

Minutes**Bethel Township Board of Zoning Appeals****November 30, 2006 – 7:30 P.M.****Regularly Scheduled Meeting****Firehouse, 8735 S. Second Street – Brandt, Tipp City, Ohio**

Zoning Commission Member(s) Present: Broerman, Bush, Sheldon, Turner,
Vice-Chairperson Underwood

Zoning Commission Member(s) Absent: Chairperson Wells -excused

Staff Present: Gebhart – Director of Planning & Zoning

Mr. Underwood called the meeting to order at 7:30 pm.

Mr. Underwood started by having the members of the Zoning Commission and Township Staff present introduce themselves.

Mike Gebhart –Bethel Township Director of Planning & Zoning
Robert Bush - Commission Member - 5635 Studebaker Road
Ed Broerman - Commission Member - 5260 E. St. Rt. 571
Judy Sheldon – Commission Member – 4905 Rudy Road
Polly Turner – Commission Member – 6435 Scarff Road
Jesse Underwood – Commission Member – 5010 Eastland Drive

Mr. Underwood introduced Polly Turner as the new alternate member of the Bethel Township Zoning Commission. Since Mrs. Turner had not been sworn in at the time of the meeting, she would not be a voting member of the Commission this evening, but would be able to participate in any discussion or questioning of the applicant.

Mr. Underwood discussed the purpose and the powers of the Zoning Commission as outlined in the Chapter 519 of the Ohio Revised Code. He described the process that the evenings events would take place in. He stated that he would start with the reading of the application, which would be followed by comments from the applicant. At that time he would call for anyone wishing to address the Commission in support of the application. He would next call for anyone wishing to speak in opposition to the proposed zoning. Mr. Underwood stated that anyone wishing to speak would need to come to the podium, state their name and address before making any comments. He also instructed the audience that comments must be addressed to the Commission, and that there would be no questioning between members of the audience to each other. All questions would come from the Commission members. At the end of this process, Mr. Underwood stated, that a motion would be placed on the floor and voted on by the Zoning Commission.

Mr. Underwood asked if any member of the Commission was opposed to moving the approval of the minutes of the previous meeting to the end of this meeting? No one was opposed.

Mr. Underwood read the request:

Zoning Commission Case #ZA-07-06, a request from Mr. & Mrs. Richard Alder, 4228 E. Ross Road, Tipp City, Ohio. The applicants would like to subdivide and rezone an approximate 1.470-acre parcel from an existing 22.32-acre parcel of land zoned A-2 General Agriculture to R-1AAA at 4228 E. Ross Road, Tipp City, Ohio. This parcel of land will be joined with an existing 2.201-acre parcel of land zoned R-1AAA One Family Residential. The remaining 20.850-acres will remain zoned A-2 Domestic Agriculture. The parcel in question is located at 4228 E. Ross Road, Tipp City, Ohio, Miami County, Bethel Township, Town 2 Range 9, Section 26.

Mr. Underwood asked if the applicant was present?

The applicants, Mr. & Mrs. Richard Alder of 4228 E. Ross Road, were present.

Zoning Commission Vice-Chair asked Mr. & Mrs. Alder what they would like to do.

Mr. Alder explained that initially he and his wife Suzanne wanted to correct his father's "creative zoning" from 15 to 18 years prior. They want to add the 1.470-acres off of the A-2 zoned land onto the R-1AAA parcel of land with the house on it. The 1.470-acres would allow the family's barn to be placed on the same parcel of land as the house.

Mr. Underwood asked each of the Commission members if they had any other questions for the applicant, Mr. Alder.

Mr. Bush asked for a site plan from Mr. Alder. Site plan was shown to Commission.

Mr. Bush asked how big the barn is? Mr. Alder responded 70' x 75'.

Mr. Bush stated that he was at the property earlier and was trying to get a feel for how the barn sits in relation to the property lines.

Mr. Alder stated that the barn sits 20 feet off of the property line on the west side.

Mr. Bush commented that Mr. Alder had moved the driveway.

Mr. Bush asked if the rezoning was to square up the lot. Mr. Alder responded that it was, and if they ever wanted to sell either property it needed to be done. Mr. Alder went on to say that no one would want to buy a house that had a barn sitting less than 60' from it.

Mr. Bush said he had no further questions.

Mr. Underwood asked for any other Commission questions.

Mr. Bush stated that he could agree with Mr. Alder, that people would assume that the barn was on the lot with the house.

Mr. Underwood asked if there was anyone there who would like to speak in support of the proposed zoning change.

Support for the application:

None

Mr. Underwood asked if there was anyone who would like to speak against the zoning application.

Opposition against the application:

None

Mr. Underwood stated that he had been to the property and could see what Mr. Alder was trying to do. He did note that this was a power line that comes into the house, but was just a standard feed to the house and the barn. He saw no right of way issue. He noted that there were no other utilities to be concerned about.

Mr. Underwood noted that there were no concerns from the County Health Department, and the case received unanimous approval from the Miami County Planning Commission.

Mr. Underwood stated that Mr. Gebhart had written the motion for this evening because of the non-conforming barn being brought into the R-1AAA lot. It was the Zoning Commission and the Planning Directors intent to produce a very clear motion in regards to the size of the barn. The barn is 70' x 75' or 5,250 square feet. This lot would not allow for a barn of this size to be built in this district, but since it was built originally as a legally conforming use than it would be considered a legally non-conforming use.

