

# **BOARD OF ZONING APPEALS MINUTES**

**Tuesday, March 8, 2011**

**7:00 P.M.**

## **A. ROLL CALL**

Members Present:

Mike Hall– Chairman  
Rick Pope  
Jane Ohlmansiek  
Nicole Daily  
Ken Nelson

Arnold McGill – Attorney  
Ashley Newnam – Enforcement Officer

Members Absent:

None

## **B. ELECTION OF OFFICERS**

Mr. Pope nominates Mike Hall as Chairman. Mr. Nelson seconds. All in favor. None opposed. Motion carries.

Mr. Nelson nominates Rick Pope as Vice-chairman. Mrs. Daily seconds. All in favor. None opposed. Motion carries.

Mrs. Daily nominates Ashley Newnam as Secretary. Mr. Pope seconds. All in favor. None opposed. Motion carries.

## **C. APPOINTMENT OF ATTORNEY**

Mrs. Ohlmansiek makes a motion to re-appoint Arnold McGill as legal council. Mr. Pope seconds. All in favor. None opposed. Motion carries.

## **D. ACTION ON MINUTES**

Mrs. Ohlmansiek makes a motion to approve the December 14, 2010 minutes as amended. Mr. Nelson seconds. All in favor. None opposed. Motion carries.

## **E. OLD BUSINESS SCHEDULED TO BE RE-OPENED**

There was no old business.

## **F. OLD BUSINESS TO REMAIN TABLED**

There was no old business.

## **G. NEW BUSINESS**

- |                         |  |                        |
|-------------------------|--|------------------------|
| <b>1. Request:</b>      | <b>Front Yard Variance for the location of a pond.</b> |                        |
| <b>Applicant/Owner:</b> | <b>Kevin Purcell</b>                                   |                        |
| <b>Site Location:</b>   | <b>Dockery Road</b>                                    |                        |
| <b>Legal:</b>           | <b>Sec.16, T 4, R 2, Map # 11-16, Parcel # 035</b>     |                        |
| <b>Township:</b>        | <b>Washington</b>                                      | <b>Size: 7.7 Acres</b> |
| <b>Zoning:</b>          | <b>Agricultural (A)</b>                                |                        |

*Mr. Hall explains that he has a conflict of interest and leaves the room. Mrs. Daily explains she is employed by Mr. Hall; however she has never worked with this request. Mrs. Daily remains on the Board and Mr. Pope chairs the meeting.*

Mrs. Newnam explains that the applicant would like a front yard variance in order to construction a 1.15 acre pond on 7.7 acres of land located on Dockery Road. She states that the proposed pond would be 70 feet from the edge of the road right-of-way and is located within a drainage easement in the Cedar View Subdivision. Storm water calculations and grading information were submitted to the Technical Review Committee for review at its March 7th, 2011 meeting. Mrs. Newnam presents the staff report and shows slides.

Mrs. Ohlmansiek asks what the speed limit of the road is.

Mr. Kevin Purcell, applicant, states that the road is a dead end road with a speed limit of 25mph.

Mrs. Ohlmansiek states that the County Engineer has suggested, in his letter, that a guardrail be placed along the road for safety.

Mrs. Newnam states that the new site plan presented tonight depicts a guardrail onsite for safety.

Mrs. Daily asks if this is a buildable lot and if the applicant plans to build a home on this lot. She is concerned with the location of a pond limiting the ability to build a home.

Mrs. Newnam states that the lot is a buildable lot and that the applicant would like to build in the future.

Mr. Purcell states that he plans to build a home in the future and it would be located on the highest part of the lot. He states that he has spoken to the Health Department and is working out the septic layout at this time. He explains that he was interested in a pond and that the layout of the lot provided the perfect location.

*Open public comment.*

Ms. Katherine Yanos, nearest neighbor, asks what the use of lot will be, since there are no current plans for the home.

Mr. Purcell states that he is building the pond for recreational uses until his finances are there to build his home.

Ms. Yanos asks if the covenants of the subdivision are being met by this request.

Mrs. Newnam states that the covenants and restrictions for this development require developer approval. She states that staff has received a letter from the developer, Randall LeDuc, approving this request.

Ms. Yanos states that she is opposed to this request because of safety and aesthetic concerns for Cedar View subdivision development. She feels that a guardrail would detract from the natural beauty of the development.

*Close public comment.*

Mr. Nelson suggests placing an attractive guardrail to meet the neighborhood's characteristics.

