

Minutes of **RECORD OF PROCEEDINGS**
THE GERMAN TOWNSHIP BOARD OF TRUSTEES

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held June 23, 2014 20

~~The special meeting was called to order at 7:00 PM, held at the Township Hall, by Mr. Benson and was attended by Trustees Randy R. Benson, Benjamin F. DeGroat, Jacob C. Stubbs and Fiscal Officer Robert W. Rohrbach Jr.. Also in attendance were Zoning Inspector Cheryl Watson and Police Admin. Asst. Laurie Rohrbach. This meeting was properly legally advertised and notifications were made per the Zoning Resolution and the ORC. The Germantown Press and the Dayton Daily News were notified of this special meeting. The meeting was audio recorded and the CD is on file.~~

VISITORS – Approx. 30 people. (sign in list could not be located at the end of the meeting)

BUSINESS – Mr. Benson opened the meeting with the statement that the only business to be conducted at this meeting was a Public Hearing and possible decision on Zoning Commission Case #2014-03ZC.

- I. Mr. Benson opened a Public Hearing regarding Zoning Commission Case 2014-03ZC to change the Zoning from R-1 to O-2, as requested in the filing by Richard & Michelle Smith for the property located at 8468 Upper Miamisburg Rd. (SR 725), Parcel ID D18 00704 0028.
- II. Mr. Benson asked Zoning Inspector Cheryl Watson to provide the staff report regarding this case.

Zoning Inspector Watson was sworn in and provided the following report, supported by the appropriate documents, and recommended the change:

- The owners requested the change of zoning for this parcel to be able to use the existing house located on the property as their business office.
- The property is located on SR 725 near the intersection of SR 725 and SR 4 and bordered by a junk yard to the East; land to the South that is zoned as Industrial by the City of Germantown; with a gas station, food wagon and used car lot at the intersection of SR 4 and SR 725, approx 1000 feet West.
- The Zoning Commission has held the required Public Hearing regarding this case and voted to recommend approval of the change of zoning to the Board of Township Trustees.
- The Montgomery County Planning Commission has held the required public hearing and voted to recommend approval of the change of zoning.
- This hearing was properly advertised with the required property owners notified.

Mr. Benson opened the meeting for testimony from those in favor of the change:

June 23, 2014

Held _____

I. ~~Michelle Smith of 8690 Boomershine Rd., - requesting the change and owner~~

of the above property She was sworn and addressed the Board.

She explained that the property would be used, as is, for an office and overnight vehicle parking for their property maintenance business. The primary function would be for office work, order taking, and crew assignments. Crews working staggered schedule would arrive in the morning, pick up their company vehicle, work orders and leave for the day to complete the work orders. Worker private vehicles would be parked on the property during the day and company vehicles at night. Most traffic in and out would be in the morning and evening, staggered usually in pairs.

II. Mr. Robert Richter, Project Manager for the Smith Business was sworn and addressed the Board.

He testified that the start time of the employees is staggered to avoid traffic issues. He further advised that he had checked with the local schools regarding bus route times to enable employee scheduling to minimize interference with school buses. In the morning, employees will report to the office, pick up their company vehicle, work orders and then leave for the work day. Work is done at the customer location. Employees will return at the end of the day and park their company vehicle, turn in completed work orders, and leave in their personal vehicle around 3 to 6 PM. He contacted ODOT and obtained the most current traffic study that showed 8,200 vehicles per day use SR 725. He also had an engineer check the driveway site lines and found no issues.

The Board reviewed the traffic study and returned it to Mr. Richter.

Mr. Benson commented that the problem area of SR 725 seems to be at the Jamaica Road intersection.

With no other individuals wishing to speak in favor, Mr. Benson opened the floor to those against.

I. Vicki Agee of 8485 Upper Miamisburg Rd. (SR 725) was sworn and addressed the Board.

She stated that people who are for the change, don't live there and don't see it as she sees it. She stated that her Aunt was killed several years ago while going to the mailbox. Her son is ill and she is worried about cars hitting children, noting that the area is a passing zone. She noted that the property is currently residential and is being turned into a business contrary to existing zoning. The junkyard will eventually be gone, as it is currently grandfathered. She reported

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that the ~~“Trustees previously voted”~~ to keep the area agricultural. She is concerned that the zoning change will reduce the value of her property. She is also concerned about the additional traffic from the business, noting that she has witnessed vehicles pulling in and out of the property and estimates approx. 50 to 60 trips per day in and out. She noted her and her husband have made significant improvements to their house since moving in.

Mr. Benson asked about a lot of garage sales being held at the property in question in the past, and didn't that have an effect on traffic. Mrs. Agee replied that her mother previously owned the property and they worked around traffic issues.

Mrs. Agee went on to say that the Township dug up her front yard without asking. Mrs. Smith corrected with it was Time Warner. The Board then explained right of ways.

Mr. Benson then questioned the comment about the Trustees voting to keep the area residential. Mrs. Agee stated that other people said the Trustees wanted/voted to keep the area agricultural. Mr. Benson noted that as far as he was aware, there was no such previous vote.

Mrs. Agee went on to say that there are other areas available in the neighborhood without the need for a zoning change and gave examples of the commercial area to the south on SR 4.

II. Pat Agee of 8485 Upper Miamisburg Rd. (SR 725) was sworn and addressed the Board.

Mr. Agee distributed pictures of the improvements he has made to his property to the Board for review. The Board reviewed and returned them to him. He further stated that all the discussion in previous hearings have made the area seem worse than it actually is. There are two junk yards, residential, and the remaining area is open fields. He is concerned about cross traffic as the vehicles enter and exit the property in question. He presented a petition which read “ Below are signatures of residents that do not want the property at 8468 uppermiamisburg rd to be rezoned as commercial or any type of business” containing 90 signatures from various areas of the Township and City. The Board accepted the petition. Mr. Agee stated that the previous hearing have catered to two people, ignoring the majority that are against the change. The Smith's have been using their house for their business and are now tired of it so they are moving to across the street from his house.

June 23, 2014

Held _____

~~Mr. DeGroat stated that they are moving from their home to a different location.~~ Mr. DeGroat and Mr. Agee debated the issue further.

Mr. Agee stated that the Smith's have trailers with garbage in them currently stored on Eby Rd. He stated the trailers will be relocated to the new property.

Mr. DeGroat and Zoning Inspector Watson advised that that would be in violation of the O-2 zoning and would result in a nuisance abatement hearing.

Mrs. Agee inserted that there were no nuisance hearings in the past for her neighbors – it was just ignored.

Mr. DeGroat responded that her issue was from the mid 2000's and there have been at least two zoning inspector changes since then.

Mr. Agee and Mr. DeGroat discussed the issue further, with Mr. Agee becoming disrespectful to the Board. He further stated that the Smith's bought the property prior to requesting a zoning change because they have friends on the Board and knew ahead of time the change would be approved.

Mrs. Agee interjected that they were told before the meeting by the Zoning Inspector Watson that the issue was going to be passed.

Zoning Inspector denied the accusation, stating she was new and was simply trying to explain that it may be passed.

III. John Riley of 123 Colonial Circle, Germantown was sworn and addressed the Board.

Mr. Riley stated his brother lives next door to the Agee's, at 8423 Upper Miamisburg Rd. (SR 725). He stated that his brother took out 8 dumpster loads of trash from his house. He also stated that trucks cause traffic issues no matter what. He wanted to know how someone could buy a house that is residential and automatically get a zoning change. He also argued that the business was commercial and not office. That there will be commercial vehicle in and out of the property continuously.

Mrs. Rohrbach (previous Zoning Inspector) clarified that there is no commercial designation in the current Zoning Resolution. The resolution was reviewed in regards to the requested use and Office-2 was the best fit.

Mr. Riley stated that it is a commercial usage as the vehicles are commercial licensed, thus the business does not fit Office-2.

Mrs. Agee interjected that the area has a high accident rate.

Mr. Benson asked if there was any rebuttal.

- I.** Mrs. Smith stated that they do have trailers but have no plans to move them to

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~~this location as the zoning would not permit it. She further stated that Office-2 was more restrictive than other zoning types.~~

II. Mrs. Agee made several disrespectful comments to/about the Board and stated she was only asking them to be human in their decision making – and they were not human.

Mr. Benson closed the Public hearing at 7:58 PM.

The Board discussed the case.

Mr. DeGroat stated that if the intentions of the Smith's were ill willed – he wouldn't be for it. But that is not their intention.

Mrs. Agee responded from the audience that her children were her concern and the group left making disrespectful comments to and about the Board while leaving. Mr. Agee was heard to make the threat that "this issue is not over".

Mr. Stubbs noted that the Smith's have went above and beyond to research and provide factual information for all of the Boards to review.

After the above discussion, Mr. Benson introduced **RESOLUTION 2014-27**, seconded by Mr. Stubbs, to approve the Zoning change as requested in Zoning Commission Case #2014-03ZC, as recommended by the Zoning Commission and the Montgomery County Planning Commission. During discussion, Mr. Stubbs stated the change makes sense based on the information provided; and Mr. DeGroat stated that can we all please get along. The adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Stubbs –Yes; **RESOLUTION 2014-27 passed.**

With no further business, the meeting was adjourned at 8:05 PM.

Signed: Randy R. Benson

Auest: [Signature]

0680

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