

MILLCREEK TOWNSHIP BOARD OF ZONING APPEALS

PUBLIC HEARING & MEETING MINUTES

DATE & TIME: Wednesday, July 31, 2013 @ 7:00 p.m.

LOCATION: Millcreek Township Hall, 10420 Watkins Road, Marysville Ohio 43040

CALL TO ORDER: Meeting called to order by Chair Jason Comstock at 7:04 p.m. and opened the public hearing for a Conditional Use Permit application.

ROLL CALL: Planning/Zoning Administrator Joe Clase called the roll of members present.

Board Members Present:

Steve Cameron
Brian Clark
Jason Comstock, Chair
Jim Teitt
Bob Whitmore

Members Absent:

Jeff Pieper
Charles Still, Alternate

Others Present:

James Crooks, 14101 Smart Cole Road
Chip Mayes, 14153 Smart Cole Road
Craig Shearer, 14136 Smart Cole Road
Jamie Pund, 14322 Hickorywood Trail
Keith Conroy, 10181 Watkins Road
Joe Clase, Planning/Zoning Administrator
Michael A. Caswell, Court Reporter

LEGAL NOTICE: Jason Comstock read the following legal notice as published in the Marysville Journal Tribune at least ten (10) days prior to the hearing:

The Millcreek Township Board of Zoning Appeals will hold a public hearing on Wednesday, July 31, 2013 at 7:00 p.m. at the Millcreek Township Hall, 10420 Watkins Road, Marysville, Ohio 43040. The board will be considering an application for a Conditional Use Permit by James T. Crooks to allow outdoor storage at 14101 Smart Cole Road on Parcel No. 2500030280000, zoned B-2. The public is invited to attend. A copy of the application is available at www.millcreektwpohio.us or at the Marysville Public Library.

PRESENTATION OF APPLICATION: Jason Comstock asked that everyone who wished to speak stand and be sworn-in. The Court Reporter, Michael A. Caswell, swore-in those present. Jason Comstock asked that the facts of the application be presented.

- Joe Clase, Planning/Zoning Administrator, stated that the applicant had approached him about adding outdoor storage of boats and recreational vehicles to his property at 14101 Smart Cole Road. The applicant was surprised that this use would not be permitted since the property to the north already contained similar storage. The applicant was informed that the Zoning Resolution was amended since the neighboring use was established and that today such use was not permitted. The applicant was

informed that they have the right to apply for a Conditional Use Permit under Section 6520(D) of the Zoning Resolution which allows for "other businesses in nature or character as those listed as permitted uses, as determined by the Board of Zoning Appeals." Joe Clase stated that he offered to assist with preparation of the narrative statement and site plan to ensure there was a more complete request to go before the Board for consideration. The application was received on July 9, 2013 and the public notice was posted on July 16, 2013. Joe Clase stated that he had assisted the applicant in preparing their submittal.

- James Crooks, the applicant, stated that he hopes to add outdoor storage as a form of revenue on the property since he has retired from the business that previously operated on this property. He is proposing it in two phases at the rear of the property. It would be a gravel lot surrounded by a chain link fence.
- Steve Cameron inquired if the storage would use an existing driveway. James Crooks stated that it would use the existing drive for the cell tower.
- Jason Comstock inquired if the sign was compliant with the Zoning Resolution. Joe Clase stated that it would be compliant. A business is permitted two business identification signs, including a 48 square foot freestanding sign. Jason Comstock inquired if there would be any additional lighting proposed. James Crooks stated that he would like to install a utility light for security. Keith Conroy inquired if that would be compliant with the Zoning Resolution. Joe Clase stated that the code would require down lighting that was no taller than 15 feet and not allowing light to enter neighboring properties.
- Jim Teitt inquired if the fence would be setback from neighboring properties. James Crooks stated that it would be located on the northern property line, but would be setback from other properties.

PUBLIC COMMENT: Jason Comstock inquired if anyone who was sworn-in would like to speak:

- Craig Shearer stated that he owns property and a business, Shearer Landscaping, across the road and is in favor of the proposed use.
- Chip Mayes stated that he owns property and a business, Millcreek Self-Storage, adjacent to the north of the property and is in favor of the proposed use.
- Keith Conroy asked if the current business on the property is related. Are the proposed lights compliant? What screening is required in the B-2 district? Is the board considering the expansion at this time and if so, were similar details provided?
- Jamie Pund stated that her property is to the west, behind the proposed use. She expressed safety concerns relative to the current self-storage lot. She indicated that dumping was occurring on the lot next to her. She has safety and security concerns for family. She asked, if approved, that the board ensure that proper safety, security and zoning is followed.

