

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETING MINUTES
December 10, 2019**

Present: Ken Sullivan, DaveENZerra, Randy VanBuren, Dave Lindrose and Dale Lewis
Absent: Tom Hill & Matt Lallo
Zoning Inspector: Rich Constantine
Legal Counsel: None

The Vice Chairman, DaveENZerra, will be our acting Chairman. Chairman called the meeting to order at 6:30 p.m. The Pledge of Allegiance was recited. A quorum was present. The Chairman swore in the persons who were present to speak and intended to testify during the public hearings. All individuals took the oath.

PUBLIC HEARINGS

Case 19-BZA-36

Applicant Patricia Ponn submitted an Application for a Conditional Use for property located at 835 Bacon Rd (PPN 11-B-045-A-00-012-0). The request is for an agricultural conditional Use Permit for the keeping of chickens on the property as required by the provision of subsection 31.03(A).

Chairman found no error for the Zoning Inspector for requiring this application.

Patricia Ponn, applicant, bought the chickens for their son who had a brain aneurysm to help calm him down. Their neighbors son has benefited as well.

Mary Grace McKiss stated that her grandson had a stroke and had to learn to talk. He would sit with the chickens and talk to them. Ms. McKiss commented that her grandson has benefited him immensely. She stated that one of the chicken follows her grandson around. (The Chairman swore in Ms. McKiss as she arrived after the swearing in.) Terry McMann, a neighbor, stated that their chickens did escape their backyard and his dog went after it. He stated that he's fine with the chickens, but he doesn't want to be liable if his dog kills them if they come into his yard. Mr. McMann stated he has not had any issues with the chickens. Richard Ponn, applicant son, commented that they are in the process of building a 6 ft fence to help eliminate the chickens leaving the yard. Ken Sullivan asked how many chickens they currently have? Mr. Ponn replied 11 and they do not have plans on getting more. Mr. Ponn stated they have two coops, which are in a fenced in area. Chairman how long have you had them? Mr. Ponn replied 1-2 years. He stated the didn't realize they needed a CUP. Dale Lewis confirmed that he doesn't have any roosters? Mr. Ponn replied no they do not have any roosters. Randy VanBuren inquired on the new fence. Mr. Ponn stated that plan to replace that fence. Ken Sullivan asked our Zoning Inspector about Mr. McMann concern in regards to his dogs hurting the chicken and if the board would be able to do anything about that. The Zoning Inspector asked Ms. Ponn how she felt about that if the situation occurred. Ms. Ponn stated stated that if the chickens were to escape their yard and the unfortunate event that a neighboring dog would hurt/kill it she would not hold anyone responsible. The Zoning Inspector asked what steps are being taken to eliminate that risk. Mr. Ponn replied that there is a fence now and they plan on installing a 6ft fence. The Zoning Inspector stated that chickens can escape a 6ft fence. Mr. Ponn stated that he does clip their

wings to reduce that risk. Zoning Inspector mentioned that items in they yard can be used for the chickens to climb and escape. Randy VanBuren commented that a condition on this could be to maintain the area to eliminate the chickens escaping the yard. Chairman asked about the enclosure requirement under Section 31. Zoning Inspector stated that its the current requirement today. The Zoning Commission has a proposed text amendment will include a coop area requiring a certain amount of square feet per chick and including a minimum square foot for the run area, all of which is enclosed. Dave Lindrose inquired on the new requirement. Harley DeLeon stated it's going to be 4sq per chick and 8-10 sq ft in the run space per chick. Mr. Ponn stated he has 32 sq ft in each coop. The run area is very large. Dave Lindrose how tall the current fence is. Mr. Ponn replied 4ft. Mr. Ponn stated that is a covered area. Dave Lindrose asked if the board could include a provision regarding the dog hurting the chickens. Ken Sullivan stated no. Zoning Inspector stated the board could not impose that but the applicant could volunteer to add it to their application. Dale Lewis asked if conditions change could the board require the applicant to be subject to the new code. Zoning Inspector commented that a conditional use permit has a term. Dale Lewis asked if they meet the proposed requirements and if they would still require a CUP. Zoning Inspector replied yes, the applicant would need a CUP since their property is under ½ acre, even under the proposed text amendment provisions. Zoning Inspector stated that the board could go into executive meeting and may call Legal Counselor if needed. Dave Lindrose commented they already have the chickens. Harley DeLeon stated that proposed new standards are less restrictive than current ones. Chairman commented that the conditions should be on the shorter side to revise the requirement and make sure the fence is up and no issues arise.

