

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
April 13, 2016 – Regular Meeting**

MEMBERS PRESENT: Mr. Cavens, Mr. Simmons, Mr. Lenz, Mr. Riddell, Mr. Whited

MEMBERS ABSENT:

STAFF PRESENT: Cathy Walton, Property Advisor
Tim Valentine, Property Advisor
Mike Juengling, Community Development Director
Tim Dawson, Township Planner

CALL TO ORDER: 6:30 PM

ADJOURNMENT 8:17 PM

The Board participated in training from the Fire Department regarding Fire Administrative Appeals prior to its regular meeting.

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

Ms. Walton was sworn in by Mr. Whited.

BZA 16-10 Joe and Laura Gaines

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 9596 McCauly to allow a poultry husbandry on a lot with less than three acres. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Lenz questioned if the property to the north of the subject property was owned by the applicant.

Ms. Walton stated it was.

Mr. Cavens asked if it was a separate deeded lot from the subject property.

Mr. Whited swore in the audience members wanting to testify.

Applicant: Joe Gaines
9596 McCauly Road
West Chester, Ohio 45241

Mr. Gaines stated that he did not have a lot to say that is not on the application. He stated he is not here to challenge the ordinance but only seeking a variance.

Mr. Cavens asked the applicant if he owned the lot to the north of his property.

Mr. Gaines stated he did not and that the owner of the lot was at the meeting.

Mr. Riddell asked the applicant if he spoke to his neighbors about his request.

Mr. Gaines stated he did not. He also stated a letter went to each of them and he received a lot of phone calls.

Mr. Simmons stated that in his application Mr. Gaines stated he spoke with a representative from zoning and that the restriction was going to change. He asked Mr. Gaines when that happened and who he spoke to.

Mr. Gaines stated it was a year ago and that he had spoken to Chris Wunnenberg.

Mr. Riddell asked for clarification if Mr. Gaines was referring to the Zoning Review Committee.

Mr. Gaines stated it was a neighborly discussion and that the Board was going to vote and then Board did not vote due to some political issues.

Mr. Riddell again clarified it was the Zoning Review Committee not the Zoning Committee.

Mr. Simmons questioned if Mr. Gaines knew of any background discussion regarding the change in the Zoning regulations.

Mr. Gaines stated he did not.

Mr. Cavens asked the applicant if he knew he wasn't allowed to have the chickens.

Mr. Gaines stated he knew it was being considered and that the ordinance was vague and was being voted on.

Mr. Simmons asked the applicant why he decided to get the chickens before a vote had taken place.

Mr. Gaines stated he had hoped that the vote would happen and that if it didn't they would get rid of the chickens. He also stated that now they have had them awhile it's not as easy parting with them.

Mr. Cavens asked how long the applicant has had the chickens.

Mr. Gaines stated about a year.

Proponent: Dan Bishop
9576 McCauly Road
West Chester, Ohio 45241

Mr. Bishop stated his mother in law owns the two properties to the north of the applicant's property. He stated is 90 and unable to attend. He also stated she supports the request and has no problem with the chickens. He stated that as an attorney he has been on both sides of issues like this and he believes it's important to that there are kids involved. He stated no one come in closer contact with the chickens that himself and they are not an issue.

Mr. Cavens asked staff how the Township was made aware the chickens were there.

Ms. Walton stated they were observed by staff.

Tempal Hitt
8164 Dimmick Road
West Chester, Ohio 45241

Ms. Hitt stated that she lives down the street and has children at the same school as the Gaines'. She stated the children noticed the sign. She stated the children on the bus have become attached to the chickens and are concerned. She also stated she is there to support the request.

James Dugan
9591 McCauly Road
West Chester, Ohio 45241

Mr. Dugan stated that he lives across the street from the applicants. He stated that he barely notices the chickens are there and does not have a problem with the request.

Opponent: Chris Wunnenberg
8132 Dimmick Road
West Chester, Ohio 45069

Mr. Wunnenberg stated that he would like to correct a statement made by the applicant. He stated that when he and the applicant were discussing his interest in getting chickens he told the applicant that he was on the Zoning Review Committee and the issue had come up. He also stated that he told the applicant he was not sure if there would be a change and when that might happen. He stated he did not believe it was appropriate to have chickens on a less than ½ acre lot. He stated he is the direct neighbor to the subject property and the closest to the chickens. He stated the chickens get out regularly. He believes they are farm animals and belong on a farm.

Mr. Lenz stated he was at a meeting of the Zoning Review Committee when someone asked that the regulations be changed. He asked for clarification that no change was made.

Mr. Wunnenberg stated a change was proposed and voted on and determined that the code remain the same.

