

XENIA TOWNSHIP BOARD OF ZONING APPEALS
PUBLIC HEARING

March 24, 2021

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

We are holding this Board of Zoning Appeals meeting under the guidelines from Governor Mike DeWine and Ohio Attorney General Dave Yost, reducing exposure to the COVID-19 virus. Board of Zoning Appeals must meet quorum but may do so by face-to-face, ZOOM, or teleconferencing, or a combination thereof IF the public has opportunity to share in the meeting in the same manner. Xenia Township has complied with this teleconferencing and ZOOM method. This meeting is being recorded.

Ed Jacobson, Chairman, called the meeting to order at 7:00 PM and welcomed the people in attendance. He asked for roll call for attendance of the members.

Board of Zoning Appeals members present: Ed Jacobson, Chair; Nathan Anthony, Darren Jones, Janis James and Assistant Prosecuting Attorney, Steven Haller on ZOOM. Also present was Alan Stock, Xenia Township Zoning Inspector.

Mr. Jacobson went over the rules of the meeting; he asked all phone attendees to suppress any background noise in their location as it would be heard by all. The application will be read by Alan Stock Zoning Inspector. Because the Board of Zoning Appeals decisions are quasi-judicial, all testimony must be sworn when speaking. Everyone must state their name and state they are under oath. Only facts are to be given, not opinions or emotions. Minutes are being taken and recorded. Questions are to be directed to the Board only. The Board of Zoning Appeals will follow Roberts Rules of Order for procedures. The Chair reserves the right to limit public input. The Board of Zoning Appeals may approve in whole or in part, reject in whole or in part, or reschedule to another date. An applicant may also withdraw their request. The decision will become effective five days after date of decision. A decision by this Board is a final order under R.C. 2506.04. Aggrieved individuals may appeal the decision to Common Pleas Court. The audience joined the Board in the Pledge of Allegiance. Mr. Jacobson administered the oath to the conference attendees.

Mr. Jacobson asked Mr. Stock if the application was lawful to be heard by the Board. Mr. Stock advised that the notice had been published in the newspaper and notices had been mailed to all property owners within 500' of the property. Mr. Stock stated that a sign was placed on the applicants' property. Mr. Stock explained all the exhibits for this Public Hearing. Copies of all correspondences being considered by the Board were previously available to all concerned and copies were available at the meeting.

Mr. Jacobson asked the Board members if they had read and considered the application—all answered yes; and he asked if they felt they should not be part of the proceeding due to some conflict of interest—all answered no; and if they intend to participate in the entire procedure including voting on the questions asked—all answered yes.

Mr. Jacobson asked Mr. Stock to present the proposal. Mr. Stock reviewed all the documents and exhibits A-G.

Exhibit A: Application for Board of Zoning Appeals and including response to Duncan Criteria Questions

Exhibit B: Proof of Public notices (Letter to Neighbors, Newspaper Notice, Sign in Yard, Website)

Exhibit C: Procedure check List

Exhibit D: Staff Findings

Exhibit E: Neighbor Phone Calls and Written Responses

Exhibit F: Agenda

Exhibit G: Mrs. Gardner's reply to Duncan Standard Questions

1551 Stone Road- Request for Variance to Section 404 Minimum Road Frontage in Agricultural District

DM Properties Represented by Dave Ryan and Matt Stabio, Applicant, Under Oath stated that their company is not land developers, that they mainly build day care centers. Mr. Ryan stated that they have a passion for farm land and that they have farm land in Greene County and raise cattle. He stated that the purpose is not to build tract houses, and that they are looking at options to save as much farm land as possible. He stated that the division will leave 70+ acres as farm land, a 5-acre wooded lot, a 15-acre wooded lot and 12 acres with the existing home. He states that 102 acres is expensive, so they want to split the lots to make it affordable to more people. He also stated that the split will increase the tax base for Xenia Township. Mr. Ryan responded to the complaints of the neighbors. He stated that they intend to keep the majority of the farm land as farm land. He also stated that he nor his company could control speeding or traffic on Stone Road. He again stated that they had no intention to take away farm land and there will be 70+ acres of farm land left intact. He stated that the land was not given to The Land Trust because the former owners decided to sell the property. He further stated that in his opinion that adding two (2) more wells onto 102 acres would not affect the area, he stated that the lot requiring the variance already has an existing well. He stated that the proposed lots sizes are above average of the properties in the vicinity. He stated that the primary concern of the neighbors has been the integrity of the farm land, and that the plan is to keep the 70+ acres as farm land.

Mr. Jacobson, BZA, asked Mr. Ryan to show him on the map where they need the 51-foot variance.

Mr. Ryan, Applicant, Under Oath, pointed out the area on the map shown on the video screen.

Mr. Jones, BZA, asked how wide the existing easement is from Stone Road to existing house.

Mr. Ryan, Applicant, Under Oath, answered that the easement is 25 feet wide.

Mr. Jacobson, BZA, asked for questions from the Board.

There were no questions at this time from the Board.

Mr. Jacobson, BZA, asked if there were any comments for or against the variance.

Richard Siva, 155 Stone Road, Under Oath, stated that he shares a driveway with 1551 Stone Road. He stated that DM Properties had had never spoken to him and that they had trashed the driveway that he himself had to fix. He also stated that there is a dead tree that on the property that needs removed.