Mrs. Daily states that the design detail for the guardrail illustrates a steel or wooden guardrail. She suggests that landscaping be placed in front of the guardrail.

Mrs. Ohlmansiek suggests planting some trees in addition to the guardrail.

Mr. Purcell states that he has no problem with planting trees; however, trees will not be very useful at this time. He feels that he could place a guardrail for a few years until the trees are fully grown, and then remove the guardrail if possible.

Mrs. Daily states that the Technical Review recommendations should be met if approved tonight.

Mr. Nelson makes a motion to approve the request for a 70ft. Front Yard Variance for a pond for Kevin Purcell on Dockery Road in Section 16 of Washington Township with the conditions that a wooden guardrail be placed with trees along the right-of-way instead of a steel guardrail, and that the applicant comply with the County Engineer Technical Review Committee memo. This request will not be injurious to the public health, safety, and welfare of the community, nor have an adverse affect on the community. The need arises from a situation peculiar to the property, which is not the fault of the applicant, and would create an undue hardship if not granted. Mrs. Ohlmansiek seconds. All in favor. None opposed. Motion carries.

Mr. Hall returns to Board as Chairman.

<b>2. Request:</b>	<b>Conditional Use for an electronic message board.</b>
<b>Applicant:</b>	<b>Sign-A-Rama / Owner: Bright Christian Church</b>
<b>Site Location:</b>	<b>Stateline Road</b>
<b>Legal:</b>	<b>Sec.34, T 7, R 1, Map # 01-34 Parcel # 012</b>
<b>Township:</b>	<b>Harrison                      Size: 5.73 Acres</b>
<b>Zoning:</b>	<b>Restricted Business (B-1)</b>

Mrs. Newnam explains that the Applicant is seeking the approval of a Conditional Use Permit to allow a sign with an LED element on this 5.73 acre property. The monument-style sign will be 32 total square feet, with 15.8 sq. ft of white acrylic push-through lettering and 15.25 sq. ft. of electronically changeable message board. The electronically changeable message board comprises of 48% of the total sign and, therefore, is under the 50% that is allowed for electronically changeable message board according to Article 20 of the Zoning Ordinance. The LED sign element will be contained on both sides of the sign and will be viewable from Stateline Road. The proposed sign contained in the request will replace the current existing monument sign with manually changeable letters. She further states that the Bright Christian Church has formerly had enforcement issues regarding signage, particularly temporary signage. She states that they currently have an existing sign on-site and will either need to remove this second, separate free-standing signage (white signage advertising on-site daycare) or will need to come back before the Board for an additional Variance. Mrs. Newnam presents the staff report and shows slides.

Mr. Pope asks if a variance can be granted for sign when the property is already in violation with another sign.

Mrs. Daily suggests placing conditions of approval to be met prior to constructing the new sign.

Mr. Kevin McCord, of Sign-A-Rama, states that Bright Christian Church would like to place a new electronic message board sign on their property. He apologizes for missing the existing sign on the property and feels that the Church would be willing to remove that sign in order to place the new sign and then come back to the Board in the event they would like to place the old sign back on their property. He further

states that he has reviewed the sign requirements with the Church and they are willing to abide by them.

Mr. Pope asks how bright the sign is during the evening hours.

Mr. McCord states that the LED lights automatically dim to 50% intensity during the evening hours so not to be a distraction to the community.

Mr. Nelson asks if Mr. McCord believes that signs focus the driver's attention as opposed to not having the sign to focus their attention.

Mr. McCord explains that he has reviewed several studies and he feels that it is better for people to be able to read a sign and know where they are going then to be searching to see what a sign might have said.

*Open public comment*

Mr. Jeff Stone, Bright Christian Church Minister, states that the Church has had their existing sign for 35 years and they would like to improve and update to a newer sign. He explains that the church began a collection for the new sign and met that goal after 4 months of collecting. He feels that the community would like an improved sign.

*Close public comment.*

Mrs. Daily states that there are already LED signs in the neighborhood and that she feels better when she reads a lit sign, which seems to be safer for her when she drives. She has no problem with this request.

Mr. Pope states that he has no problem with the sign as long as it is operated in the correct manner and meets the requirements of the Ordinance. He states that he would like to see a stipulation that if approved, the sign would be removed if not meeting the operating requirements.

Mr. Nelson states that with regards to a letter of opposition received from the adjoining property located across the street, the area is zoned Business and one should expect to have signage within a Business zoning district. He also feels that signage is designed to focus a driver on where they may be going.

Mrs. Ohlmansiek agrees with what has been said.