BOARD DISCUSSION: Jason Comstock asked that the applicant respond to public comment and that the board deliberate on the application and this testimony.

- Compatibility: James Crooks stated that the proposed use would be similar to the outside storage that exists on the lumber yard to the south, which was permitted in the B-2 district. Steve Cameron stated that the proposed use appears to be harmonious with other businesses in the area. He wants to ensure screening is maintained with compliance with 15510 and 15520. He feels expansion is okay to be considered with the Conditional Use Permit, but should be administratively approved at the time it is added.
- Phasing: Jason Comstock inquired if the expansion area would be considered at this time or at the time it were to be installed. Jim Teitt stated that he felt it could be handled either way. Jason Comstock presented a Google Map illustration showing the proximity of Jamie Pund's property to the applicant's. James Crooks stated that at least 30 to 40 feet of tree line exists across the rear of his property. Steve Cameron asked that a plan be submitted to the Planning/Zoning Administrator at the time the expansion is to be installed to ensure it is similar to the nature of this application. Jason asked if anyone on the board had concern with this. Jim Teitt inquired where access would be taken from for the expanded area and if they would be bound to a layout of the storage area, similar to that proposed with the first phase. Jason Comstock stated that he would not be opposed to reconfiguration as long as the boundaries of the fence don't change. James Crooks stated that he would likely eliminate a few spaces in the first phase and access the second phase through the first.
- Screening: Jim Teitt inquired about the proximity of the proposed use to residential properties and what screening would be required. He asked if the screening listed in Section 10024(D) regarding home occupations would be appropriate. Joe Clase stated that Jamie Pund's residence is the closest to the proposed outdoor storage at roughly 320 feet from her home to the property line where this use is proposed and that screening listed in Section 13003 would be more appropriate as it references the buffer between commercial and residential properties. Joe Clase stated that he has not seen the existing screening to determine if it qualified. Jamie Pund stated that she can still see U.S. 42 in the winter. Joe Clase stated that the code required 50% opacity in the winter and 75% opacity in the summer.

Bob Whitmore stated that placing more dense fencing on the rear seems like a solution to the screening concerns. James Crooks offered that he would add slats to the chain link fencing to block a portion of the view. Jim Teitt stated that vegetative screening already seems to have been installed where a boat is parked closer to the main building and a similar screening could be added around this fence. James Crooks stated that even if he added more plantings, they wouldn't be a good screening for a while. Jim Teitt stated that the code allows four years for plantings to achieve opacity standards. Craig Shearer stated that it would be difficult for trees to survive in this area due to the height and proximity of the existing wooded area. Jim Teitt inquired if the neighbor would prefer just to see chain link or to have weaving to assist with blocking the view. Jamie Pund stated that she would prefer to not have chain link at all.

- Hours: Keith Conroy expressed concern with the enforceability of daylight hour restrictions. Steve Cameron stated that specific hours of activity may be more enforceable and inquired if the applicant would be willing to specify hours. James Crooks inquired what concerns are with afterhours activity. Steve Cameron stated noise, headlights and general activity could be of concern to neighbors, especially those residents that abut this property. Craig Shearer stated that individuals don't

typically move boats and RVs in the winter.

- Type of Storage: Steve Cameron inquired if it would just be for boats and RVs. James Crooks stated that he would want to store cars, trailers and equipment too. Jason Cameron stated that a more appropriate description would be non-commercial vehicles. Keith Conroy inquired if semi-trucks and construction equipment would be permitted. Jason Comstock stated that neither would be appropriate, so a non-commercial/non-construction restriction would be a good solution.
- Setbacks: Jim Teitt stated that Section 6534 stipulates setbacks and that those apply to fences. Joe Clase stated that was not his interpretation since Section 13600 specifically references that fences must be in front of the property line and outside the road right-of-way, a lessened standard. He offered that many fences are built throughout the township within setback areas and it was not his understanding that the intention of this section was to restrict fences to setbacks. Fences are commonly used to define property boundaries. Joe Clase stated that he could prepare a defense if an appeal is filed, but that he would ask the board to use his interpretation. James Crooks stated that no buildings are being proposed, but they would setback at least 100 feet from the residential properties to comply with required setbacks.
- Environmental Concerns: Jim Teitt stated that he was concerned about oil spills. Jason Comstock stated that environmental concerns seem hard to address, due to the cost of collection systems. Jim Teitts stated properties like this typically experience environmental contamination, based on his experience. Would take remediation in future, but hard to avoid with a gravel lot.

