

**WEST CHESTER TOWNSHIP  
BOARD OF ZONING APPEALS  
August 9, 2017 – Regular Meeting**

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

MEMBERS ABSENT:

STAFF PRESENT: Cathy Walton, Property Advisor  
Aaron Wiegand, Community Development Director  
Timothy Valentine, Property Advisor

CALL TO ORDER: 6:30 PM

ADJOURNMENT 7:20 PM

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

Ms. Walton called the roll.

The minutes and resolutions from the July 12, 2017 meeting were approved.

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**BZA 17-14 Marco and Laila Moretti**

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Ms. Walton was sworn in by Mr. Cavens.

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 to allow a horse barn to have a 15' setback where 100' is required.

Mr. Riddell asked if the rectangle on the drawing was to scale.

Ms. Walton stated the drawing was submitted by the applicant and he need to ask them.

Mr. Lenz asked about the discrepancy in dimensions.

Ms. Walton stated the drawing and application were submitted and the applicant later changed the size after packets were sent out and stated the 36' x 36' in the presentation was the request. She also reminded the board that the size of the barn is not at issue, just the setback.

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August 13, 2017

**Applicant: Laila Moretti**  
**5847 Wood Thrush Lane**  
**West Chester, Ohio 45069**

Ms. Moretti gave a presentation on her request. She stated they currently board their horses and when they purchased their property it was knowing that they could have the horses. She stated as they started to plan for the barn they found issues with the topography and the creeks. She stated that through research they found the 100' setback requirement. She said this is the key reason they are asking for a variance. She stated that the Fire Dept. is also requiring the barn be accessible from a paved road and that is another reason for the requested location. She stated that West Chester has historically been farms and presented a property close to the subject property that has cows. She stated the barn will be visually appealing. She stated the house sits back and only a few properties to the north will see the barn. She stated they have spoken to them and none had any concerns.

Mr. Simmons asked if the neighbors are in agreement to allowing the barn.

Ms. Moretti stated they were. She stated they spoke to the neighbors closest to the barn location several times and they are fine with the location. She also stated that they had horses in their previous home on small acreage and are accustomed to keeping things clean and will maintain it to the highest standards.

Mr. Lenz asked if the applicant an architect or engineer look at the site for a location that would fit the Zoning requirements.

Ms. Moretti stated she and her husband are both engineers but they had two separate excavating companies look at it. The only option within the 100' would be outside of where the Fire department could access. She stated nothing is impossible but it would be financially impossible for the applicants.

Mr. Whited asked if the applicant has gotten council from an attorney regarding subdivision restrictions.

Ms. Moretti stated they are looking at it as two different issues but are looking at that as well with an attorney.

Mr. Riddell asked if the panhandle was their property.

Ms. Moretti stated it was. She stated it is 20' wide and is overgrown.

Mr. Whited stated it was platted that way for frontage.

Mr. Riddell asked if the drawing was to scale.

Ms. Moretti stated it was not. She stated they got it as close as they could eyeballing it.

There was discussion regarding the size of the proposed barn.

Mr. Whited asked if the applicant had considered a bank barn where part of it is open on the slope.

There was Board discussion regarding the request being for a setback only.

Mr. Simmons asked if the applicant was aware of the subdivision restrictions.

Ms. Moretti stated they were not. She stated when looking at homes they looked at homes with enough land that would permit the horses and the zoning.

**Proponent: Chris (inaudible)**  
**5815 Wood Thrush Lane**  
**West Chester, Ohio 45069**

The proponent stated there is a cemetery between his and the applicant's property so there is already a historic nature to the area. He stated they look forward to the horses and barn being there. He stated there are other issues in the neighborhood in contradiction to the covenants and the horses are much preferred.

**Opponent: Dan Merrill**  
**5891 Wood Thrush Lane**  
**West Chester, Ohio 45069**

Mr. Merrill stated he is the original occupant of the subdivision. He stated the applicant will be in direct violation of the covenants. He stated the area was designed and built as upscale single family residence homes. The lot was considered not buildable and was left by the developer as three acres. He stated a description of the horse barn is not picture of the real horse barn. He stated horses come with flies and stink. He stated if that is an asset to upper end single family area, in what world would that increase property value.