Conditions: The applicant is volunteering that if the chickens leave the yard

Dave Lindrose made the motion to approve **Case 19-BZA-36** with the following conditions:

- 1) Maximum of 12 chickens
- 2) Minimum coop space per chick is 4 sq ft along with 8-10 sq ft of runspace
- 3) Maintain yard
- 4) No roosters
- 5) 6ft fence completed by September 2020
- 6) Applicant volunteered to include full responsibility of their chickens if they leave the premises and are injured/killed
- 7) 2 year term

Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, VanBuren; Aye, Lewis; Aye, Chairman; Aye.

Motion carries.

Case 19-BZA-37

Applicant Traps II LLC submitted an Application for a Variance for property located at 970 Riverside Dr (PPN 11-A-02-0-00-015-0). The variance request is to allow a .7100 acre parcel to be split from the current 2.019 acre parcel 11A020000150. There are currently 2 accessory structures located in the .7100 acre parcel to be split away and such split will cause those accessory structures to exist on a parcel upon which no principal building or use exists in violations Section 22.02(C) which states that "... Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use."

Rick Osborne Jr, hired by Tom Peet to sell the property. The purchaser does not want the additional property and the buildings. Mr. Peet has agreed to split the parcel to accommodate the purchaser. At the

time of the lot split it was good but then the accessory buildings didn't have a fit after the split. Mr. Peet stated they would like to note that if something comes up after the sale then we'd deal with the buildings at that time. Chairman commented that he is concerned about the condition of one of the buildings today. The property being split, could lead to an eye sore down the road. Ken Sullivan asked if any there is any activity in those buildings. Mr. Peet stated he uses the barn for storage. Dale Lewis asked if putting a condition on the building to be maintained or torn down would it be hardship. Ken Sullivan stated he doesn't think the board can put a condition on a lot split. Zoning Inspector stated that the property is 2.109 acres is zoned B-2. The zoning isn't changing. There could be potential of a future rezoning. There is no main use established on either current buildings, which is why we are here. The board is to determine what is going to assist a continuation of an existing business and allow redevelopment of the other property. Zoning Inspector stated that the concern of the township is they do not want vacant accessory buildings deteriorating on a vacant lot. Ken Sullivan commented that the buildings already exist. He stated the does not see it as a concern. The property owner stated that he would maintain the buildings. Zoning Inspector stated that there is an existing business on the property currently.

One vacant property with two accessory building unused. Dave Lindrose stated if it's split then it increases the potential for the property as long as those buildings are maintained. Zoning Inspector stated that he agreed with Ken Sullivan that once the property is split the township can't enforce the maintenance of the buildings. The Zoning Inspector inquired if the realtor believes that this will be a long standing property? The realtor, Rick Osborne, replied there has been interest for commercial use. Chairman asked if its been on the market? Mr. Osborne, replied yes, but not separate.

Chairman stated that this will be a good faith attempt that the realtor will market the property well and the current owners will keep maintain the buildings until it's sold.

The current owner stated that they have painted the front of the building. He stated that it has been maintained. They also stated they would not walk away and leave an eye sore for their neighbors.

Chairman asked if anyone would like to speak. Hearing none, he asked for a motion.

Dave Lindrose made the motion to approve Case 19-BZA-37 as submitted.

Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, VanBuren; Aye, Chairman; Aye.

Motion carries.

Ken Sullivan made a motion to journalize Case 19-BZA-37. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, VanBuren; Aye, Chairman; Aye.

Motion carries.

Regular meeting:

The Chairman called for attention to the minutes of the November 11, 2019 hearings and meetings. Ken noticed a typo. No additional corrections. Hearing none, the Chairman declared the minutes approved.

Old Business -- None

New Business: Rules and Procedures Discussion. Zoning Inspector suggested labeling them to January. Dale Lewis stated that him and Tom Hill will not be in attendance at the January 2020 meeting.

There being no further New Business, the Chairman adjourned the meeting 7:27PM. Next meeting will be Tuesday, January 14, 2020.

Respectfully submitted,



Dave Enzerra, Chairman


Lorrie Schuck, Secretary