MOTION: Steve Cameron made a motion to approve the Conditional Use Permit application (including the application and testimony by the applicant) for proposed outdoor storage including expansion area, subject to:

1. Approval by the Planning/Zoning Administrator prior to expansion to ensure it is similar in nature;
2. Stipulate lighting to be in accordance with Section 15000 and other subsections 15510 and 15520;
3. Hours be limited to sunup to sundown;
4. Layout may change along with proposed space sizes;
5. Storage of vehicles shall be limited to non-commercial or non-construction equipment vehicles, including boats and RVs but limited to that;
6. Existing screening must be maintained and not trimmed back to leave less than 30 feet of screening; and
7. The sign as sketched in the application shall be approved.

The motion died due to the lack of a second.

BOARD DISCUSSION: Jason Comstock asked that the board further deliberate on the application and testimony.

- Hours: James Crooks stated that he was concerned about not being able to access the rear of his property after dark. Steve Cameron stated he would be concerned of someone continually bringing boat back or picking it up at 4:00 a.m. Joe Clase recommended posting restrictions at the gate. Jason Comstock recommended non-commercial/non-construction restriction and no idling trucks too. James Crooks stated that he would be okay with a sign. Jason Comstock stated it isn't uncommon

for people to want to access their boat early in the morning to get out fishing before sunrise, but he wouldn't want to find people milling around and doing repairs at odd hours because of this property's proximity to residential homes.

- **Nature and Character of Use:** Jim Teitt stated he is struggling to see unpaved storage as a business of similar nature or character to others permitted in the B-2 and for clarification of how this application is to be considered. Joe Clase stated it was his initial instinct that it was similar to what occurs at the adjoining retail lumber and building materials as currently permitted in Section 6510(J) and the self-storage to the north which is permitted as a grandfathered use. The board has jurisdiction to review this under Section 6520, so the determination is up to the Board of Zoning Appeals and not an administrative interpretation. Jim Teitt stated that Parkfield Insulation is a problem, but it was pre-existing. Jason Comstock stated that state parks permit such uses within their parks with fenced gravel lots. Jim Teitt stated that boat storage in Genoa Township where an officer was recently assaulted was a paved lot. Jason Comstock stated that paving is not viable in his opinion. Jim Teitt stated it wasn't the board's responsibility to consider commercial viability. Craig Shearer stated that other lots along U.S. 42 are gravel.
- **Setbacks:** Jim Teitt asked Joe Clase to address why the fence isn't restricted by the 100 foot setback. Joe Clase stated there was language stipulating that a fence would be an appropriate screening within 30 feet of the property line and that they could administratively receive a permit for a fence at their property line without board approval. If anyone wished to appeal this interpretation, they can file an appeals application and he would prepare a written justification for the board to consider, but this is not an appeals hearing.

MOTION: Jason Comstock moved to consider granting a Conditional Use Permit for non-commercial / non-construction vehicle storage under Section 6520(D). He clarified, if approved the board would then assign conditions. Bob Whitmore seconded the motion. Roll call vote: Steve Cameron, YES; Brian Clark, YES; Jason Comstock, YES; Jim Teitt, NO; Bob Whitmore, YES. Motion carried.

BOARD DISCUSSION: Jason Comstock asked that the board further deliberate conditions to be placed on the application and testimony.

Joe Clase recited the prior motion that failed due to the lack of a second. Jason Comstock stated that he agreed the 100 foot setback should only be interpreted to apply to buildings. No maintenance should occur onsite. Bob Whitmore stated that a bladder to control spills would be good. Jim Teitt stated a Hypalon liner would prohibit spills from seeping into the ground. Jason Comstock stated that he wanted to ensure no junk motor vehicles would be parked onsite. Joe Clase stated the code would address this, but it would be a good item for the regulatory sign. Jason Comstock noted that hours should be posted on the sign too. Jim Teitt stated that screening on west should be required per Section 13003 (A)(1). Jason Comstock stated there is vegetation already there, but they need to meet opacity. Steve Cameron stated that they need to maintain the existing tree line. Jason Comstock stated the 100 foot setback should be placed on buildings. Jason Comstock asked that they stay out of the tree line with the fence and ensure it doesn't exceed the sketched dimensions. Jason Comstock stated they need to maintain the fence in good repair and keep the perimeter free of nuisances. Jason Comstock stated no storage should be permitted outside the fence.