There was discussion about the barn being permitted by zoning and how it is relative to the character of the area.

Mr. Simmons asked Mr. Merrill where he lived in relation the to the subject property.

Mr. Merrill stated it was about four houses down on the same side of the street.

Mr. Cavens stated he assumed Mr. Merrill was not in favor of the request.

Mr. Merrill stated absolutely not.

Mr. Simmons asked if Mr. Merrill's property line in any way touched the applicant's property or the cemetery.

Mr. Merrill stated it did not. He stated he would be directly west wind down from the horses.

**Opponent: Gail Lange**  
**5907 Wood Thrush Lane**  
**West Chester, Ohio 45069**

Ms. Lane stated she just returned to town and the sign was put up the day she returned. She stated has not has two weeks' notice. She stated she can't believe she has come home from such an emotional event in her family to find out that someone is building a horse barn. She stated she is very upset. She stated she felt this was sneaky.

Mr. Cavens stated they have not voted on anything at this point.

Ms. Lane stated that was all she asked. She asked for a delay for her husband to speak.

Ms. Simmons asked if Ms. Lane's property border the applicant's property.

Ms. Lane stated it did not and asked if that mattered.

Mr. Cavens asked for a cordial meeting.

Mr. Lenz stated he wanted to make sure that Ms. Lane understood the question before the Board was about a setback. He stated the zoning allows for the keeping of horses.

Ms. Lane stated that was news to her.

Mr. Lenz stated it has been in the zoning for years and stated the zoning allows farm animals on residential property over three acres in size. He stated the question before the Board tonight was not whether the applicant can keep horses, it's where the barn will be and wanted to make sure Ms. Lane understood that.

Ms. Lane stated she did now.

Mr. Riddell stated the Board members are not the Zoning Department but citizen volunteers and they don't know anything about a case until they hear the testimony.

Ms. Lane asked for clarification if the case would be decided tonight.

Mr. Cavens stated it might be decided tonight and it might not.

Ms. Lane stated she felt like the entire neighborhood did not understand this.

Mr. Riddell stated that no one would know the grief Ms. Lane experienced or that she was out of town.

Ms. Lane stated the Board are not her enemies and the applicants aren't either.

Mr. Lenz stated the purpose of this part of the meeting is to get input.

Ms. Lane stated she felt the neighbors needed time.

### **Board Deliberation**

Mr. Lenz stated there is a difference from a variance and a wholesale departure from the regulations. He stated 15' verses 100' is a big variation. He reiterated the variance standards and stated he felt the 100' setback was for the risk of odors, etc.

Mr. Cavens he grew up on a farm and whether its 15' or 500' if the wind is blowing the whole neighborhood gets it.

Mr. Lenz stated that the spirit and intent was to keep farm animals a considerable distance from the property line. He also stated ownership changes.

Mr. Whited stated Mr. Lenz was focusing too much on the fact that it is a horse barn and it's more the visual impact on the adjoining property. Would anyone want a structure that close to their property line?

Mr. Lenz stated he knows the Board is supposed to separate themselves from the HOA requirements.

Mr. Whited stated this was not an HOA.

Mr. Simmons stated that they Board is still talking about a drastic shift from what is allowed.

Mr. Cavens stated there are a lot of ways the barn could be built. He stated whether it be 80' or 100' there are options. He stated there will still be an upset neighborhood.

Mr. Cavens asked what the size limit of the building was.

Ms. Walton stated agricultural buildings are exempt from zoning.

Mr. Riddell's point to size was to see how far they could move the barn.

Mr. Lenz stated it could be built on the hillside, 100' away from the property line.

There was discussion regarding the average home size in this area.

Mr. Riddell stated that if the barn was relative in size on the drawing, maybe they could move it further than 15'.

Mr. Cavens asked if the applicant could be brought back to the podium for questioning.

Mr. Lenz stated within the past year the Board considered the same questions.

Mr. Cavens stated each case stands on its own.

There was discussion as to whether to discuss the previous case.

Mr. Simmons suggested the Board stick to discussion regarding the existing case.

