

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
July 8, 2015 – Regular Meeting**

MEMBERS PRESENT: Mr. Hackney, Mr. Moeller, Mr. Lenz, Mr. Cavens

MEMBERS ABSENT: Mr. Whited, Mr. Riddell

STAFF PRESENT: Cathy Walton, Property Advisor
Tim Valentine, Property Advisor

CALL TO ORDER: 6:40 PM

ADJOURNMENT 8:25 PM

Mr. Hackney called the meeting of the West Chester Board of Zoning Appeals to order.

Ms. Walton called the roll.

BZA 15-17A Morningstar Baptist Church

Mr. Hackney advised BZA cases 15-17A&B were requested to be continued.

Scott Phillips, Township Zoning attorney explained the applicant requested a continuance based on the Board only having four members present. He stated his concerns about the school openly advertising for enrollment and that the next meeting would be only one day before school is scheduled to start. He stated he met with the applicant's attorney and if the Board agrees to continue the case and it is denied at the next meeting, they would not open school as scheduled.

David Gibbs, attorney for Morningstar Baptist Church stated that Mr. Phillips statements were accurate and that the applicant will not open the school without the Boards approval or alternate court approvals.

Scott Phillips clarified that if the Board does not approve BZA cases 15-17 A&B and the applicant does not have a court order, they will not open school on August 13.

Mr. Gibbs stated that was accurate.

Mr. Phillips recommended the Board approve the continuance.

Board Deliberation

Mr. Lenz stated with the guarantees he is comfortable with granting the continuance until next month.

Mr. Moeller stated that he agreed and understands only having four members can cause hardship.

Mr. Lenz made a motion to continue BZA 15-17A until August 12.

Mr. Moeller seconded.

Aye: Mr. Hackney, Mr. Lenz, Mr. Cavens, Mr. Moeller

Nay: None

BZA 15-15 Michael & Danielle Richardson

Mr. Hackney advised the applicant that with only four Board members present, they had the option to continue their case. The applicant chose to move forward.

Ms. Walton was sworn in by Mr. Hackney.

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property at 7482 Fence Row to allow poultry husbandry on a lot with less than three acres. Ms. Walton reviewed the standards for a variance with the board members.

Mr Lenz asked for clarification that the last time the applicant was here was for an Administrative Appeal and not a variance.

Ms. Walton stated that was correct.

**Applicant: Michael Richardson
7482 Fence Row
West Chester OH 45069**

Mr. Richardson gave a presentation including the reason for the variance request, he presented the sections of the Zoning Resolution that they were in violation of, the Powers of the Board of Zoning Appeals, the reasons for keeping chickens as pets and whether chickens were a nuisance. He also presented the reasons keeping chickens are necessary to keep his family in their home and presented a video of the property explaining how the chickens are kept. He explained that he believed they have met the criteria of the code to keep the chickens.

Mr. Cavens questioned the applicant the reason for the initial citation from the Township.

Applicant: Danielle Richardson
7482 Fence Row
West Chester OH 45069

Ms. Richardson stated the initial complaint came as they were moving in. A neighbor saw the coop being moved in and called. She stated the chickens weren't there yet.

Mr. Cavens clarified the citation started as a neighbor complaint.

Ms. Richardson confirmed that was correct.

Mr. Moeller questioned the daily routine of the chickens.

Ms. Richardson stated first thing in the morning, they come out into the yard and peck around. During the hot part of the day, they stay in the coop. In the evening they are let back out. Basically, if the family is outside, the chickens roam.

Mr. Hackney confirmed that the applicants currently have six chickens.

Mr. Richardson confirmed that was correct.

Mr. Hackney questioned how far the coop was from the property line.

Ms. Richardson stated approximately 14 to 15 feet and stated it could be moved if necessary but feels like it would look worse for the neighbor.

Mr. Hackney questioned if the applicant had submitted a chicken manure management plan.

Ms. Richardson stated she stated did not understand that she needed to contact another agency and thought she needed to bring the plan to the Board. She explained her plan.

Mr. Richardson equated it to bringing manure to a home to spread.

Mr. Cavens clarified that they were before the Board previously with an Administrative Appeal and at that time they stated the chickens were pets. He also mentioned that property values were discussed in their presentation and asked if the applicant had any data showing that variances granted affect property values.

Ms. Richardson stated she has a document that was presented at the last hearing that listed several communities in the area with property values and what their regulations were for keeping chickens.

Mr. Cavens stated he would be concerned if property values went down around the applicant.

Ms. Richardson stated they purchased the property out of foreclosure and have increased the property values. She stated a neighbor received two full price offers the same day it was listed. Mr. Hackney asked for clarification as to whether hens can crow.

Mr. Richardson stated that they had a hen that crowed and was rehomed.

