

RECORD OF PROCEEDINGS

Minutes of

Meeting

Etna Township Board of Zoning Appeals

DAYTON LEGAL BLANK, INC., FORM NO. 10148

March 20,

2018

Held

20

The hearing was called to order by Vice Chairman Reis at 6:04 p.m. on March 20, 2018 at the Etna Township Administration Building. The roll call showed members Cheri Rogers, Trent Stepp, Greg Reis, and Mark Schaff present, along with Clerk Laura Brown. Rick Cox was excused.

The nature of the hearing is an appeal of the Zoning Inspector's decision submitted by Jonathan Veley representing Southgate Company for the property located at 1225 Etna Parkway, Etna, Ohio 43062. Vice Chairman Reis explained the process of the hearing. Russ Boren with Southgate Corporation and Zoning Inspector, John Singleton, were sworn in.

John Singleton provided information regarding the appeal. In July of 2017 he discovered that the building was being occupied without a Certificate of Occupancy from the Township. He contacted Frank Rosato with Southgate regarding the Occupancy Permit for 1225 Etna Parkway.

After receiving the Occupancy Permit application John Singleton went to the property to verify if zoning was compliant. There were three issues that needed addressed as follows: The landscape plan had not been submitted as required, the dumpster had not been enclosed, and the emergency access road around the building had not been chained. There were tracks on the road which showed the emergency access road being used. If the road was going to be open to the public it would need to be paved per the township Zoning Resolution. Mr. Singleton notified Mr. Rosato by email of the issues and suggested they apply for a Temporary Occupancy Permit. The landscape plan and dumpster have been taken care of. Southgate stated they would not pave the drive. The drive could have been gated off so it would not require pavement. The Township received a letter dated August 15, 2017 from the law offices of Jonathon Veley stating John Singleton acted outside the scope of his review and that it is not appropriate forum to discuss matters already approved by his predecessor. Rob Platte issued the Zoning Permit on November 23, 2016 and the modifications to the drawings from the November 21, 2016 TRC with Licking County Planning Commission had not been addressed. The revised drawings were dated December 19, 2016. On January 9, 2017 in an email to Licking County Planning Commission regarding Township approval of the drawings Laura Brown stated "If the size of the structure or placement of the building has changed they will need to apply to modify the permit." While the size or placement of the building did not change there had been an emergency access road added to the drawings. The Zoning Permit was not modified.

The Zoning Permit is to allow the building to be built. The Zoning Occupancy Permit is for the use of the building and to verify that zoning has been met.

John Singleton reviewed the information with Austin Lecklider at the Prosecutors Office. Austin Lecklider sent a letter to Jonathon Veley recommending they apply for a Temporary Occupancy Permit until the property comes into conformance with the Zoning Resolution. No Temporary Occupancy Permit was applied for. On February 14, 2018 after speaking with Mr. Lecklider the violation V-03-2018 was issued to Southgate with the options of paving or gating the Emergency Access Road. The applicant appealed the Zoning Inspector's decision to this board. To date they are occupying the building without an Occupancy Permit or a Temporary Occupancy Permit.

The plan that was provided to the Board of Zoning Appeals is the drawing that was sent out in December of 2016 after the Zoning Permit was issued and the TRC required the emergency access road. The original zoning permit that was issued did not show any gravel driveways. John Singleton stated that Paul Neer with Cost Less Lighting wants the access road to be blocked off because they do not want the access road to be used.

John Singleton stated in the November 2016 TRC meeting former Zoning Inspector Rob Platte did comment on the asphalt or gated emergency access road.

Jonathon Veley verified that Mr. Singleton considers this an Emergency Access Road. Mr. Singleton verified as far as Zoning, which is what we have authority over, only the emergency access road has been added to the new drawings. The Township does not define Emergency Access Road; the fire district requires the road. The Zoning Resolution requires it to be gated or paved. John Singleton has evidence the road has been used but does not have evidence on whether it is being used by Southgate Corporation. The property owner is who received the Notice of Violation. Section 1103 in the Zoning Resolution requires driveways and circulation areas be paved. Mr. Singleton verified the use is warehouse. Southgate did apply for the Occupancy Permit when requested on July 19, 2017.

John Singleton provided a letter from Jobs Henderson regarding concerns from the TRC in November.

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Exhibit 1 - Audio from the Licking County Planning Commission November 21, 2016 TRC meeting discussing Cost Less Lighting

The audio from the TRC meeting was played for the Board of Zoning Appeals. The West Licking Fire District required a secondary access. Rob Platte inquired on the location of the secondary access. Amanda Spencer with Jobs Henderson stated they will have to review where to locate. Rob Platte discussed an asphalt path around the building. Rob Platte discussed the gravel driveway from the water and sewer property and having a shared gravel emergency access only. Amanda Spencer stated that would cause additional cost. She will discuss with West Licking Fire District, John Singleton. The rest of the TRC was not pertaining to this issue and the audio was turned off.

The asphalt requirement is for circulation not for emergency access.

John Singleton stated in the Zoning Resolution under Section 501e provides the language for issuing an Occupancy Permit and this is why he denied the permit.

Jonathon Veley stated the fire department required the emergency access road. The fire department requirements are to meet their load requirements for their trucks. The Township does not have the authority to deny the emergency access road. The only addition to the drawing is the emergency access road which the fire department required.

Mr. Veley did not swear in and was not testifying and was in attendance as an attorney.

Russ Boren with Southgate Corporation discussed the tape and the requirement for asphalt and the requirements for the fire access. The building is leased and he feels the tenant is responsible for the use of the emergency access. He feels the Zoning Department had the authority to pursue the violation with the tenant. The lease requires the tenant to abide by the local regulations. It is the tenant's responsibility to plow snow in the parking lot. Mr. Boren was not sure when the tenant took occupancy. The use of the driveway is emergency access only. The driveway cannot be used for general circulation. There is no sign or gate to notify vehicular traffic that it is emergency access only. The lease agreement has the drawings which show it as emergency access only. The Board verified that the tenant does not have an issue with the gate and chains. Russ Boren did not have an issue with the gates and chains. Vice-chairman Reis stated this would comply with all three of the concerns.

John Singleton stated if they secure it for emergency access only that would complete the issues and the Occupancy Permit will be issued. There are three points of access that would need to be secured.

The general circulation areas have to be paved in Etna Township this requirement goes away if it is not a general circulation area.

The board will give the applicant until the fourth Tuesday of April (24th) to secure the access and obtain the Occupancy Permit. If the applicant needs more time he can notify the Board.

Cheri Rogers moved to recess the public testimony portion of the hearing at 7:05 p.m. until the fourth Tuesday in April. The motion was seconded by Trent Stepp and passed by unanimous affirmative vote.

Trent Stepp moved to adjourn at 7:05 p.m. The motion was seconded by Cheri Rogers and passed by unanimous affirmative vote.



Laura Brown, Clerk



Greg Reis, Vice Chairman