Mr. Jacobson, BZA, stated that Mr. Siva had legitimate concerns, and should be addressed outside of the BZA hearing.

Richard Siva, Under Oath, stated that he had looked at Xenia Township properties on GIS and he stated that he did not see other properties that are tiny narrow properties with a long strip of frontage to make the property legal. He asked if there were other properties around that was like this.

Mr. Jones, BZA, stated that his property was land locked and that he did not have 300 feet of road frontage. He stated that he has a narrow access and that this situation is prevalent in Xenia Township.

Mr. Jacobson, BZA, stated that the variance is being requested because the property does not have the 300 feet of road frontage, also that the owner could choose to divide the properties without going through the BZA providing 300 feet of road frontage existed. He again stated that the issue is the property lacking 300 feet of road frontage.

Richard Siva, Under Oath, stated that the front 20-acre field drains into his pond and he is concerned about construction debris draining into his pond.

Mr. Jacobson, BZA, stated that that was not a BZA issue and that there is rules and ordinances that cover that issue.

Mr. Stock, Zoning Inspector, stated that Class D substances was under jurisdiction of OD&R.

Richard Siva, Under Oath, stated that there has to be better way to get 300 feet of road frontage than to make little road frontage strips on Stone Road. He suggested to make one less plot.

Elizabeth Gardner, 1418 Stone Road, Under Oath, stated that she inherited her property in 2007 and built their home in 2017. She stated that when they built, they had a clear understanding that they required 300 feet of road frontage to build. She stated that she would like to answer the Duncan Standard Questions in her own words. See Exhibit G for her answers.

Mr. Jacobson, BZA, asked Mr. Stock if he would like to address any of the issues that Mrs. Gardner mentioned.

Mr. Stock, Zoning Inspector, stated that a variance does not change the zoning requirements, it is only for that particular property that will need the 300 feet of road frontage.

Charlette Jones Siva, 1555 Stone Road, Under Oath, stated that everyone on Stone Road has invested their heart, money and lives for the road. She stated that she was concerned because she wants to keep the neighborhood as is, she is also concerned about traffic. She stated that the traffic already moves fast and she is concerned that placing another driveway over the hill crest would be a blind driveway and would be dangerous.

Darrin Morris, 1446 Stone Road, Under Oath, stated that he was worried about the precedence that granting the variance would set for other properties. He stated that granting this variance would allow other property owners to ask for the same variance.

David and Dorothy Kaiser, 1487 Stone Road, both Under Oath, stated that he had never received notification of the hearing by mail. He further stated that Mr. Ryan had never contacted him either. He then asked what the plans were for the 71 acres. He then stated that he was concerned that another leach field would contaminate his well water. He further stated that the 71 acres is in a flood plain. Mrs. Kaiser stated that she did not understand what the 71 and 12 acre lots would be used for.

David Ryan, Applicant, Under Oath, explained that the 71-acre lot would be used for farming and the 14 and 5 acres wooded lots would be used for new homes.

Alan Stock, Zoning Inspector, addresses Mr. Kaiser's comments stating that very little of the 71-acre farm land was in the flood plain. He also stated that Xenia Township did its due diligence in the notifications of the Hearing. He stated that he was not sure why Mr. Kaiser had not received a letter, but noted that Mr. Kaiser was the first to call regarding the hearing.

Mr. Siva, Under Oath, stated that there had been two (2) car wrecks on Stone Road this year, he further stated that with more houses there would be more cars on the road.

Mr. Jacobson, BZA, called for statements in favor of the hearing.

Jeremy VanDyne 1020 Whitestone Road, Under Oath, asked if there was already a variance for the property since there is two (2) homes that use the existing driveway.

Mr. Jones, BZA, explained that the driveway is an easement and that the reason for the variance is for road frontage only. Mr. Jones then asked Mr. Ryan why they did not go with only three (3) new lots and carry the easement over to another lot.

Mr. Stock, Zoning Inspector, stated that the 251 feet of road frontage will be on the property with the already existing home on it. He states that the other three (3) properties have the requires 300 feet of road frontage.

Mr. Anthony, BZA, asked Mr. Ryan if he would clarify his answer to the Duncan Standard question number five (5) Whether the property owner purchased the property with knowledge of the zoning requirements.

David Ryan, Applicant, Under Oath, stated that he did not know of the zoning requirements when the property was purchased. He stated that the property was purchased for the farm itself and then zoning requirements were looked at.

Mr. Jacobson, BZA, there being no other comments, closed the hearing to the public. He asked the Board members for questions or comments.

Mr. Anthony, BZA, stated that he also lives on a farm and he understands not wanting development. He further stated that the issue at hand is only the variance for road frontage to one property.

Ms. James, BZA, stated that the only issue is if the developer will be able to build four (4) houses or three (3) houses. He further stated that the issue is road frontage on one (1) property.

Mr. Jacobson, BZA, there being no further comments, called for a motion.

Mr. Anthony, BZA, moved to approve the variance

Mr. Jones, BZA, seconded the motion.

Mr. Jacobson, BZA, called for a vote

Ms. James AYE

Mr. Jones AYE

Mr. Anthony AYE

Mr. Jacobson AYE

Variance to Road Frontage is GRANTED.

Meeting Adjourned 8:17 P.M.

ATTEST:

Alan D. Stock, Zoning Inspector