

BOARD OF ZONING APPEALS MINUTES

Tuesday, May 12, 2009

7:00 P.M.

A. ROLL CALL

Members Present:

Mike Hall– Chairman
Nicole Daily – Vice-Chairman
Jim Deaton
Ken Nelson

Arnold McGill – Attorney
Ashley Webb – Enforcement Officer

Members Absent:

Rick Pope

B. ACTION ON MINUTES

There were no minutes to approve at this time.

C. OLD BUSINESS SCHEDULED TO BE RE-OPENED

There was no old business.

D. OLD BUSINESS TO REMAIN TABLED

There was no old business.

E. NEW BUSINESS

- | | |
|-------------------------|--|
| 1. Request: | Conditional Use for the operation of a child daycare. |
| Applicant/Owner: | Jeanie Dirr |
| Site Location: | Georgetown Road |
| Legal: | Sec. 22, T6, R1, Map #06-22-400, Parcel #043 |
| Township: | Miller Size: 2.31 Acres |
| Zoning: | Residential (R) |

Mr. McGill advises the Board to move to the next item of business in light of the Applicant's absence.

2. Request: **Conditional Use to allow the manufacturing of ammunition for small fire arms on his property.**
Applicant/Owner: **Michael Mulcahy**
Site Location: **Whippoorwill Drive**
Legal: **Sec. 26, T7, R3, Map #04-26-700, Parcel #028**
Township: **Manchester** **Size: 4.4032 Acres**
Zoning: **Agricultural (A)**

Ms. Webb states that the Applicant is seeking the approval of a conditional use permit to perform ammunition reloading on site for internet, retail dealers and gun show sales. She explains that no on-site sales will be performed and that the applicant is not proposing to change the existing outward appearance of the site in any manner, including outdoor storage, signage or lighting. Ms. Webb reviews the staff report and shows slides.

Mr. Michael Mulcahy states that he would like to operate a home occupation for reloading ammunition to sell at gun shows and online. There will be no impact from this activity on the community. He states that the ATF is awaiting the approval from this Board to proceed with the permits for the business. He explains that there are 2 manual presses he will use along with smokeless powder. The gun powder is safer than gasoline stored in a garage, since it burns and does not detonate like TNT. In the event of an emergency conventional fire fighting techniques are used. He feels this is a safe business so long as it is done properly. He presents a Power Point presentation.

Mrs. Daily questions how much powder will be kept on the property, and if there will be any waste stored onsite that will need to be disposed of. She also asks if the ATF performs any inspections of the home/business area.

Mr. Nelson asks how much completed ammunition will be stored on the property and if there is any security in place for this. He also questions if there will be any onsite test firing.

Mr. Deaton asks if this is the final step of the process for the State Licensing from the ATF and if everything is in compliance so far.

Mr. Mulcahy states that the ATF has completed a home inspection and are satisfied with their findings. No security is required for the storage of ammunition (only the sale of firearms from the property requires security). The next step for him to complete is the FBI inspection and then his licensing should be complete. He further explains that he plans to store approximately 100 lbs. of powder onsite to produce several different caliber bullets, with approximately 10,000-20,000 lots of finished product stored on the property. He states that he does have a small area on his property where he shoots, however he usually attends Crosley Range 1 or 2 times a year to test his product. Once a satisfying formula is established and is consistently

used, frequent testing is not necessary. He states that there will be minimal waste with assembly and shipment of the product, primarily cardboard boxing. He also states that he is always home to secure his property himself.

Mr. Nelson asks how the powder will be delivered to the site.

Mr. Mulcahy states that he currently meets the truck driver off the exit to pick up his powder. There are no tractor trailer deliveries at his home.

Open public comment.

Mr. Rumsey states that he lives across from this subdivision and he is very concerned with the handling of the ammunition and the dangers of explosion. He was in WWII and worked with ammunition and it is very dangerous. He further states that this area is a residential neighborhood and he would not like to see the peaceful community disturbed with a manufacturing business. He states that people come to Indiana because we allow more, and he feels we do not need to inherit more problems from other States.

Mr. Jerry Martin, Woods Edge Developer, states that when he developed this area he thought of no provisions in the covenants to address this type of request. He states that he shoots and reloads his own ammunition and feels this could be worked out. He suggests restricting the applicant to no signage, no clients at the establishment, no test firing of high rifles.

Ms. Dorothy Scott states that she lives down the road and her concern is that if this is allowed, will it open the door for more manufacturing to come to the neighborhood in the future.

Mrs. Daily states that the process would be similar; possibly a zone change request depending on the type of request. A larger manufacturing facility would require a zone change.

Mr. Rumsey questions how a business may operate without a zone change.

Mr. Mark McCormack, Planning Director, states that the Dearborn County Zoning Ordinance permits certain uses within each Zoning District, including Conditional uses which are permitted by this Board. Anything outside of these permitted and conditional uses require(s) a zone change to allow for the business.

Mr. Bill Higgins, adjoiner, states that he attends shoots around the United States and reloads his own ammunition. He has no problem with this request based on what he has heard so far, and feels it is perfectly safe. He suggests that there be no tractor trailer traffic in the neighborhood.

Close public comment.

Mr. Deaton states that there are 2 concerns with this request: 1) proper licensing and the conduct in accordance with the terms of that license, and 2) no change to the character of the neighborhood. He feels those concerns have been met and he has no problem with this request.

Mrs. Daily states that she has no issues with the request.

Mr. Nelson made a motion to approve the request for manufacturing of ammunition as a home occupation and conditional use with consideration to the criteria: 1) this request won't endanger the public health, safety, and welfare of the community; 2) the operations and maintenance will be harmonious and appropriate in appearance with the existing neighborhoods character; 3) this will be served adequately by the essential utilities; 4) this will not impede the normal and orderly development improvement of the surrounding property; and 5) this will not generate access traffic, nor involve activities detrimental to persons, such as glare, noise, dust, fumes, or smoke. Conditions of approval include: 1) no onsite test of ammunition; 2) no onsite delivery of ammunition powder; 3) no employees; 4) no signage on property; 5) no retail sale on site; 6) must have proper licensing; and 7) no change in character of the neighborhood or residence for the operation of this use. Mr. Deaton seconded. All in favor. None opposed. Motion carried.

1. Request:	Conditional Use for the operation of a child daycare.
Applicant/Owner:	Jeanie Dirr
Site Location:	Georgetown Road
Legal:	Sec. 22, T6, R1, Map #06-22-400, Parcel #043
Township:	Miller Size: 2.31 Acres
Zoning:	Residential (R)

Ms. Webb states that the Applicant is seeking the approval of a conditional use permit to operate a home child care service on a 2.31 acre property. The applicant is currently licensed through the State of Indiana for a maximum capacity of twelve children, which would make the proposed use a Class I Group Child Care Center, according to definitions provided in Article 27. She states that the child care use is intended to occupy 800 square feet of the 2442 square foot residence (or 32.7% of the entire structure). There is one existing access point off Georgetown Road: a gravel driveway (22' X 75') that also provides on-site parking. The applicant is also proposing one on-site sign, that is approximately 2' X 2'. She further explains that there appear to be issues in association with this application that must be addressed prior to or during a Minor Site Plan Review process if the Board does in fact grant the Conditional Use request to establish this child care. These issues include--but may not be limited to--parking and loading requirements and lighting requirements. Ms. Webb reviews the staff report and shows slides.

Mr. Nelson asks if this property currently exists as a violation, and how it came about.

Ms. Webb states that the property is in violation at this time and was brought to her attention (along with another property) by a Board Member inquiring about procedures for home daycare facilities.

Ms. Jeanie Durr, Applicant, states that she is willing to answer any questions from the Board.

Mrs. Daily states that she would like to know how many children the business is licensed for, and how often the business is inspected by the State. She also asks what the hours of operation are, and if there is any screening from Georgetown Road.

Mr. Deaton asks how far the neighbors house is from the daycare area.

Ms. Durr states that she did not realize when she applied for her State License that she needed anything locally. She is licensed for 12 children; however she only keeps 8-9 kids from 5am to 7pm, and has no employees. The State may inspect at anytime and those persons affiliated with the daycare may visit at any time. She further states that her property is very "Green" and contains nature trails to teach the kids about the earth. She has fencing with locked gates around her pond and property. She also states that she is approximately 500ft. from her neighbor's house.

Open public comment.

Mr. Dave Saalfeld, adjoining neighbor, states that he received a letter from the Planning Office and decided to come to the meeting tonight to see what this process is all about. He states that he has no problem with his neighbors request, however he did not realize that there was a pond on the property with the children around.

Mr. Deaton asks him if he has any problems with the children or noise from the property. He also asks if he has a view of the pond.

Mr. Saalfeld states that he works during the day, so noise is not a concern with him. He also states that the property is very green and can not be seen too well, so he did not know there was a pond on the property.

Close public comment.

Mr. Deaton expresses concern about an anonymous letter received by Staff and presents the letter to Ms. Durr.

Ms. Durr states that this letter is from the 'haters' in the neighborhood and she feels that unkept property is a matter of opinion. Her property is "Green" to educate her children. She disagrees with the letter.

Mr. Deaton feels that there is no evidence of a problem with the daycare.

Mr. Hall states that the property is near Hidden Valley Lake where children play in backyards all day long.

Mrs. Daily states that if the concerns in the letter were that serious then the person should have been here at the meeting or contacted State services.

Mr. Nelson states that he has 6 children and never had a license from the State to raise his children. He feels the lot size is adequate for the children and he sees no problem with this request.

Mr. Deaton made a motion to approve a conditional use for the operation of a licensed daycare operation for Jeannie Dirr on Georgetown Road in accordance with the site plan and the application. Mr. Nelson seconded. All in favor. None opposed. Motion carried.

F. ADMINISTRATIVE

Mr. McCormack gives a brief update:

- Paul Ravenna, regarding signage violations and Conditional Use Permit

Mr. McCormack states that he spoke to Mr. Ravenna during the past week and the non-compliant signage has been removed. He will keep the Board apprised of this case / situation.

Ms. Webb presents the Enforcement Report.

Mr. Deaton made a motion to adjourn. Mr. Nelson seconded. All in favor. None opposed. Motion carried.

Meeting adjourned at 8:25 P.M.

Mike Hall, Chairman

Ashley Webb, Enforcement Officer