Proponent: Mary Giese

Ms. Giese stated the Richardson's are wonderful neighbors and she didn't realize they were keeping chickens until she was invited over to see them. She stated she just wanted to come support them. She indicated the chickens are nice and not noisy.

Robert Campbell

Mr. Campbell stated he lived behind the Richardson's and he has no issue with the chickens. He stated they are not noisy and they are well taken care of. He also stated the creek runs through his property and he does not see an issue with run off from their property. He stated there were times he had to check to see if they still had the chickens. He pointed out that the person that made the complaint has not been before the board.

Christina Meyer

Ms. Meyer wanted to point out that the chickens truly are pets and a part of their family. She stated her son visits and plays with the chickens just like the Richardson's son comes and plays with her dog. She also stated the coop looks like a dog house and the chickens are not a nuisance. She wants to see West Chester continue to be a progressive and self-sustainable community and believes granting the variance will allow that.

Dennis Bradbury

Mr. Bradbury stated he grew up in West Chester and had neighbors with chickens. He stated he currently has a neighbor with chickens and there have not been any problems. He stated he has been at the Richardson's property and he did not know she had chickens until it was pointed out and just wanted the Board to know he supports this request.

Roberta Stagge

Ms. Stagge stated she supports backyard chickens. She also stated that West Chester permits dogs and dog waste is not recyclable. She currently has chickens and is able to recycle the waste. Additionally she stated as a dog barks to protect property her chickens protect her property by eating mosquitoes, ticks and other bugs that harm her family. She compared the amount of chickens and dogs that can kept in the same amount of space. She stated this is a fairness issue and gave a list of other cities that allow chickens and the property values in those areas.

Mr. Cavens asked Ms. Stagge how much land she has currently.

She stated she has 6 ½ acres.

Monica McCoy

Ms. McCoy several years ago she was interested in backyard chickens and met the Richardson's when she went to meet their chickens. She stated she has no personal interest at this time to have chickens but is disappointed that West Chester would not allow chickens. She stated she searched for negatives of back yard chickens and was not able to find any.

Ginny Johnson

Ms. Johnson stated she did a search for Ohio cities that allow chickens and was surprised to see how many large cities allowed them. She stated it is shocking that West Chester would prohibit them with its agricultural background and because keeping chickens is something up and coming.

Charis Peterson

Ms. Peterson stated she believes this is an individual self-responsible issue. She stated self-preparedness is an important issue and believes having chickens is a great idea.

Lou E Doty

Ms. Doty stated she visited the Richardson's yesterday and wasn't sure what to expect. She stated the house and the houses around them are beautiful. They looked at the property lines and the coop location. She stated the coop looks like a doll house. She believes keeping chickens is a progressive thing and is considering keeping them herself.

Opponent: David Warren

Mr. Warren stated he owns the house two doors down and he stated he has been there and heard the chickens from 2 yards away. He believes the existing rules and regulations need to be met. He also suggests time limits in the future for applicants presenting their case.

Neutral: Kim Shapiro

Ms. Shapiro stated she is a neighbor as well as a local realtor. She stated she is not taking a position but would like to speak to property values. All property values in the neighborhood are on the rise and believe that generalities and how things may or may not affect property values need to be separated.

Mr. Cavens asked Ms. Shapiro if having chickens was a neutral issue when it comes to real estate.

Ms. Shapiro stated yes and that it was specific to the buyer.

Mr. Cavens asked what the neighbors were saying about the chickens.

Ms. Shapiro stated she could not speak to that as she just learned about this issue and has not spoken to neighbors. She also stated she was trying to stay neutral.

Mr. Hackney asked Ms. Shapiro if having chickens on a property could potentially eliminate buyers from purchasing a neighboring property.

Ms. Shapiro stated it could.

Board Deliberation

Mr. Lenz stated he has heard so many times tonight that chickens are not permitted. He pointed out that is false and stated keeping chickens is a permitted use if you have three acres and the coop is 100 feet from the property line. He believes 1/3 of an acre and a coop 14 feet from the property line is a departure from the intent of the code.

Mr. Cavens stated he is pro chickens but has two concerns. He stated he believed the Board is setting precedence and feels like this request is similar to the applicant's last request and doesn't believe you should be able to come back if you make a small change. He also is concerned about the neighbors. This started with a complaint from a neighbor and there is another neighbor here tonight complaining.

Mr. Lenz stated the code exists for a reason and it's to protect the community and property. He reiterated the chickens are permitted under the right circumstances.

Mr. Cavens stated if they came in with the support of all the neighbors he may look at it differently but feels like this request hurts the neighbors.

Mr. Hackney stated a couple of months ago the Board approved a case with a larger lot and neighbor support.

Mr. Cavens stated he was on the Board for that case but reminded the Board every case stands on its own. He doesn't believe a variance can be granted if they are going to hurt other people.

Mr. Hackney stated his biggest concern is that they have not approached the Butler County Water and Soil Conservation about putting in a plan. He stated they were asked to do that and have ignored the request.