MOTION: Brian Clark made a motion to approve the Conditional Use Permit application for proposed

outdoor storage including expansion area, subject to the application and testimony of the applicant and:

1. Approval by the Planning/Zoning Administrator prior to expansion to ensure it is similar in nature to the approved use;
2. Lighting will be in accordance with Section 15000 and other subsections;
3. Within the fence, layout may change along with proposed sizes of parking spaces;
4. Storage of vehicles shall be limited to non-commercial or non-construction equipment vehicles, including but not limited to boats and RVs;
5. Existing screening must be maintained to meet occupancy standards of Section 13003(A) and not trimmed back to leave less than 30 feet of screening to the west;
6. The sign as sketched in the application shall be approved;
7. An additional sign shall be constructed by the gate noting at a minimum the following restriction (per Millcreek Township Zoning Resolution – Conditional Use Permit):
 - a. No junk motor vehicles.
 - b. Quiet hours, before 7:00 a.m. and after 9:00 p.m.
 - c. No maintenance to occur in this area.
 - d. No idling motors.
 - e. No storage permitted outside the fence.
8. Fencing shall be installed and maintained in good repair consistent with Section 13600 of the Zoning Resolution, including exclusion of the proposed barbwire; and
9. West boundary is to be maintained around the fenced area and the fence shall not encroach into the existing tree line.

Jim Teitt seconded the motion. Roll call vote: Steve Cameron, YES; Brian Clark, YES; Jason Comstock, YES; Jim Teitt, YES; Bob Whitmore, YES. Motion carried.

CLOSE OF PUBLIC HEARING: Jason Comstock closed the public hearing at 9:57 p.m. and called for a short recess and invited those in attendance to stay if they wished to discuss any other matters.

Jason the meeting back to order at 10:01 p.m.

MINUTES: Jim Teitt moved to approve the meeting minutes from February 12, 2013. Steve Cameron seconded the motion. All voted in favor and the motion carried.

NEW BUSINESS: Jason Comstock asked Joe Clase for an update on compliance matters of other conditional use permits (CUPs) in the township. Joe Clase noted the following:

1. 14136 Smart Cole Road: Craig Shearer is present and presented that building materials were shipped wrong for his accessory building that was stipulated by his CUP. He has since received new materials and the new building was started in the spring, but the spring landscaping rush hit and they haven't had time to continue progress. He is getting prices on someone else completing the work, but plans to be done by winter. Joe Clase noted the back wall is likely a priority since it was also screening for the neighbors. Craig Shearer noted he would complete the back wall by the end of September and have the entire building completed by the end of December.
2. 12140 Watkins Road: Joe Clase stated that John Davisson is currently in court mediation with the Township. Keith Conroy asked the board to use this as an example of why they use caution in

granting CUPs. Progress is being made, but it isn't an easy process. The township has informally reached resolution that may be approved next Monday. Key component was no longer storing materials onsite.

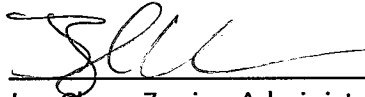
3. 14480 Bellepoint Road: Joe Clase stated the current owner stated they wish to surrender the tree farm CUP.
4. 9500 Harriott Road: Joe Clase presented written notice from the owner stating that he wishes to surrender the excavating CUP.

OLD BUSINESS: None.

MOTION: Jim Teitt moved to accept the offered terminations of Conditional Use Permits at 14480 Bellepoint Road and 9500 Harriott Road. Steve Cameron seconded the motion. All voted in favor and the motion carried.

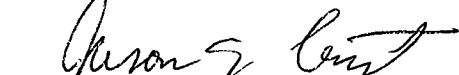
ADJOURNMENT: Jim Teitt made a motion to adjourn the meeting. Steve Cameron seconded the motion. All voted in favor of the motion and the motion carried. Jason Comstock announced the meeting to be adjourned at 10:22 p.m.

PREPARED BY:



Joe Clase, Zoning Administrator

ATTEST:



Jason Comstock, BZA Chair

DATE APPROVED:

