

RECORD OF PROCEEDINGS

Minutes of

Etna Township Board of Zoning Appeals

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

August 23<sup>rd</sup>,

2011

Held \_\_\_\_\_ 20 \_\_\_\_\_

The adjudicatory hearing was called to order at 6:00 p.m. by Vice-Chairman Cox. The roll call showed members Dallas Maynard, Roger Digel-Barrett, Rick Cox, Claudette VanDyne, and Mark Shaff present along with clerk Laura Brown.

Vice Chairman Cox explained the process. The nature of variance VA-11-05 is to reduce the minimum side yard setback from 10 feet to 7 feet thereby requesting a 3 foot variance at the front corner of the intended building. The applicants Doug and Cheri Rogers, Steven Paul and Zoning Administrator, Chris Harkness were sworn in. Vice Chairman Cox stated that even though Cheri Rogers is the Chairman of the Board of Zoning Appeals he feels he can be objective in his decision.

Applicant Doug Rogers reviewed his application and the practical difficulties presented with his lot. Due to the angled property line, as the building recesses back into the yard, the rear portion will be within the Zoning Resolution's minimum setback requirements.

Dallas Maynard discussed the process of the side lot line calculations to determine the variance request for seven feet. Dallas Maynard inquired about the 17 by 20 foot structure size and whether the applicant felt that it was large enough. He also discussed the roof line and possibilities of designing the structure even with the current garage.

Doug Rogers has already checked into the utility lines and there are no problems.

Chris Harkness presented a staff report. Chris stated they scaled the drawing, measured the shortest distance, and then requested the three foot variance. He reviewed the factors for consideration. The applicant could build a detached garage in this location without a variance. The setbacks for a detached garage would be met. The staff recommends approval of the area variance request.

Steven Paul of 76 Nantucket Avenue is the next door neighbor whose property abuts the Roger's property. He does not have an issue with this variance request. He feels this will increase his property value along with the neighborhood property values. A pole barn would not please the neighbors.

Claudette VanDyne moved to close the public testimony portion of the hearing at 6:26 p.m. The motion was seconded by Dallas Maynard and passed unanimously.

Dallas Maynard moved that variance VA-11-05 be granted with the additional stipulations that the encroachment not exceed a five foot setback and that would give the applicant the prerogative of building the new structure to align with the front end of his building and the overhang not to encroach either with the setback. The motion was seconded by Roger Digel-Barrett. Discussion: The staff is in agreement with the amendment. The roll call on the motion: Dallas Maynard, yes; Roger Digel-Barrett, yes; Rick Cox, yes; Claudette Van Dyne, yes; and Mark Schaff, yes; passed 5-0.

Claudette VanDyne moved to close the public hearing at 6:35 p.m. The motion was seconded by Roger Digel-Barrett and passed by unanimous vote.

Approved as read 9-27-11

Approved as corrected/amended \_\_\_\_\_

Laura Brown  
Laura Brown, Clerk

Rick Cox  
Rick Cox, Vice Chairman

final order ✓

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The adjudicatory hearing was called to order at 6:45 p.m. by Vice-Chairman Cox. The roll call showed members Dallas Maynard, Roger Digel-Barrett, Rick Cox, Claudette VanDyne, and Mark Shaff present along with clerk Laura Brown.

Vice Chairman Cox explained the process. The nature of the conditional use CU-11-02 is to permit NAICS Code 115210 Support Activities for Animal Production to board a horse within a Medium-Low Density Residential District (R-2). The applicants, Gregory and Michelle DuVall, and Zoning Administrator, Chris Harkness were sworn in.

Gregory and Michelle DuVall presented their case. They would like to relocate their horse to this area. They enjoy horseback riding and it helps their son who is autistic. The horse is therapeutic for their son. They have participated in 4H for years. They will use the manure for gardens and flower beds. They will use lime to help reduce and minimize the odor. The horse is at least 700 lbs. The horse will be ridden in their yard. Michelle DuVall stated the neighboring farmer and neighbors next door did not have an issue with the horse. The horse is being housed in Meigs County where they just relocated from. The owners are selling the farm and the horse needs to be relocated. The 10 x 8 structure will be three sided with a stall so the horse can get out of inclement weather. The east side will be open so the horse can go in and out of the structure as needed.

Roger Digel-Barrett asked what the manure output is for a horse this size and Mr. DuVall did not know. The farmer at the rear of his property did not want the manure on the field because of the crops.

Claudette VanDyne has concerns with the electrical fence in the neighborhood with regards to the children in the neighborhood. Michelle DuVall did not think it would be an issue since it would only be up until they could build a board fence. The fence line would be five feet from the property line. The DuValls would use barbwire fence.

Dallas Maynard clarified the uses permitted under the NAICS Code 115210.

Chris Harkness presented his staff report and case overview. The DuValls will fence approximately ½ acre of the lot for the horse. They are proposing to construct a 10 by 8 structure to house the horse. Chris Harkness reviewed the factors for consideration. The staff recommends the Board deny the request. The Zoning Office would enforce the conditions on a conditional use such as removal of manure.

Michael Titschrougsia of 65 7<sup>th</sup> Avenue discussed the manure and urine from the horse. The neighborhood has a lot of children who do not understand the boundaries of properties and one could get hurt on the fence. He is concerned with property damage if the horse gets out and the Board is not sure who would be liable. He stated the lots in Mayflower are close together. He is also concerned with property values. He referenced Article 2 Section b of agriculture.

Sheila Russell of 60 7<sup>th</sup> Avenue is concerned with the safety of the children with the horse. She is concerned with a precedent being set with agriculture uses in her neighborhood.

Michelle DuVall stated they would not have purchased the house if they would have known they could not have the horse.

Toni McKay Perry of 46 Cedarpark Blvd. discussed the low lots and the runoff from the rain. Some of the residents are still using well water. The ground water will be affected.

Judy Bryson of 32 7<sup>th</sup> Avenue discussed neighbors in the area wanting to have cows, chickens, and pigs.

Michelle DuVall stated they cannot afford to board the horse being a one income household. They do have a dog and cat but there is something about riding the horse that helps her son.

Claudette VanDyne moved to close the public testimony portion of the hearing at 7:46 p.m. The motion was seconded by Dallas Maynard and passed unanimously.

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Roger Digel-Barrett is concerned with the amount of manure that comes from a horse and with the residents still relying on well water. Claudette VanDyne is concerned with the safety of children in this residential area. Mark Schaff referenced the OSU Extension office recommendation regarding the amount of land that is adequate and having arrangements in place regarding the manure. Rick Cox is concerned with the property being located within a housing development. There is a concern with setting precedence in the neighborhood for similar agricultural uses.

Roger Digel-Barrett moved that the conditional use CU-11-02 be denied. The motion was seconded by Dallas Maynard. The roll call on the motion was as follows: Dallas Maynard, yes; Roger Digel-Barrett, yes; Rick Cox, yes; Claudette Van Dyne, yes; and Mark Schaff, yes. The motion passed 5-0.

Claudette VanDyne moved to close the public hearing at 7:54 p.m. The motion was seconded by Roger Digel-Barrett and passed by unanimous vote.

Approved as read 9-27-11

Approved as corrected/amended \_\_\_\_\_

Laura Brown  
Laura Brown, Clerk

Rick Cox  
Rick Cox, Vice Chairman

final order ✓