

MINUTES OF DEFIANCE TOWNSHIP ZONING BOARD OF APPEALS 08-26-08 MEETING

DATE: Tuesday, August 26, 2008

LOCATION: 2nd Floor Conference Room – Def. Co. Commissioners Building

TIME: 7:00 P.M.

Meeting was called to order by Mr. Lynn Keller, Chairman of the Defiance Township Zoning Bd of Appeals. Mr. Keller asked the clerk to call the roll.

The Clerk then called the roll for attendance. Board of Appeals members present were: Lynn Keller, Bruce Hahn, Thomas Rosendale, Larry Plummer and Marvin Scott. All five members having answered the roll a quorum was declared.

Other Township representatives present were: Mr. James Schlegel – Township Zoning Inspector, Mr. Dan Peck, Mr. Richard Ankney & Mr. Charles Bakle – Township Trustees; John Diemer and Joe Kolb Twp equipment operators.

Visitors present were: Ruth Ann Schofield 15968 Campbell Rd, David Kilpatrick 14820 Power Dam Rd, Penny Bakle 1204 Wayne Ave, Connie duerk 1585 South Clinton street, Jayme & Stacie Price 19626 Cromley rd, Jimmy & Deb Price 20326 Cromley rd, Lenore Webb 15976 St Rte 111, Laurie Cashman 14940 St. Rte 111, Tom Webb 15370 State Rte 111, Arthur Miller 20296 cromley road, & JoEllen Houck of 8 Deville Drive, Defiance, Ohio.

Chairman Keller then read item 1 of the agenda:

Item 1: A request by David Kilpatrick 14820 Power Dam Road, Defiance, Ohio, 43512 for a "variance" to the Township's Zoning "set back" requirements. The applicant proposes to construct a garage on his property and seeks a 14' relief from the Township's 30' subdivision set back requirement.

The affected Kilpatrick parcel is lot 6 located in the Shoreland subdivision on Power Dam Road, in the northwest part of the southwest $\frac{1}{4}$ of section 9-Town 3 North, Range 4 east in Defiance Township, Defiance County, Ohio. The parcel ID is B11-0009-600-600.

Zoning Appeal board members reviewed the attachments:

- a. copy of the "variance application" –
- b. a Def Co Auditor's Parcel data sheet
- c. the Twp Zoning Inspector's written report on the request
- d. a Defiance Co Health Dept variance for a septic tank
- e. Kilpatrick justification letter for the requested variance
- f. A plat of the Shoreline subdivision
- g. aerial of parcel from Soil & Water
- h. a mortgage location certificate
- i. a packet of 5 sketches of the proposal

Chairman Keller called for discussion.

Board members noted that neighbors have already received variances which allowed for buildings to have a

18' set back.

Mr. Kilpatrick said that he would be unable to construct his garage without the set back as there is no room due to the fact that his septic system is located near by and there is no other location available.

Boad members noted the Health dept variance which was part of the attachments.

Mr. Keller stated he did not see how 2' more would cause any additional issues.

Mr. Keller then asked if there were any objections. None were noted.

Mr. Keller asked if there was a motion to approve or reject this petition.

Mr. Plummer moved to approve the requested variance to allow for a 16' set back.

Mr. Rosendale seconded; and the roll was called:

Lynn Keller, Chair	<u>yea</u>	Thomas Rosendale	<u>yea</u>
Larry Plummer	<u>yea</u>	Bruce Hahn	<u>Yea</u>
Marvin Scott	<u>yea</u>		

The vote being five yea's and no nea's - the motion to approve the "variance to allow a 16' set back for the construction of a garage" was approved.

Chairman Keller then read item 2 of the agenda:

Item 2: an application had been filed by: Mr. Jayme Price 19850 Cromley Rd, Defiance, Ohio, 43512 requesting a "conditional use permit" to operate a cottage business on his property @ 19626 Cromley Road. The applicant proposes to operate a custom motorcycle shop. The parcel is located on the south side of Cromley Road, approximately .75 miles west of State Route 111, being part of the northeast quarter of Section 18, Town 3 North, Range 4 east, in the west half of the east half in the northeast corner of the section in Defiance Township, Defiance County, Ohio. The parcel ID is B11-0018-000-401.

Zoning Appeal Board members reviewed the attachments:

- a. copy of the "conditional use application" –
- b. a Def Co Auditor's Parcel data sheet
- c. aerial of parcel from Soil & Water
- d. a plat survey

Chairman Keller called for **Discussion:**

Several neighbors raised a concern with a possible safety issue due to an increase in traffic from this business. (it was noted that the business had been functioning for some months and the zoning issue only came to light when the owner put up a sign which was observed by the Twp Zoning Inspector).

Mr. Keller asked Mr. Price if he had intentions to increase the size of the business. Mr. Price said: "no".

Mr. Keller stated that an increase in the business which resulted in the construction of buildings to house the business could – depending on the square footage of the buildings - require a new zoning designation "commercial".

Mr. Keller then asked the Zoning Inspector – Mr. Schlegel, for his interpretation and any comments he may have relative to this request.

Mr. Schlegel stated that Mr. Price had requested and received a "conditional use" permit in February 2007 to construct a home on this parcel. To date no home has been constructed and the permit is valid for only two years. The granting of this request would be tied to that earlier "conditional use permit" as per the Twp Zoning code a "conditional use for a cottage business" is granted for a business to be run from a residence.

The Zoning Board instructed the Clerk to confirm this view with the Prosecutor's office.

Mr. Price was asked if he intended to build a home on this parcel. Price replied that he does as soon as he is financially able. (he will have to reapply for a conditional use – resident permit when his current conditional use permit expires if he has not constructed his residence.)

Mr. Schlegel also noted that to acquire a "conditional use permit for a cottage business" the business can not have more than 5 employees of which only up to 3 can be non family members.

Mr. Price stated he is within this specification.

Mr. Kellor asked Lenore Webb if she had any concerns. Mrs. Webb stated she has farm ground on both sides of Cromley road and "I don't mind". (the request).

Mr. Keller asked Mr. Tom Webb if he had any concerns. Mr. Webb stated he just did not want to see the business grow any more as he has a concern with safety due to the increase in traffic. "if it doesn't expand; I don't have a problem with the request".

Mr. keller asked Mr. Miller if he had any concerns. Mr. Miller said he is concerned with the increase in traffic. But if the business does not increase more than it currently is then he does not object.

Mr. Keller asked if anyone else had any concerns. None were stated.

Mr. Keller asked if there was a motion to approve or reject this petition.

Mr. Plummer moved to approve the requested "conditional use permit for a cottage business at 19626 Cromley road".

Mr. Rosendale seconded; and the roll was called:

Lynn Keller, Chair	<u>yea</u>	Thomas Rosendale	<u>yea</u>
Larry Plummer	<u>yea</u>	Bruce Hahn	<u>Yea</u>
Marvin Scott	<u>yea</u>		

The vote being five yea's and no nea's - the motion to approve the "conditional use permit for a cottage business at 19626 Cromley road" was approved.

The Chair asked if there was any other business to come before the Board. There being no further business to come before the Board of Appeals Mr. Keller requested a motion to adjourn the meeting.

Motion: Mr. Hahn

Second: Mr. Scott

YEA(s) 5 NAY(s) 0 Passed X Failed _____

MEETING ADJOURNED