Mr. Nelson makes a motion to approve a Conditional Use for an electronic message board for Bright Christian Church on Stateline Road in Section 34 of Harrison Township with the conditions that the lighting and components stay in accordance with the Ordinance and that the existing daycare sign be removed. This request will not be injurious to the public health, safety, and welfare of the community, nor have an adverse affect on the community. That the need arises from a situation peculiar to

the property, which is not the fault of the applicant, and would create an undue hardship if not granted. Mr. Pope seconds. All in favor. None opposed. Motion carries.

**3. Request: Conditional Use for the operation of an auction center.**  
**Applicant/Owner: Rick Johnson**  
**Site Location: U.S. 50**  
**Legal: Sec.4, T 5, R 3, Map # 10-04 Parcel # 229.001**  
**Township: Clay Size: 3.715 Acres**  
**Zoning: General Business (B-2)**

Mrs. Newnam explains that the Applicant is seeking the approval of a Conditional Use Permit for an auction facility. In order to adapt the existing structure (3,200 square feet) to accommodate the proposed auction house use, the applicant proposes to construct a 4,800 square-foot addition. She states that if the proposed use is approved, the Applicant would be required to submit construction plans –in the form of a Major Site Plan—to the Technical Review Committee. She further reviews some enforcement issues pertaining to outdoor storage. Mrs. Newnam presents the staff report and shows slides.

Mr. Hall asks if there is a current violation on this property.

Mrs. Newnam states that a violation does exist for outside storage; however this request, if granted tonight, is an effort to resolve the violation.

Mrs. Daily asks if the proposed use is only for an auction house or would a flea market also be operated onsite?

Mrs. Newnam states the request is for an auction house only.

Mr. Nelson asks about the previous approval for store-n-lock facility?

Mr. Rick Johnson, applicant, states that the store-n-lock facility was approved; however he was told that he would have to come back to the Board for that use. He states that he has cleaned up the outside storage and little remains under the awning until he can finish remodeling the building and store it inside. He explains that he will be removing the end portion of the old hotel and building a new pole building 15ft. away from hotel building, in order to meet fire code. He states that the use would be mostly auctions and he may sell some items every once in awhile.

Mrs. Daily asks if there will be any renovation of the hotel.

Mr. Johnson states that he would like to facelift the hotel to match the new building.

Mr. Nelson asks what Mr. Johnson's plans are for the store-n-lock that was

previously approved.

Mr. Johnson states that the store-n-lock was proposed on the other side of the property. He does not believe he is going to do that anymore, he wants to keep it as an open field.

Mr. Nelson asks if anyone is living in the hotel.

Mr. Johnson states that the hotel is no longer in use. He states that he has one man living onsite part time to watch over things.

*No public comment.*

Mrs. Daily asks if the auction house is granted, will there be hotel rooms being rented out?

Mr. Johnson states that no rooms will be rented.

Mrs. Ohlmansiek feels that this request if granted would clean up the area. She states that she would like to see the Technical Review Committee review this request.

Mr. Hall states that the next phase would be Site Plan Review which is conducted by the Technical Review Committee.

Mrs. Daily states that she is concerned with the establishment expanding the use and becoming a flea market in the future. She does not feel a flea market is conducive to the area.

Mr. Hall agrees with Mrs. Ohlmansiek and states that the current auction facilities within the County seem to operate very well.

Mr. Nelson feels that this request would be an improvement to the area.

Mrs. Daily suggests that the previous use be deemed no longer in effect.

Mr. Nelson makes a motion to approve the Conditional Use request for Rick Johnson on U.S. 50 in Section 4 of Clay Township, for a building to be constructed and used as an auction facility with the conditions that the front of the existing structure be upgraded to match the new building, and that the property will no longer be used for housing with out approval of the Plan Commission. This request will not be injurious to the public health, safety, and welfare of the community, nor have an adverse affect on the community. That the need arises from a situation peculiar to the property, which is not the fault of the applicant, and would create an undue hardship if not granted. Mrs. Ohlmansiek seconds. All in favor. None opposed. Motion carries.

## **H. ADMINISTRATIVE**

Mr. Hough previously requested to address the Board; however he did not appear this evening.

Mrs. Newnam presents the enforcement report.

Mr. Nelson makes a motion to adjourn the meeting. Mrs. Daily seconds. All in favor. None opposed. Motion carries.

Meeting adjourned at 8:15 P.M.

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Mike Hall, Chairman

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Ashley Newnam, Enforcement Officer