

**Miami Township
Board of Zoning Appeals
Monday, August 6, 2018**

Members of the Board of Zoning Appeals present:

Gregory Clatterbuck, Chairman
Fred Sinder
John Broz

Members of Miami Township Staff present:

Kyle Hinkelman, Deputy Director
Alex Carlson, Planner

Others Present:

Matthew Turton, 6600 Jamaica Road
Rashica Ward, 2600 Eckley Blvd
Rakesha Holmes, 2600 Eckley Blvd
Barb Miller, 2584 Eckley Boulevard
Darren Powelette, 7757 Upper Miamisburg Road
Ray Turton, 9811 Rooks Road
Sue Turton, 9811 Rooks Road
Greg & Shirley Jump, 6151 Cantata
Toni Duncan, 6278 Overture Drive
Steven Duncan, 6278 Overture Drive
Christina Emmons, 2577 Eckley Blvd
Debbie Schell, 2537 Rossini Road

GENERAL MEETING

Mr. Clatterbuck called the meeting to order at 6:00 PM.

Action on minutes from July 9, 2018 at 6:00 p.m. and 7:15 p.m.

Mr. Broz motioned to approve both sets of minutes from July 9, 2018. Mr. Sinder seconded the motion and the vote was all ayes. The motion passed.

THE OATH

Mr. Hamilton administered the Oath of Truth to the following people:

Alex Carlson
Rashica Ward
Rakesha Holmes

NEW BUSINESS

1. Case # BZA 824-18 – Administrative Appeal– 7757 Upper Miamisburg Road

Mr. Clatterbuck explained that this case was continued from the last meeting and that the Board has made a decision based upon the evidence given at the previous meeting. He proceeded to read the board's decision for the record stating the board unanimously affirms the zoning inspector's findings in this case.

Mr. Hinkelman noted that a signed copy of the board's final decision and findings of fact would be available for review on the Miami Township website.

Mr. Sinder made the formal motion to affirm the zoning inspector's findings for case BZA #824-18 citing the adoption of the written findings of fact and conclusions presented at the time of the meeting. Mr. Broz seconded the motion, and the vote was all ayes.

Mr. Broz made a motion for a five minute recess. Mr. Sinder seconded the motion and the vote was all ayes. The motion passed.

2. Case # BZA 822-18 – Conditional Use – 2600 Eckley Boulevard

Mr. Broz made a motion to reconvene, Mr. Sinder seconded the motion, and the vote was all ayes. The motion passed.

Mr. Clatterbuck stated the next case to be heard was case BZA #822-18.

Mr. Carlson came forward and was sworn in. He stated that this case had been continued at the last two meetings and that the applicant was seeking approval on a conditional use for a community oriented group home facility located at 2600 Eckley Boulevard.

Mr. Carlson noted that the home discussed at the last meeting on 2201 Brahms Boulevard fit the definition of a community oriented group home and further confirmed that facility was located within 1500 feet of the proposed facility on Eckley Boulevard.

Mr. Carlson stated that the Brahms Boulevard facility was considered a permitted use in a residential district per the Ohio Revised Code at the time the facility was established in 2005. He noted that the facility would not have been required to obtain a permit at that time and is currently a legal non-conforming facility. He further noted that staff was not aware of the facility previously because it would not have been required to obtain a permit in 2005. He further noted that permitted uses in a residential district have since been updated and the code would now require a conditional use certificate be issued.

Mr. Carlson noted that the facility on Brahms was located approximately 1310 feet from the proposed facility on Eckley Boulevard. He further noted that the Board of Zoning

Appeals has the legal ability to approve the conditional use being requested and reduce the 1500 distance requirement should they feel the intent of the code is met.

Mr. Sinder asked if the facility on Brahms was currently in operation and Mr. Carlson confirmed that it was.

The applicant's Ms. Rashica Ward and Ms. Rakesha Holmes came forward and were sworn in.

Ms. Ward asked the board to consider reducing the standard of 1500 feet in this case due to the unique condition that the facility located on Brahms was not held to the same requirements and standards and that the proposed facility on Eckley Boulevard will house children and not adults like the facility on Brahms. She further noted that the proposed facility would be the first of its type to require a permit.

Ms. Holmes reiterated the statements made by Ms. Ward and noted the unique situation that the facility on Eckley would be the first of its type required to obtain a permit whereas the home on Brahms was not previously required to have a conditional use permit.

Mr. Clatterbuck asked if there were any further public comments and there were none.