**Applicant: Laila Moretti**  
**5847 Wood Thrush Lane**  
**West Chester, Ohio 45069**

Mr. Cavens asked Ms. Moretti how far from the property line the land becomes unbuildable.

Ms. Moretti stated it is right about 100'. She stated the issue with putting it there is Fire Dept. access.

Mr. Cavens stated water could be run to the barn.

Ms. Moretti stated that the Fire Dept. stated they needed access to the structure from a paved road and it has to be within 400' of a fire hydrant or a water tank must be installed.

There was discussion regarding the topography of the property and possible barn locations.

Mr. Cavens asked for clarification that it falls off dramatically at the 100' mark.

Ms. Moretti stated that was correct and stated that they were asking for 15' at worst case. She stated they didn't want to ask for 30 or 40 feet and once plans were done, that not work.

Mr. Simmons asked how far Ms. Moretti felt the barn could be moved with minimal earth movement.

Ms. Moretti stated it would be about 40'.

Mr. Simmons asked if the applicant owned the horses currently.

Ms. Moretti stated they did and that they board them.

### **Board Deliberation**

There was discussion regarding possible options for building the barn in compliance.

Mr. Whited stated the Board's job is not to minimize costs.

Several Board members agreed.

Mr. Whited stated he is opposed to the request because everybody should have space between them and other residences.

Mr. Simmons stated he agreed and felt the variance was extreme.

Mr. Cavens agreed and stated he is not in favor of a 15' variance.

**Mr. Lenz made a motion to deny BZA case 17-14.**

**Mr. Simmons seconded the motion.**

Mr. Riddell stated he hates to see somebody denied because of issues of not being able to come back.

Mr. Cavens agreed.

Mr. Riddell stated knowing the feelings of the Board, he is inclined to give the applicants an opportunity to make adjustments to the request.

Mr. Lenz asked if they could back with a different request.

Mr. Cavens stated no.

Ms. Walton stated they could not come back and ask for a lesser setback but that the Board could issue a continuance if they are looking for more information.

Mr. Riddell stated he would like to ask the applicant if they would like a continuance.

Several Board members stated they would be in favor.

Mr. Lenz asked for clarification on Mr. Riddell's proposal.

Mr. Riddell stated he is asking if the applicant can be brought up to ask if they are willing to adjust the 15' request.

There was discussion regarding whether a reduced request would make a difference in the opinion of Board members.

**Applicant: Laila Moretti  
5847 Wood Thrush Lane  
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**Mr. Lenz withdrew his motion on the provision that he could reintroduce the motion.**

**Mr. Simmons withdrew the second.**

Mr. Riddell asked the applicant if she was willing to take a look at a different dimension and come back with a different plan.

Ms. Moretti stated they would be willing to do that.

Mr. Simmons stated that the closer to the zoning requirement that they can get the better.

Ms. Moretti stated they understood.

Mr. Lenz stated he suggested getting professional advice.

**Mr. Ridell made a motion to continue case 17-14 to the September 13, 2017 meeting.**

**Mr. Simmons seconded the motion.**

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

**Nay: Mr. Lenz, Mr. Whited,**

**ADMINISTRATIVE MATTERS**

Ms. Walton stated the deadline for next month is next week.

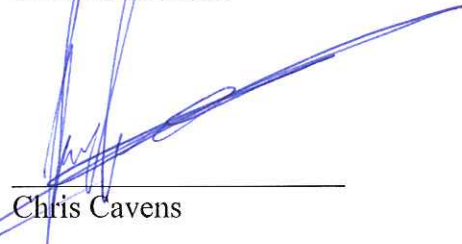
Mr. Simmons asked if there was a time limit on continuances.

Mr. Cavens stated Mr. Riddell created the limit to the next meeting.

The board adjourned the August 9, 2017 meeting at 7:20 p.m.

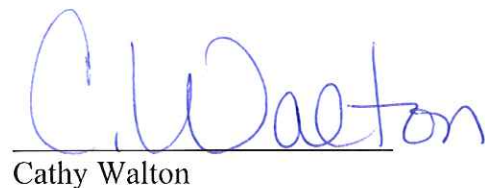
**These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must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

**BZA Chairman:**



Chris Cavens

**BZA Secretary:**



Cathy Walton

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August 13, 2017