R-1) TO NEIGHBORHOOD BUSINESS DISTRICT (B-2)**

OCTOBER 1, 2019

**THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE MEETING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.**

The Xenia Township Zoning Commission held a continued public hearing on October 1, 2019 at 7:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH 45385.

Chairman Jeffrey Zweber called the Public Hearing to order at 7:00 p.m.

All participated in the Pledge of Allegiance.

Roll Call: Jeffrey Zweber, Chair, Alan King, Kent Harbison, Virgil Ferguson, Roy Colbrunn and Alan Stock. There were no guests in attendance. Alan King recused himself as he is the applicant.

Mr. Zweber explained the rules and procedures for the Public Hearing and asked Alan Stock to go over the Ohio Revised Code (ORC) requirements for this hearing and whether these have been met.

Alan Stock went over the Exhibits for this hearing and discussed each of them, and after checking all exhibits he stated that he agrees that all of the ORC procedures have been met and have been verified and placed so that the Commission can hear this application in its entirety this evening.

An amendment of the exhibits was made to include emails from Devin Shumaker, entered in as exhibits F1 and F2.

Mr. Zweber asked the petitioner to step to the podium and make his presentation.

Alan King, 1075 Jasper Road, owner operator of Kiddie Kingdom Daycare. Mr. King stated that he and his wife are celebrating their 45<sup>th</sup> anniversary of their small in-home daycare, where they are fully accredited, accommodate 25 families and have eight employees. They are currently Zoned as Residential Single Family (R-1) and are currently in non-compliance. They are currently "Grandfathered" in but would like to become compliant with Zoning Regulations.

Mr. King stated his reasoning behind asking to be rezoned:

1. Zoning compliance, Neighborhood Business District (B-2) fits the exact use of the daycare.
2. He and his wife are considering retiring, and the change will make it easier to pass the established daycare onto his family.
3. Clientele and reputation make it probable that the daycare can continue to operate profitably to benefit local families far into the future. It is an asset to Xenia Township.
4. It has been difficult to obtain insurance, financing and loans because as of now, the property is improperly zoned.
5. Because of extensive building modifications, the building could not be sold as a single-family dwelling without extensive remodeling.
6. As a corner lot, rezoning will be less significant to neighbors. Having two road frontages, have more options to improve egress and ingress for traffic flow, although do not feel that traffic would increase.
7. Already having several small businesses in the neighborhood, do not see this being life changing to the neighbors.

Mr. King's rebuttal to Mr. Shumaker's email (Exhibit F1 & F2) regarding the trading of one non-conforming use for another non-conforming use:

If he is approved, he plans to go to the Zoning Appeals and request residency approval.

Regarding Mr. Shumaker's statement of not having public water and sewer, Mr. King stated that he does have public water and sewer.

Mr. Zweber stated that Mr. King's desire was to continue to operate as he is now, a home and a business in the same dwelling. Mr. Zweber stated that the "Grandfathered" went away as soon as Mr. King signed the application. Mr. Zweber saw three ways to proceed, be granted the approval to become (B-2), have the Board of Zoning Appeals grant a variance to allow mixed use for (B-2), or stay (R-1) and ask the Board of Zoning Appeals grant a variance to allow mixed use.

Mr. Colbrunn stated that this will be a two-step process, bringing the property into compliance and asking for a variance. The question was asked, what happens if the variance is not approved? Mr. King replied that he was under the assumption that he would still be "Grandfathered", and everything would stay the same.

Mr. Zweber asked if it would be good public policy to disallow without a variance when what is wanted is a higher intensity (B-1) and to live there too.

Mr. Colbrunn asked Mr. Stock the question if the request is denied, is Mr. King still "Grandfathered"? Mr. Stock replied that the recommending board only makes a recommendation of yes or no, the issue is then given to the Trustees to have a hearing. Zoning Regulations of non-conforming use is discontinued if it is not used for two years. Only after the Zoning change, will the previous non-conforming use be effect. After the Trustees say yes, that is when the non-conforming is lost. The Board of Zoning Appeals can deny the appeal and then

the business will be able to stay but will not be able to live there. An appeal to Greene County Common Pleas Court would be the last option if that occurs.

Mr. Zweber stated the clarification of Perilous Path.

Mr. King asked if he would be able to request a change in the Zoning Text to allow a daycare in the Residential district?

It was stated that a Text Amendment to the Zoning Resolution would bring the property into compliance.

Mr. Stock stated the guidelines for a Text Amendment: \$400.00 fee, the Zoning Commission must approve the actions, he also stated that the ORC has strict guidelines for citizens requesting Text Amendments, the Trustees also must approve, and they will have the final vote. Mr. Stock stated that Mr. King has three options, continue as he is now, ask the Board of Zoning Appeals for a variance, or request a text amendment. If Mr. King is rezoned to (B-2) and does not receive his variance, his non-conforming use will no longer be "Grandfathered", and he would be operating at a risk. The Township could enforce the closure of the residence.

Mr. King asked if a variance for non-conforming use would be attached to his deed. Mr. Stock answered that the decision would be attached to the deed and would stay with the property no matter who owns the property. Mr. King stated that this would solve his problems with lenders and insurance, and he would be legally compliant.

Mr. Zweber offered a continuance so Mr. King would not make a rush decision, Mr. King accepted the continuation. Mr. Stock stated the protocol for a continuation.

This proceeding will be continued on October 29, 2019 immediately following the Joint Zoning Commission and Trustee Meeting. Mr. King will take this time to gather more information regarding the impact the "Grandfathered" status of his current use.

Mr. Zweber made the motion and Mr. Colbrunn seconded the motion.

Meeting continued at 7:56 P.M.

ATTEST:

---

Alan D. Stock, Zoning Clerk