Mr. Sinder made a motion to enter into private deliberation and Mr. Broz seconded the motion. The vote was all ayes and the motion passed.

The board reconvened and voted as follows on the findings of fact.

A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

B. The Adequate utility, drainage and other such necessary facilities have been or will be provided.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

D. All necessary permits and licenses for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any adjacent property located in a Residential District.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be compatible with the appropriate and orderly development of the district in which it is located.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

H. The Conditional Use requested will not adversely affect the public health, safety, or morals.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

The Board further voted on the following in regards to the proposed facility:

A. Complies with all the applicable facilities requirements.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

B. It is in fact a Community Oriented Residential Social Service Facility or Halfway House licensed by an agency of the State of Ohio and Montgomery County. If such licensing is not required, an affidavit so stating has been presented to document this statement.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

C. Is approved by the local agency responsible for supportive services and/or programs to the facility.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

D. Will be designed, constructed, and maintained so that such use will not change the general character of the area and be operated in compliance with relevant licensing or certification standards.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

E. Will not be within 1500 feet of another Community Oriented Residential Social Service Facility or Halfway House, unless this standard is varied by the Board of Zoning Appeals to a lesser distance.

Sinder: Y Clatterbuck: N Hamilton: (Not present) Broz: Y

F. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

G. Will have vehicular approaches to the property which shall be designed to prevent any undue interference with traffic on surrounding public streets.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

Mr. Broz made a motion to approve the applicant's conditional use request and reduce the 1500 feet requirement citing the unique circumstance that this would be the first permitted child oriented facility in the township and would not contribute to a concentration of such facilities. Mr. Sinder seconded the motion and the vote was all ayes except for Mr. Clatterbuck who voted nay. The motion passed.

Mr. Clatterbuck made a motion for a five minute recess, Mr. Broz seconded the motion, and the vote was all ayes. The motion passed.

3. Case # BZA 825-18 – Variance – 4545 Crains Run Road

Mr. Broz made a motion to reconvene stating the next case to be heard was case BZA #825-18. Mr. Clatterbuck seconded the motion and the vote was all ayes. The motion passed.

Mr. Carlson stated that the case was properly filed, advertised, and the required surrounding property owners were notified.

Mr. Carlson explained that the applicant is requesting a variance to place a 600 square foot garage in the side yard at 4545 Crains Run Road. He noted the property is zoned agricultural and due to the position of the house on the property the applicant is unable to place the garage in the rear yard due to rear yard's limited size.

Mr. Broz asked if the property shared a driveway and Mr. Carlson stated that there is a shared access point and added the property is heavily graded.

Mr. Sinder commented that it was a unique lot and Mr. Clatterbuck commented that there appeared to be no other place to put the proposed garage on the property.

Mr. Carlson noted there was no one present to speak for the applicant and Mr. Clatterbuck noted there were no proponents or opponents to speak in regards to this case.

The Board voted on the following findings of fact:

A. The variance requested will adversely affect the public health, safety, or morals.

Sinder: N Clatterbuck: N Hamilton: (Not present) Broz: N

B. The strict application of the provisions of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

C. The variance requested will compromise the general spirit and intent of this Resolution.

Sinder: N Clatterbuck: N Hamilton: (Not present) Broz: N

D. The variance arises from special conditions, which are unique to the property and the situation results from an enforcement of this resolution and not by actions of the property owner or any party who has had control of the property.

Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

E. The variance requested does not involve extension of an existing structure into a required yard in excess of one-third (1/3) of the required depth or width of the required yard and is a permitted variance under Subsection 403-B.

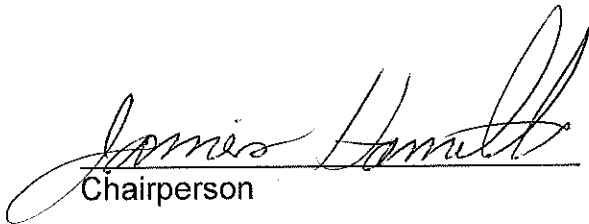
Sinder: Y Clatterbuck: Y Hamilton: (Not present) Broz: Y

Mr. Broz made a motion to approve case BZA #825-18 and Mr. Sinder seconded the motion. The vote was all ayes and the motion passed.

OTHER BUSINESS

Mr. Broz made a motion to adjourn the meeting at 7:05 p.m., Mr. Sinder seconded the motion, and the vote was all ayes. The motion passed and the meeting was adjourned.

Respectfully Submitted,
Nicole Kessel, Recording Secretary


Chairperson

9-10-18
Date