RECORD OF PROCEEDINGS
AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR
Minutes of Auburn Township Administration Building Meeting
BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO
11010 Washington Street July 9, 2024 1
Form 6101
Held

BZA-2024-11v

MEMBERS PRESENT: DOUG HOGAN, BRIAN STEWART, MICHAEL VARLEY, ROBERT FORD, BEN TIMMONS, LEWIS TOMSIC

MEMBER ABSENT: DAVID PARKER

MEMBERS HEARING THE CASE: Hogan, Stewart, Varley, Ford, Tomsic

CASE FILE: The case file for BZA-2024-11v is included as part of the official record, along with the Auburn Township Zoning Resolution

BZA-2024-11v--an appeal requesting a variance, submitted by Community Garden Supply, Ben Moidell, from the Auburn Township Zoning Resolution, Article 4A.05 (c)(1), Schedule of Uses, Retail Sales are Limited to "if it is manufactured on site" for retail sales located at 10220 Gottschalk Parkway, Unit #2 Auburn Township, Ohio 44023 in a I-1 zoning district.

The meeting was called to order by Chairman Robert Ford at 7:00 PM on July 9, 2024.

Roll call was taken with the following members present: Doug Hogan, Brian Stewart, Michael Varley, Lewis Tomsic, Ben Timmons and Robert Ford. Member absent was David Parker.

Frank Kitko, Auburn Township Zoning Inspector, John Phillips` and Jane Hardy, BZA Secretary were also present.

The Pledge of Allegiance was led by Chairman Robert Ford.

Mr. Ford verified that everyone who was present and going to testify had signed in.

Mr. Ford swore everyone in who was planning on testifying.

Chairman Ford read the opening statement as follows:

The BZA is a quasi-judicial body and as such, its role is similar to a judge in a court case. The Board will hear evidence and testimony that is factual and will make decisions based upon the facts, which are presented, the rules as set forth in the resolution and principles of law.

The Ohio Revised Code Section 519.13 requires that any Township that has adopted a zoning resolution, which Auburn Township has, appoint a five-member Board of Zoning Appeals and 2 alternate members. This Board is empowered to hear and decide appeals and to authorize variances from the strict terms of the zoning resolution where the variance will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the resolution will result in an unnecessary hardship or practical difficulties. The BZA is also permitted to authorize variances where the spirit and intent of zoning is upheld and substantial justice will be done.

With this being stated, the Board's proceedings are relatively informal; but, in order to conduct an orderly meeting and allow all parties of interest, mainly contiguous property owners, or their legal representatives, the opportunity to present the evidence, certain procedures need to be followed:

All interested parties must be sworn in. The applicant will be asked to present

evidence to support the requested appeal, the Board will ask questions, and then all interested parties (contiguous property owners) may present evidence concerning the appeal and ask questions regarding previously presented evidence.

It is the applicant's burden to produce evidence to support the application. The Board will not make the applicant's case for them. In order to prepare appropriate meeting minutes, each person, who speaks, will need to state, for the record, his/her full name and address. The meeting may be continued by either the applicant or the Board. The Board must base their decisions upon facts and not on expressions or concerns or non-factual matters. The action of the BZA does not become final until 30 days, after the date of the meeting that the minutes were approved.

Mr. Ford also commented that the official record for this meeting will be the minutes recorded by the Board of Zoning Appeals Secretary. Mr. Ford also noted, that part of the official record, is the case file for BZA-2024-11v and the Auburn Township Zoning Resolution. Chairman Ford proceeded with the first agenda item under New Business which was:

BZA-2024-11v--an appeal requesting a variance, submitted by Community Garden Supply, Ben Moidell, from the Auburn Township Zoning Resolution, Article 4A.05 (c)(1), Schedule of Uses, Retail Sales are Limited to "if it is manufactured on site" for retail sales located at 10220 Gottschalk Parkway, Unit #2 Auburn Township, Ohio 44023 in a I-1 zoning district.

Mr. Moidell was asked to present his request. Ben Moidell introduced himself to the Board. He indicated that he was the owner and operator of Community Garden Supply which is currently located and operating at 10155 Gottschalk Parkway, Unit #2 Auburn Township, Ohio 44023.

Mr. Moidell explained that he was before the Board in March 2024, but since that time his business has expanded tremendously and he needs a larger place for his business. He further commented that he would like a variance to move into 10220 Gottschalk Parkway, Unit #2 in Auburn Township. He commented that he received a variance in March 2024 to operate at the 10155 location.

He indicated that there will be an office, more space for retail and a much larger warehouse area than what is at his current location. He indicated that his wife is the bookkeeper of the business and she can now have an office at the new location.

Mr. Stewart asked if the new location is actually two spaces. A discussion took place.

Mr. Tomsic commented about what is going to happen with the other location's space. It was noted that a smaller unrelated new business was going to be located there. Mr. Tomsic also commented that the other location, since a variance was granted, can now be used for retail sales, which is like spot zoning and it offers inconsistencies in the Township.

Mr. Ford asked what are the expectations that if you need to expand again. A discussion took place regarding the schematics of the new location. Ed Gottschalk explained that the new building is much larger for the required warehousing that is needed.

Mr. Kitko commented that this business cannot be located in any other zoning district. It would not be conducive to a retail zoning district in the Township.

Mr. Kitko explained why the Zoning Commission had changed the zoning resolution to not allow retail in the Industrial District, except if the product is manufactured at the business. Mr. Kitko commented that the other retail that is located in the I-1 district is grandfathered in.