Mr. Riddell clarified that Mr. Wunnenberg's home was the house to the east.

Mr. Wunnenberg stated it was.

Mr. Lenz asked if the drain in the pictures was next to Mr. Wunnenberg's house.

Mr. Wunnenberg stated it was.

There was discussion regarding the proposed changes and the Trustee's not making a change to the regulations.

Mr. Cavens asked if the chickens get into the road and if they cause traffic issues.

Mr. Wunnenberg stated that one was going along McCauly road to the north.

**Sandy Wunnenberg
8132 Dimmick Road
West Chester, Ohio 45241**

Ms. Wunnenberg presented pictures of the chickens outside of the enclosure. She stated they are out almost on a daily basis and can be quite noisy. She stated when she is on her deck she can hear them. She stated the chickens should be on a large property. She stated that she is concerned that the chickens may come into her yard and is concerned for her grandchildren.

Mr. Cavens asked for clarification on the type of noise the chickens make.

Ms. Wunnenberg stated they cluck. She also stated they congregate in the corner of the yard near her property and when you have five of them they become noisy.

Mr. Simmons asked if there had been any issue with coyotes in the neighborhood.

Ms. Wunnenberg stated not that she was aware of.

Mr. Riddell asked Ms. Wunnenberg if they had ever complained to Zoning about the chickens.

Ms. Wunnenberg stated they had thought about it but did not.

**Richard Kerth
8142 Dimmick Road
West Chester, Ohio 45241**

Mr. Kerth stated he was not able to install a pool before he had covenants and restrictions removed. He stated there are restrictions on this property and presented the recorded restrictions to the board.

Mr. Cavens asked if there was an HOA in this neighborhood.

Mr. Whited stated it was not and that these were subdivision covenants.

Mr. Kerth stated his family is concerned about any health issues that may arise and that they are opposed to the request without restrictions regarding sanitation and the health of the chickens.

Neutral: None

Board Deliberation

Mr. Lenz stated that once again he is concerned with this being a departure from the code. He stated the lot was 1/7 of the requirement for even one chicken.

Mr. Cavens stated he believes the situation would be different if they owned the adjoining lot to the north.

Mr. Lenz stated it would still be less than three acres and they are asking for five chickens not one. He does not believe it meets the spirit and intent of the code.

Mr. Whited stated that each case stands on its own.

Mr. Cavens stated he likes chickens but stated in this case there are two neighbors that have an issue with this request.

Mr. Simmons stated the Township has several zoning districts designed to accommodate different lifestyles and businesses and when one goes into a zoning district they are living within the guidelines of that district.

Mr. Lenz stated that chickens are allowed in this zone with three acres.

Mr. Cavens stated that there are certain things in the Zoning Resolution that need to catch up and this is one of them. He also stated that when neighbors say it's an annoyance the Board cannot allow it.

Mr. Riddell stated he is also a pro chicken guy and sympathizes with the neighbors. He stated the Boards role is not to apply the code but apply conditions.

There was discussion regarding the effect on neighbors.

Mr. Whited asked the Board if they were suggesting that this was zoning by popularity because the neighbors can change. He stated that when they get multiple applications on the same issue it is up to the Trustees to make a change to the code.

Mr. Lenz stated he agreed.

There was Board discussion regarding each case standing on it's own.

Mr. Cavens made a motion to deny BZA case 16-10.

Mr. Lenz seconded the motion.

Aye: Mr. Simmons, Mr. Cavens, Mr. Riddell, Mr. Lenz, Mr. Whited

Nay: None

BZA 16-11 Exeter Property Group for GE Power and Water

Ms. Walton was sworn in by Mr. Whited.

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 9701 Windisch Road to allow outdoor storage in a front yard area. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Whited asked for clarification as to what is considered the front yard.

Ms. Walton stated the front is Windish.

Mr. Cavens asked if Interstate 74 was the rear.

Mr. Whited stated it was.

Mr. Riddell asked if there was a request recently for this building for outdoor storage.

Ms. Walton stated it was for GE Aviation at the other end of the building.

There was discussion regarding the approvals for the adjacent tenant.

Mr. Whited questioned why the fence was approved in the front yard of the subject property.

Ms. Walton stated the Zoning Resolution allows for a fence in a front yard area in this district and did not require Board approval.

Mr. Whited asked if it limited height and asked if it met all the requirements.

Ms. Walton stated they met all requirements.

Mr. Cavens asked for clarification that the existing storage was not approved.

Ms. Walton stated that was correct.

Mr. Lenz stated that the proposed storage area was going to take away parking spaces.

Ms. Walton stated they would still maintain the required number of spaces.

Mr. Whited asked if they had space on the side and back to deal with all the storage that they want.