Members of the Zoning Commission asked that the prepared motion be altered to include the specific size of the barn being 70' x 75'.

There was discussion amongst the Zoning Commission about the status of barn being non-conforming.

Mr. Gebhart explained what his interpretation of legally non-forming meant for the barn. He also stated that any addition to the barn, be it by the Alder's or whomever is the owner 25 years down the line would have to apply to the Board of Zoning Appeals for a variance to increase the size of the barn.

Zoning Commission asked Mr. & Mrs. Alder if they understood that the barn was legally non-conforming as long as it stayed the present size, but if they tried to alter the barn in any way to increase the size of the barn, it would no longer be considered legally non-conforming. They also asked if the Alder's understood that this would have to be disclosed if they ever attempted to sell the property?

Mr. Alder said that he understood.

Mr. Underwood, along with the entire Zoning Commission, noted that this case should not be viewed as a precedent setting case. It has been the Zoning Commission's policy to not approve rezoning requests when a non-conformity exists. Each case shall be looked at on a case-by-case basis. For this particular case, Township staff has presented the non-conforming 70' x 75' barn structure as a legally non-conforming structure on the lot since the barn was originally built as a legally conforming structure on the A-2 General Agriculture District lot.

Mr. Bush made the motion:

Zoning Case #ZA-07-06 - Rezoning from A-2 General Agriculture District to an R-1AAA One Family Residential district

An application has been received from Richard and Suzanne Alder, owners of two parcels of land located at 4228 East Ross Road, Section 26, Town 2 Range 9, Bethel Township – Miami County, Ohio to rezone a 1.470-acre tract of land, which is located on the south side of East Ross Road, approximately 1000 feet west of the intersection of Ross Road and State Route 202 from an A-2 General Agriculture district to R-1AAA One Family Residential district; and

This rezoning is requested to permit the inclusion of a legally non-conforming barn, as outlined in Article 17.18 of the Bethel Township Zoning Resolution, onto their existing R-1AAA One Family Residential district parcel; and

The Miami County Planning Commission has reviewed the facts surrounding this request, including an oral and written report by county planning staff, which is incorporated herein, and held a public hearing on November 21, 2006, after which they unanimously voted to approve; and

The Bethel Township Zoning Commission has reviewed the facts surrounding this request, including an oral and written report by township planning staff, which is incorporated herein, and held a public hearing on November 30, 2006; and

The Zoning Commission adopts the findings of fact as detailed by the township planning staff in their written reports dated November 30, 2006; and

The Bethel Township Zoning Commission determines that the rezoning of the subject property is consistent with the 1998 Comprehensive Plan, and is not only in the best interest of the property owner, but also in the best interest of Bethel Township – Miami County and;

THEREFORE, I MOVE, that the applicant's request for the rezoning of the 1.470-acre property located at 4228 East Ross Road, as legally described and reported by township planning staff herein from A-2 General Agriculture district to R-1AAA One Family Residential district be forwarded to the Bethel Township Board of Trustees with a recommendation of approval.

Second: Mrs. Sheldon.

Mr. Broerman – Yea
 Mr. Bush – Yea
 Mrs. Sheldon – Yea
 Mr. Underwood – Yea

Motion passed 4-0, for approval of a subdivision and rezoning of an existing 1.470-acre property located at 4228 East Ross Road, as legally described and reported by township planning staff herein from A-2 General Agriculture district to R-1AAA One Family Residential district.

Mr. Underwood had Mr. Gebhart explain the remaining process for the Alder's application. Mr. Gebhart stated that the Zoning Commission's recommendation would be forwarded to the Bethel Township Board of Trustees. There would be a public hearing on December 12, 2006 at the firehouse at 6:45pm. Gebhart stated that the Trustees would vote on the request at their December 26, 2006 meeting. Gebhart did mention that there was a chance that the December 26, 2006 Trustee meeting could be cancelled because of the holiday week. Mr. Alder asked if it was possible to have the Trustee vote taken on the night of the public hearing on the 12th. Mr. Gebhart stated that he would check with the Trustees to see if they would be able to vote on the request the same night.

Minutes from last meeting were discussed.

A motion was made for their approval by Mr. Bush.

Motion was seconded by Mr. Broerman.

Mr. Broerman – Yea
 Mr. Bush – Yea
 Mrs. Sheldon – Yea
 Mr. Underwood – Yea

Motion passed 4-0.

Mr. Underwood asked about the minutes from the July meeting. Mr. Gebhart said that they were still not ready. There was a problem with he recording. Mr. Underwood said that he would be able to look at his notes and supplement Trustee Jerry Hirt's minutes.

Mr. Broerman made a motion to adjourn.

Motion was seconded by Mrs. Sheldon.

Mr. Broerman – Yea

Mr. Bush – Yea

Mrs. Sheldon – Yea

Mr. Underwood – Yea

Motion was passed 4-0.

Meeting adjourned.

Mr. Jesse Underwood,
Vice-Chairperson

Mr. Michael Gebhart,
Commission Secretary