Mr. Cavens stated he is not as concerned about that as he is the neighbors.

Mr. Hackney stated Butler County asked that the variance not be approved until a plan was approved. He also stated that they could condition approval subject to the plan being put in place.

Mr. Moeller stated his concern is a tremendous abrogation of the Zoning regulations. Mr. Lenz stated this issue was considered recently when the Zoning code was changed and it was not approved.

Mr. Cavens asked if anyone was leaning toward approving the request and suggested a motion.

Mr. Cavens made a motion to deny BZA 15-15

Mr. Lenz seconded.

Aye: Mr. Hackney, Mr. Moeller, Mr. Cavens, Mr. Lenz

Nay:

BZA 15-16 Emily Bamonte, Holthaus Signs for Ohio Valley Goodwill Industries

Ms. Walton was sworn in by Mr. Hackney.

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property at 6832 Tylersville Road to allow an offsite freestanding sign. Ms. Walton reviewed the standards for a variance with the board members.

Ms. Ward was sworn in by Mr. Hackney.

**Applicant: Andrea Ward, Holthaus Lackner Signs
817 Rideway Avenue
Cincinnati, Ohio 45229**

Ms. Ward stated the Goodwill recently moved into a building on Cincinnati-Dayton Road and have worked out an agreement with the property owner for a sign easement at the back entrance to the property. They are proposing to list Goodwill as well as other tenants of the strip center on the sign. Ms. Ward was not sure which of the tenants would be listed.

Mr. Hackney clarified which tenants would be able to be on the sign.

Mr. Lenz stated to him it looked as if Goodwill wanted another way for people to know there is another way to get to their building and are willing to pay for a sign that other can also use.

Ms. Ward stated that was correct.

Proponent: None

Opponent: Marsha Schneider

Ms. Schneider stated her business has been in the strip center since 1996 and have asked for a sign in the past and were denied by the owner. She stated they would like to be advertised on the sign.

Mr. Cavens asked Ms. Schneider if she owned or leased the property.

Ms. Schneider stated they have leased the property for 14 years.

Mr. Cavens suggested she contact the landlord regarding putting up a sign.

Mr. Hackney clarified that Ms. Schneider had not been contacted about being part of the tenant sign.

Ms. Schneider stated that was correct and that there were three additional tenants and doesn't know who they are.

Mr. Hackney asked how many tenants were in the building.

Ms. Schneider stated six.

Opponent: Lawrence Schneider

Mr. Schneider stated the sign would block the view of people driving up the street and if he is not able to list on the sign they won't know he is there.

Neutral: None

Board Deliberation

Mr. Lenz clarified that the property would be allowed two signs.

Ms. Walton stated that was correct.

Mr. Lenz stated the Board is not there to determine who is going on the sign can the requested sign be put up.

Mr. Cavens stated they could do that as long as they have an agreement with the owner.

Mr. Lenz stated the sign is within the limitations of the size.

Mr. Hackney reminded the Board the request was for a sign for a tenant not on the property.
Mr. Cavens again stated if he has an agreement with the owner there is no real difference.

Mr. Moeller asked whether the same owner owned all the buildings.

Opponent: Marsha Schneider

Ms. Schneider returned and stated they it was the same owner.

Mr. Lenz made a motion to approve BZA 15-16 as submitted.

Mr. Cavens seconded.

Aye: Mr. Lenz, Mr. Cavens

Nay: Mr. Hackney, Mr. Moeller

ADMINISTRATIVE MATTERS

Ms. Walton stated that cut off for next month is next Wednesday but there are a potential of three cases.

Ms. Walton stated the minutes will be sent out to the Board members. She also let the Board know that the text amendments were approved and the Board would be receiving new Zoning Resolutions.

The next meeting will be Wednesday August 12, 2015, at 6:30 pm

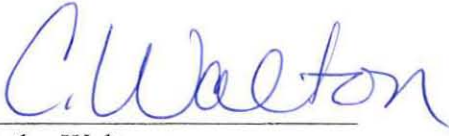
The board adjourned the May 13, 2015 meeting at 8:25 pm

These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

BZA Chairman:

BZA Secretary:


Cliff Hackney


Cathy Walton

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION DENYING APPLICATION NO. BZA 15-16**

WHEREAS, Emily Bamonte, for Holthaus Signs, on May 22, 2015 filed Application No. 15-16 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow an off-site freestanding sign as applied to the property at 6832 Tylersville Road, West Chester Ohio 45069 and containing Parcel # M5610-025-000-084 in Section 24, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 8, 2015 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and


WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will be contrary to the public interest and are not consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby deny the request for a variance as stated in application No. 15-16.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 8th day of July, 2015 and journalized on the 12th day of August, 2015.


Cliff Hackney
BZA Chairman


Cathy Walton
BZA Secretary