Ms. Walton stated that was a question for the applicant.

Mr. Simmons asked if the intent was to be able to surround the building with storage.

Ms. Walton stated that was a question for the applicant.

**Applicant: Doug Randol
Exeter Property Group
9701 Windish Road
West Chester, Ohio 45069**

Mr. Randol stated that GE Power and Water approached them about their growth and the anticipation of taking on more work and needing storage containers. He stated that there was miscommunication regarding the fenced in yard area where the current storage is. He stated the existing area is not big enough to store the amount of containers needed. He stated there would still be access for emergency vehicles and they would maintain the required parking. He stated as the owners, they do not have a problem with the request and would be willing to do whatever screening is required. He stated GE has put a lot of money into the building. He stated as a landlord they would not want the fence to go all the way around the building because there are three separate tenants.

Mr. Whited stated there appeared to be room on the side and rear of the building and asked why they were asking for storage in the front.

Mr. Randol stated there is car parking and shared access on the side and stated there is a fenced area in the rear but it is at capacity.

Mr. Simmons stated that the application stated the crates would be used for tool storage and asked if that would incorporate any hazardous materials for cleaning.

Mr. Randol stated he would let the GE representative answer that question.

Mr. Simmons stated he believed the aerial showed available space in the rear of the property and questioned why they needed storage in the front.

Mr. Randol stated that there needed to be enough room for large trucks to turn around the building.

There was discussion regarding the existing storage area and the amount of space needed for truck and emergency vehicle traffic.

Mr. Lenz questioned whether the berm area in the front was located in the flood plain.

Mr. Randol stated that the berm has breaks in it. He stated he is working with Butler County and the Township to alleviate flooding issues.

Mr. Lenz stated it's not wide enough to build screening to cover the containers.

Mr. Randol stated they could put in trees or a fence for screening that would not affect any flooding.

**Oswaldo Alers
9701 Windisch Road
West Chester, Ohio 45069**

Mr. Alers stated he works for GE Power and gave an overview of the company and its functions. He stated they just acquired another company and need the additional containers because of the growth. He stated their busy seasons are January through the middle of May and again from September to November.

Mr. Simmons asked with the growth how much of the proposed space would be used and whether business would continue to grow.

Mr. Alers stated that due to the amount of growth the company is dividing the regions and the current application will be as much as they will grow.

Mr. Lenz asked if the containers were like the typical shipping container and if they are stacked two high.

Mr. Alers stated yes.

Mr. Lenz asked how they were moved.

Mr. Alers stated by fork truck.

Mr. Cavens asked if the application was not approved would they need to move and what they would do with the extra containers.

Mr. Alers stated they would not move but would have to look into moving some of the work to another location.

Mr. Whited asked at peak times what is the maximum number of containers that would be stored in the front.

Mr. Alers stated the total containers for the entire property would be 210 and may increase by 35-50.

Mr. Whited clarified that the maximum would be 260.

Mr. Alers stated that they would be maxed out.

Mr. Whited questioned the number of containers stored in the back at peak time.

Mr. Alers stated he believed it was five rows.

Mr. Whited clarified that it was five rows double stacked.

Mr. Alers stated it was for a total of approximately 50 containers.

Mr. Whited asked what the maximum storage in the back would be.

Mr. Alers stated 50 would be the max. He needs the two dock doors for trucks and room for them to turn around.

Mr. Whited asked if some of the containers were stored inside the building.

Mr. Alers said they were.

Mr. Whited asked how many containers could be stored inside.

Mr. Alers stated double stacked he could store 30.

Mr. Whited asked the maximum number of containers he could store in the front.

Mr. Alers stated there was more space in the front and he could store 75-80 containers.

Mr. Whited asked if storage units had to be moved to the side how many units could be stored on the side.

Mr. Alers stated that each container is approximately 8 feet wide so he would only be able to use one row double stacked which would be approximately 12 containers.

Mr. Simmons asked if there were the same number of dock bays on the front and rear of the building.

Mr. Alers stated yes.

Mr. Simmons why the trucks had to use the rear bays and could they use the front bays.

Mr. Alers stated the offices and shipping are at the rear of the building.

Mr. Whited asked how many containers will fit in the proposed storage space.

Mr. Alers stated 3 rows for a total of 30 containers. He reiterated that would leave enough space for emergency vehicles.

There was discussion regarding the total of containers and the amount of storage space.

Mr. Alers stated not all 250 containers would be on site at one time. He stated they would be in route to the customer or being returned.

Mr. Cavens asked if the containers could be stored off site.

Mr. Alers stated that might be possible but it would be difficult due to the equipment needed to move the tools and containers and it would not make sense with the costs.

Mr. Alers stated they want to meet all the Township requirements and want the neighbors to be happy with them so they are willing to do whatever the Township requires as far as screening.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Lenz stated he drove by the property and visualized what it would look like with the additional containers and he doesn't see that it would make a big impact. He stated some trees for screening would help.

Mr. Cavens stated he agreed with Mr. Lenz.

Mr. Riddell stated that looking at the aerial it doesn't look like additional storage in the back or side would work. He stated the front looks like the back with the dock areas so it would not affect the appearance.

Mr. Simmons stated he drove by the property and the containers that are there don't jump out at him.

Mr. Whited clarified that the storage in the front was never approved so the approval would need to include the existing storage.

There was discussion regarding the approval of the fence and the confusion of the storage being part of the approval.

Mr. Whited stated he had a major problem with this case because it was in the front yard. He questioned the aesthetics and whether it would enhance the area or would it look unsightly with front yard storage.

There was discussion regarding the approval of front yard storage at the other end of the building and the fact that this building is different because the back and front look the same.

Mr. Whited asked for clarification on when the approval for the other end of the building happened.

Ms. Walton stated it was last year and clarified it was the equipment and the housing for the equipment.

Mr. Whited stated each case stands on its own and asked at what point does the Board approve storage in all front yards.

There was discussion regarding the willingness of the applicant to use landscape to help conceal things.

Mr. Cavens stated if they can get some large trees put in it helps the aesthetics.

Mr. Whited stated there is a time when a business outgrows its current building.

Mr. Riddell reiterated that they would be moving some of the business to another facility.

There was discussion regarding the surrounding area and businesses and that this application fits with the industrial uses.

Mr. Simmons asked if there had been any complaints regarding the existing containers.

Ms. Walton stated no.

Mr. Simmons stated if no one has complained, he looks at this request as being more of the same and fitting with the district.

Mr. Cavens stated if the Board is considering approval that they limit the number of containers.

Mr. Lenz suggested the Board approve the requested area and let the applicant decide how many containers can fit in that area.

There was discussion regarding possible conditions of approval.

Mr. Lenz stated that utilities may prevent trees from being planted.

The applicant returned for questions from the Board.

Mr. Randol stated he believed the utilities to be on the other side of the street. He also stated that if you drive by this is one of the most landscaped areas on the street. He also stated they would be willing to add some additional trees.

Mr. Lenz stated if the Board required trees and there is a water line they would not be able to meet the requirement.

There was discussion regarding the current screening on the property.

Mr. Simmons asked the applicant if there were any utility issues when the existing landscape was put in.

Mr. Randol stated that they did not own the building when it was put in and they have not done any additional work in that area.

Mr. Alers returned for additional questions.

Mr. Riddell asked for clarification that GE bought out a competitor and that created additional work for this facility.

Mr. Alers stated that was correct.

Mr. Riddell also asked for clarification that the organization would be restructured and that some of the work will be leaving.

Mr. Alers stated that was correct and discussed the possibility of work being split between regions based on volume.

Mr. Cavens stated he is fine with this and stated he believed the board should also approve the existing storage.

Mr. Lenz made a motion to approve BZA case 16-11 for the existing and proposed storage.

Mr. Simmons seconded the motion.

Aye: Mr. Cavens, Mr. Riddell, Mr. Lenz, Mr. Simmons

Nay: Mr. Whited

ADMINISTRATIVE MATTERS

Ms. Walton stated there were no cases for May meeting.

The next meeting will be Wednesday June 8, 2016 at 6:30 pm.

The board adjourned the April 13, 2016 meeting at 8:17 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:



Larry Whited

BZA Secretary:



Cathy Walton

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION DENYING APPLICATION NO. BZA 16-10**

WHEREAS, Joe and Laura Gaines, on February 18, 2016 filed Application No. 16-10 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow poultry husbandry on a lot with less than three acres as applied to the property at 9596 McCauly Road, West Chester Ohio 45241 and containing Parcel # M5620-288-000-035 in Section 09, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on April 13, 2016 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. 16-10.

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 13th day of April, 2016 and journalized on the 22nd day of June, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-11**

WHEREAS, Exeter Property Group, for GE Power and Water, on March 16, 2016 filed Application No. 16-11 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a outdoor storage in a front yard area as applied to the property at 9701 Windisch Road, West Chester Ohio 45069 and containing Parcel # M5810-031-000-087 in Section 32, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on April 13, 2016 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 not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

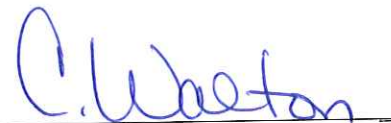
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow outdoor storage in a front yard area.

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 13th day of April, 2016 and journalized on the 22nd day of June, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary