

MILLCREEK TOWNSHIP BOARD OF ZONING APPEALS

REGULAR MEETING MINUTES

DATE & TIME: Monday, September 20, 2010 @ 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 7:00 p.m.

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

Board Members Present:

Steve Cameron

Brian Clark

Jason Comstock, Chair

Jeff Pieper

Charles Still

~~Jim Teitt~~ ABSENT

Members Absent:

None

Court Reporter:

Terri Pollard, Fraley Cooper & Assoc.

Others Present:

See sign-in sheet (Attachment A)

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 Monday, September 20, 2010 at 7:00 p.m. at the Millcreek Township Hall, 10420 Watkins Road, Marysville to consider (1) an application #116 by C. & A. Shearer for a Conditional Use Permit to allow a service business at 14136 Smart Cole Road (Parcel No. 250003024600) in the U-1 Farm Residential District and (2) an application #117 by Dorral Farms LTD OLLC for a Conditional Use Permit to allow a hunt club at 11200 Watkins Road (Parcel Nos. 250005001000 and 250005011000) in the U-1 Farm Residential District. A copy of the applications are available for public inspection at the Marysville Public Library and online at www.millcreektwpohio.us. The hearings will be held at the Millcreek Township Hall, located at 10420 Watkins Road, Marysville, OH 43040 and open to the public. Joe Clase, Zoning Administrator"

Jason Comstock introduced the board members present and swore-in the applicant, Zoning Administrator along with others in attendance that planned to testify regarding either application.

PRESENTATION OF APPLICATION #116: Joe Clase presented a staff report (Attachment B). The applicant, Craig Shearer, acknowledged the staff report and offered the following responses: The pond was proposed as an aesthetic and to address drainage needs. The pavement type will be asphalt fines and maintenance of equipment will be entirely inside the existing building.

Charles Still inquired what will be different from what has been on the site to date. Craig Shearer stated that he would like to make the property more attractive with proper landscaping and that he would

construct fencing and a second building to help screen the outdoor storage.

Jason Comstock inquired if materials would be delivered to the property. Craig Shearer stated that materials would primarily be delivered to job sites, but some limited materials may be stored within the building or the fenced area of the property. Jason Comstock inquired about the daily schedule of activity associated with the business. Craig Shearer stated that most activity occurs first thing in the morning and in the late afternoon when workers are loading and unloading. Some Saturday activity may be necessary during peak seasons.

Charles Still inquired if plowing equipment would be stored on site. Craig Shearer stated that it may be, but that most employees will take trucks home to make sure that they are able to respond in snow emergencies. Steve Cameron inquired if there would be retail sales from this site. Craig Shearer stated that there would not be any sales from this property. Jason Comstock inquired if the residence is being used as such. Craig Shearer stated that it is currently being rented.

PUBLIC COMMENT ON APPLICATION #116: The following residents offered public comment after stating their name, address and affirming that they had been sworn-in earlier in the hearing.

1. George Pease (14271 U.S. Route 42) gave a history of the prior violations and stated that the applicant is not trimming the ragweed between their properties. He stated that he has seen many improvements to this property from February to April as the new Zoning Administrator began to enforce the prior court order. He doesn't want to live next to a business. There was a poor material used for fill on the site. He later stated that businesses should not be permitted in a residential area. Jason Comstock stated that a service business is listed as a conditional use.
2. Melanie Williams (14270 Smart Cole Road) stated that she hoped to buy this property, but the applicant beat her to the purchase. She wanted to get rid of the poorly kept fence between their properties and the applicant has done this. She stated that an appraiser has told her that this proposed use will have no effect on surrounding property values. The vacant homes on Smart Cole are more likely to have an effect according the appraiser.
3. Jeff Jones (6545 Moore Road) stated the proposed use looks better than the doggie day care that occupied the property previously. He stated that Craig Shearer is a quality landscaper and he will make the site look as planned.
4. Lee Mayes (5877 Riverside Drive) stated he owns the property across the road and has been allowing the applicant to store his equipment there while the applicant prepared this application. He stated that he felt the Township was responsible for the prior litigation due to poor advice from prior Zoning Administrator Steve Hall.
5. Bob Stultz (14296 Smart Cole Road) stated that he is alright with the business operating on this site and that he feels it will increase his property value. He works from home, just four (4) houses north of this property.
6. Rick Ruggles (14484 Wilderness Trail) stated he has general concerns with the Township's ability to enforce the conditional use, if approved. He requested the applicant to do a traffic study and to address the spacing of the existing driveway on Smart Cole Road from U.S. Route 42.

7. Charles Flesh (14395 Smart Cole Road) stated that the septic system should not be used in conjunction with the business.
8. Arthur Earl (14333 Wilderness Trail) stated that the business will need a restroom. He stated that the court has already said this use should not be located on this property.
9. Dan Gerenski (14520 Wilderness Trail) stated concerns with the fact that the applicant mentioned upwards of twenty (20) employees that may be reporting to this property along with the amount of parking this will require. He mentioned that the intense traffic will all be placed on Smart Cole Road where this site has access.
10. Keith Conroy (10181 Watkins Road) asked the applicant why he has not located within a commercial district. He stated concerns with the driveway location, outdoor storage of equipment and materials and lack of restroom for employees. He requested the board to table this application until they can review permits and reports on the existing driveway, well and septic system. He inquired if there would be a replacement policy for landscaping and whether work did on vehicles on site would be safe and environmentally friendly. After the Board asked for clarification, Craig Shearer stated that most vehicle maintenance would be done off-site. Hazardous materials are stored within spill-proof containers until they are discarded appropriately off-site. They are limited to 2 to 4 gallons at any time. Landscape materials need to be stored on-site. Chemicals are stored on selves in the building in accordance with standards. Craig Shearer stated that the township originally told him the use would be agriculturally exempt and permitted on this site, otherwise he would have looked at other properties. He has since advertised this property for sale, but the only potential buyers were those interested in running a business on-site. He stated that he didn't know the weeds Mr. Pease discussed were on his property and that they would be addressed within the week.
11. Melanie Williams (14270 Smart Cole Road) stated when the previous owner purchased the property, she did not maintain it. She quested why Wilderness Trail Drive residents had standing to dispute this application when they were not directly affected. She expressed that should would like to see Craig Shearer have the opportunity to improve this property.
12. Cheryl Dingess (14545 Smart Cole Road) stated that he has already installed most of the depicted landscaping and she doesn't see a traffic concern. She stated that public urination has not been a problem. She stated that the applicant has not invested in this property to date, due to the legal issues with the township. She stated that ODOT has plans for U.S. Route 42 to be a five (5) lane road and that this use appears appropriate.
13. Arthur Earl (14333 Hickory Wood Trail) asked where the septic tank is located and if the owner had enough room to build the additional building. Jason Comstock stated this will be addressed through the permitting process.
14. James McDermott (14022 Bellepoint Road) inquired about the ability to enforce conditional use permits. Jason Comstock stated that the board typically applies conditions specified in the application and additional conditions may be necessary. If a condition is violated, the conditional use may be revoked.

Jason Comstock asked if there were any other public comments or questions about the application. None were expressed.

BOARD DISCUSSION ON APPLICATION #116: Charles Still made a motion for the Board of Zoning Appeals to deliberate in private with Attorney Rick Rodger at 9:25 p.m. Jason Comstock seconded the motion. The motion passed unanimously. Steve Cameron made motion to end deliberation. Charles Still seconded the motion. The motion passed unanimously. Jason Comstock reconvened the board at 9:55 p.m.

BOARD DECISION ON APPLICATION #116: Steve Cameron made a motion to approve the Conditional Use Permit Application for Shearer Landscaping with the following findings of fact and conditions:

- Business meets the definition of a service business as defined in Sections 6120 and 20200 of the Mill Creek Zoning Resolution.
- Proposed use is in compliance with conditional uses as defined in U1 district.
- There are adjoining properties zoned B2.
- Board finds the proposed use is in accordance with Section 4260 Paragraph 1a.
- Proposed use is applicable and harmonious per Section 4250, Paragraph 2.
- Site plans show improvements to the existing property.

Conditions applicable to this permit are:

1. No more than 15 employees permitted
2. Permitted equipment includes:
 - a. Up to five dump trucks
 - b. Up to six pick-up trucks
 - c. Up to six trailers
3. All equipment is stored under roof, during non-working hours
4. All equipment maintenance is to be performed inside structures
5. No junk motor vehicles are permitted per the Millcreek Zoning Resolution
6. Hours of operation are:
 - a. Monday thru Saturday 7am to 7pm
7. Noise is limited to standard set in Millcreek Township Zoning Resolution Section 15004
8. No retail sales are permitted
9. No signage is permitted
10. Proposed cover storage and retention pond are approved with the stipulation of proper permits from township and county agencies
11. Proposed building shall be built by September 2011
12. Privacy fence, as proposed is permitted
13. Privacy fence and landscape screening shall be maintained as to provide adequate screening of business activity
14. Existing house will be maintained as a residence
15. No additional lighting is permitted
16. All business materials will be stored inside or screened from the road and adjoining properties
17. Additions or expansion of activity will require a review of the CUP by the Mill Creek Township Board of Zoning Appeals

18. Materials submitted by applicant are part of the official record and define the nature of the business in addition to the conditions above.

Charles Still seconded the motion. Jeff Pieper voted in opposition. All others voted in favor. Motion carried.

Jason Comstock closed the public hearing at 10:09 p.m. After a short recess, Jason Comstock reconvened the board at 10:12 p.m.

PRESENTATION OF APPLICATION #117: Joe Clase presented a staff report (Attachment C). The applicant, Scott Reber, acknowledged the staff report and offered the following responses. He had received a violation notice from the prior Zoning Administrator and they stopped clay shooting in mid-August of 2009. They were not aware that the operation was still a problem until contacted by Joe Clase this past summer.

Jason Comstock inquired if there are hunting standards that are followed. Scott Reber stated that they observe and enforce the rules, regulations and safety tips suggested by the Ohio Department of Natural Resources' Division of Wildlife. They require a hunting license for all customers. Organizations are common customers. There are no on-site ammunition sales. Normal hunting hours vary daily. Signage will be limited during hunt trials to a two foot (2') by three foot (3') sign.

PUBLIC COMMENT ON APPLICATION #117: The following residents offered public comment after stating their name, address and affirming that they had been sworn-in earlier in the hearing.

1. James McDermott (14022 Bellepoint Road) stated the applicant has done a good job with their business.
2. Bill Jordan (14241 Bellepoint Road) stated that they have had no problems with the hunt club as neighbors. Scott Reber stated that they have tested noise at their property lines and it is classified as "undetectable".
3. Keith Conroy (10181 Watkins Road) inquired if customers get a map of the property to ensure they observe a safe setback from neighbors. Scott Reber stated that they do give every customer a map. Keith Conroy stated that sunrise-to-sunset is too vague of a standard and he does not like the option for them to paintball on the property for which the applicant has expressed an interest.

Jason Comstock asked if there were any other public comments or questions about the application. None were expressed.

BOARD DISCUSSION ON APPLICATION #117: Jeff Pieper inquired if set hours could be established. Scott Reber stated that hours fluctuate day-to-day.

Charles Still made a motion for the Board of Zoning Appeals to deliberate in private with Attorney Rick Rodger at 10:45 p.m. Steve Cameron seconded the motion. The motion passed unanimously. Steve Cameron made motion to end deliberation. Charles Still seconded the motion. The motion passed unanimously. Jason Comstock reconvened the board at 10:55 p.m.

BOARD DECISION ON APPLICATION #117: Steve Cameron made a motion to approve the Conditional Use Permit Application for Millcreek Hunting Preserve with the following findings of fact and conditions:

- Meets the definition of a commercial recreation standard of Section 6120(b).
- Property is zoned U-1
- Proposed use is applicable and harmonious per Section 4250, Paragraph 2.

Conditions applicable to this permit are:

1. Permitted hours are 8am to sunset as published by Ohio Department of Natural Resources, 7 days a week
2. No more than 2 employees permitted
3. No paint ball activity permitted
4. No more than 25 non-employee vehicles
5. Perimeter signage shall be maintained per ODNR standards
6. Ammunition sales permitted to hunt club participants
7. No general retail sales permitted
8. Existing hunt club sign permitted
9. Temporary signs permitted, no greater than 2 feet by 3 feet, no closer to road than existing sign and only during special events and removed after given event.
10. Additions or expansion of activity will require a review of the CUP by the Mill Creek Township Board of Zoning Appeals.
11. Materials submitted by applicant are part of the official record and define the nature of the business in addition to the conditions above.

Charles Still seconded the motion. The motion passed unanimously.

Jason Comstock closed the public hearing at 11:00 p.m.

ADJOURNMENT: Steve Cameron made a motion to adjourn the meeting. Jeff Pieper seconded the motion. All voted in favor of the motion and the motion carried. Jason Comstock announced the meeting to be adjourned at 11:02 p.m.

PREPARED BY:



Joe Clase, Zoning Administrator

ATTEST:

DATE APPROVED:

Jason Comstock, BZA Chair

A copy of the official transcript of this meeting can be obtained from Fraley Cooper & Assoc.

NAME

ADDRESS

Cheryl Dinkus 14545 Smart-Cole Rd, Ostrander.
 Lee & Maryjo 14153 Smart-Cole Rd, Ostrander
 Angela Shearer 14136 Smart Cole Rd Ostrander
 Craig Shearer 14136 Smart Cole Rd Ostrander
 JOE CLASE MILLCREEK TOWNSHIP
 Rick Rodger Asst Precinct Waverly, OH
 Gale J Prepe 14346 Hickorywood Tr, Ostrander
 Rob Sartz 11296 Smart Cole Rd Ostrander
 Melanie Williams 14270 Smart Cole Rd Ostrander
 Scott Reber 11200 Watkins Rd Marysville
 Matthew Beach 2683 Silverstrand Hilliard
 Jeff Jones 6395 Moore Road Delaware, Ohio
 Bill Jordan 14241 Bellepoint Rd Marysville
 Chie Shantz 11225 Hinton Mill Rd
 Robert S. Whitmore 7585 BROWN RD SEST. OS 43061
 Kevin + Vicki Bryant 14520 Smart-Cole Rd 43061
 Steven + Andrea Kalapos 7139 Brown Rd 43061
 CHARLES Flesch 14395 WILDERNESS TRAIL OS.
 Carolyn Flesch 14395 Wilderness Trail Os.
 Daniel A. Derenski 14520 WILDERNESS TRAIL OS.
 Lynn Derenski 14520 WILDERNESS TRAIL OS 43061
 Arthur L. Eul 14333 Hickorywood TAL OS 43061
 Rick Ruggles 14484 Wilderness Trail OS OH 43061
 Keith Conroy 10181 WATKINS RD Marysville
 James McDermott 14022 Bellepoint Rd Marysville
 TOM SEIF 10810 WATKINS RD., MARYSVILLE.
 Judy Seif 10810 Watkins Rd Marysville.
 George V. Pense 14271-285-RT #42 Ostrander

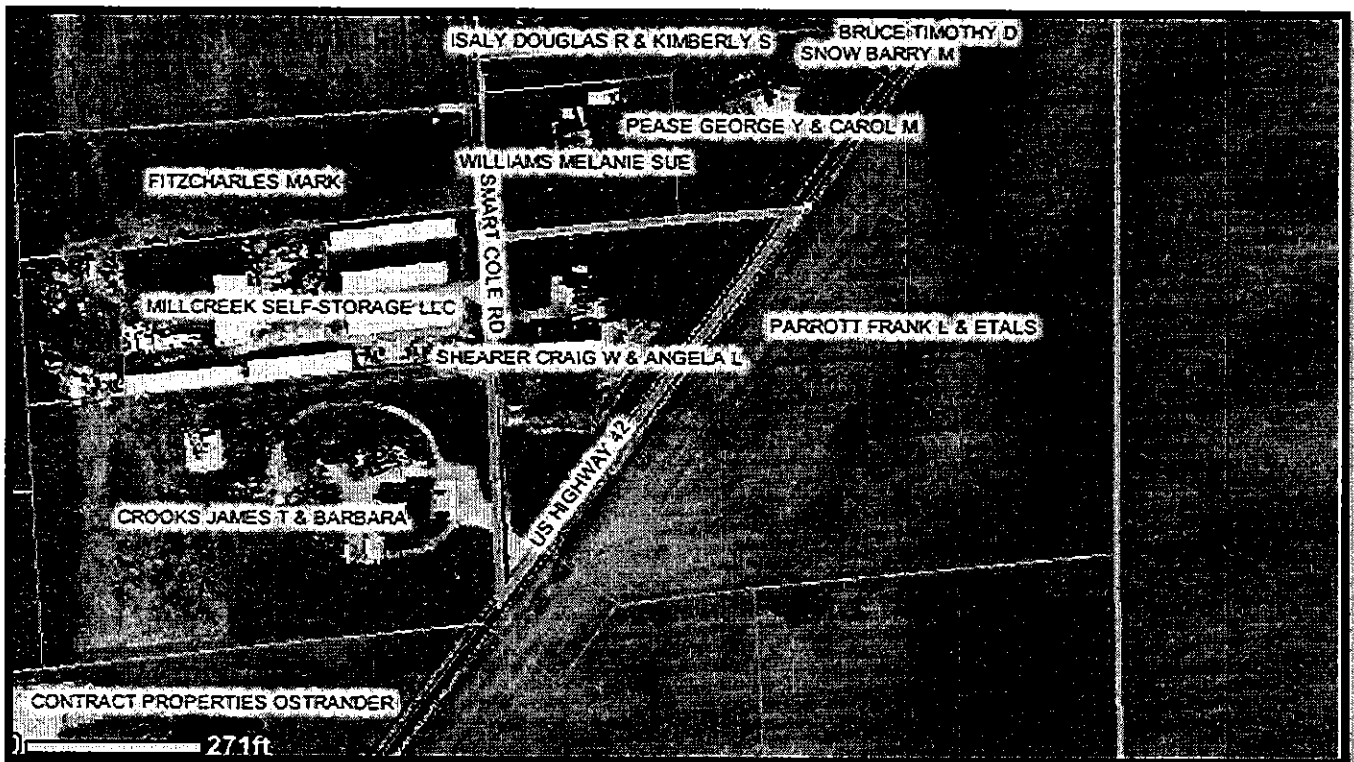


To: Board of Zoning Appeals
CC: Board of Trustees, Zoning Commission
From: Joe Clase, Zoning Administrator
Date: Monday, September 20, 2010

SUMMARY OF APPLICATION

An application (#116) for a Conditional Use Permit (CUP) was received on August 25, 2010. The applicant is requesting approval of a service business on a 3.1 acre property at 14136 Smart Cole Road. The applicants, Craig and Angela Shearer purchased the property on November 28, 2006.

The following is a copy of a 2009 aerial photograph.



LEGAL NOTICES

A legal notice was published in the Marysville Journal Tribune on September 9, 2010 and posted on the township's website at www.millcreektwpohio.us. A copy of the full application was available in the Marysville Public Library and on the township's website.

Notices were mailed to property owners contiguous to and directly across the street from the property. In total, five (5) notices were mailed by first class mail on September 6, 2010.

REVIEW OF COMPREHENSIVE PLAN

The plan prescribes the following objectives.

1. Protect the Township's quiet rural character and feeling of open spaces.
2. Be open to growth that pays for itself and enhances the community's economic health, while respecting Millcreek's core values.
3. Work collaboratively with community groups, businesses, neighboring jurisdictions, and State and County agencies to ensure the Township's continued ability to self-govern.

The plan recommended this property for residential development and encouraged commercial development on properties adjacent to the south.

REVIEW OF ZONING RESOLUTION

The service business is listed as a conditional use in the U-1 district. The application appears to meet minimum standards for submittal outlined in Section 4250.2 and contain required information from Section 4250.5. According to Section 4250.1, "the Board of Zoning Appeals has the authority to deny, grant or grant with conditions a Conditional Use Permit."

The following conditions shall be considered in the public hearing and employed in the review of an application for a Conditional Use Permit, in accordance with Section 4260:

1. Whether the proposed use is in accordance with the general objectives and specified objectives of the Zoning Resolution.
2. Whether the proposed use will be designed, constructed, operated and maintained so as to be compatible and appropriate in appearance with existing or intended character of the neighborhood and zoning district.
3. Whether the proposed use will create an undue burden on public facilities and services and whether it will be detrimental to the economic welfare of the community.
4. Whether the proposed use will be hazardous or disturbing to existing or future permitted uses or entails a use, structure or condition of operation that constitutes a nuisance.

RECOMMENDED FINDINGS AND CONDITIONS

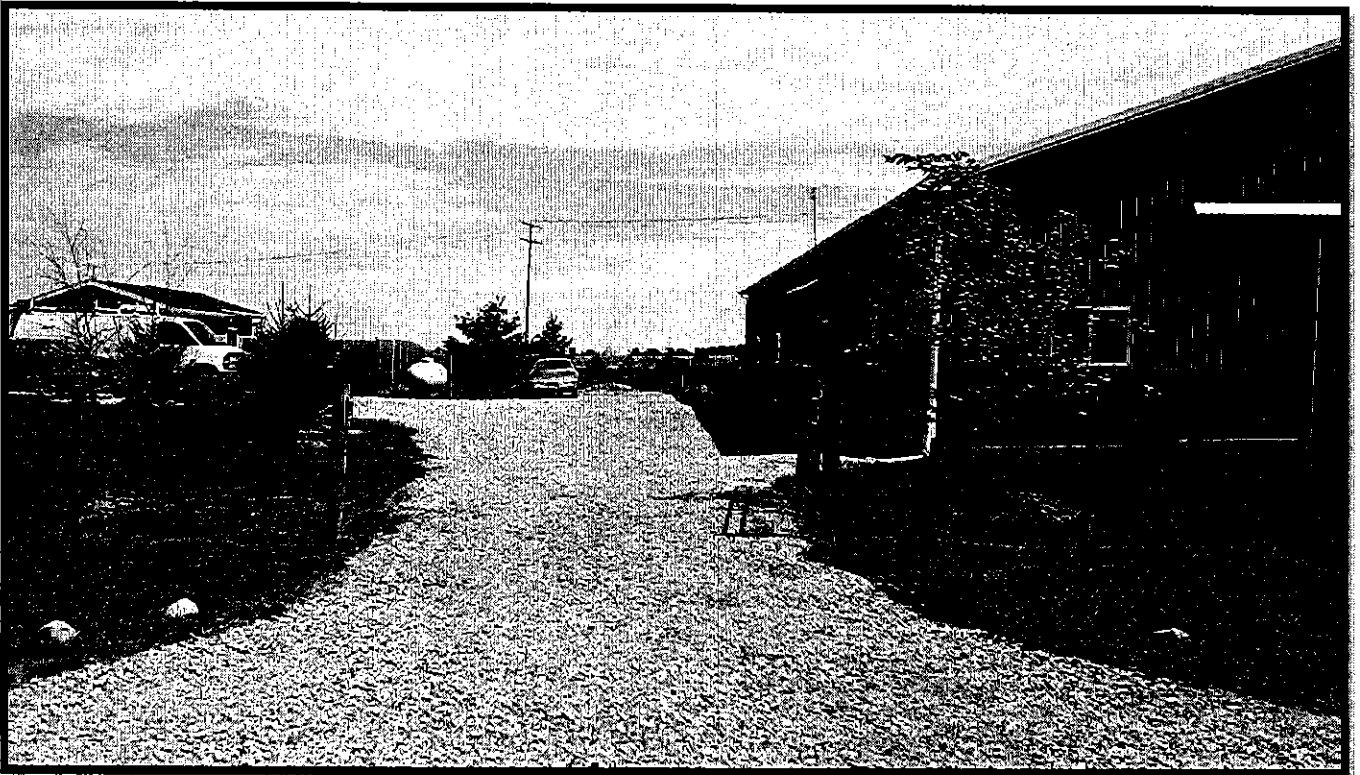
The following is a photograph of the existing home on the left and the pole barn to be used for the CUP in the middle. This photograph was taken looking south east along Smart Cole Road.



This is a photograph of the existing home. Picture taken from Smart Cole Road looking east.



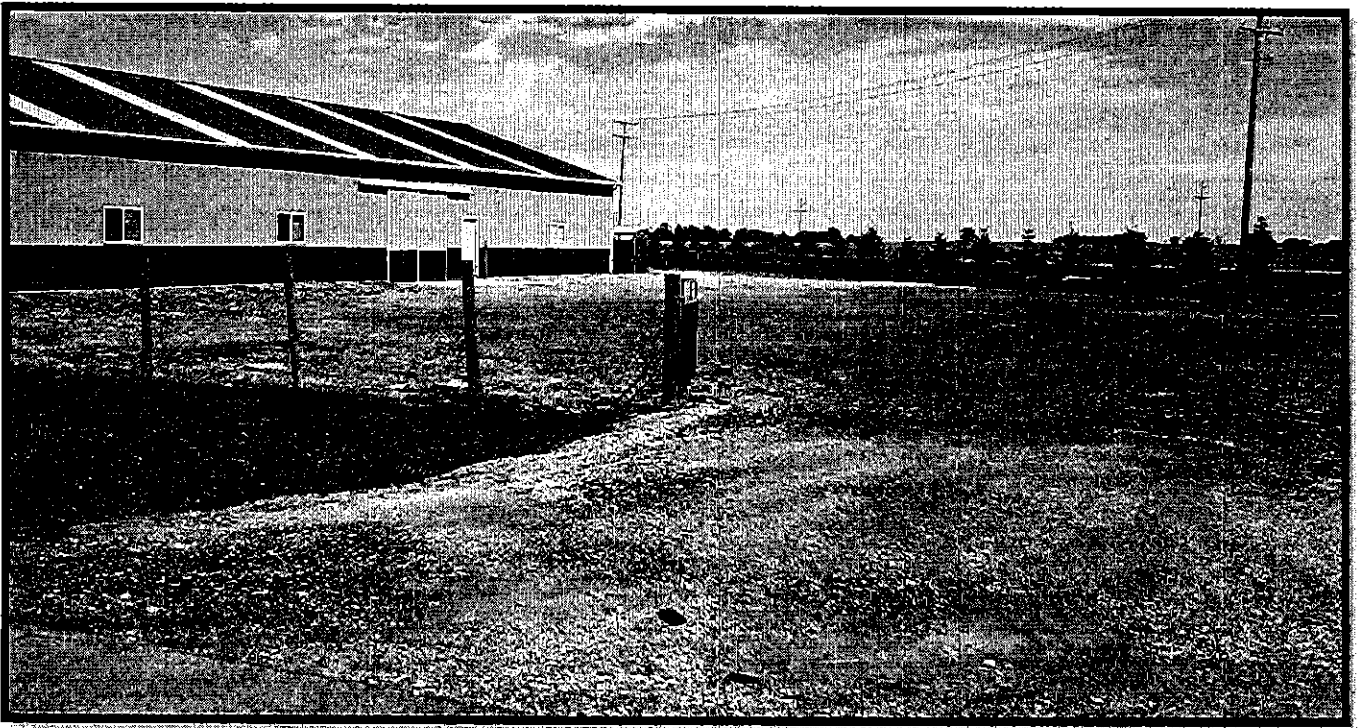
This is a photograph of the existing drive that is shared by the home on the left and the accessory use on the right. The proposed covered storage building would be located beyond the car in this photo which was taken from Smart Cole Road looking east.



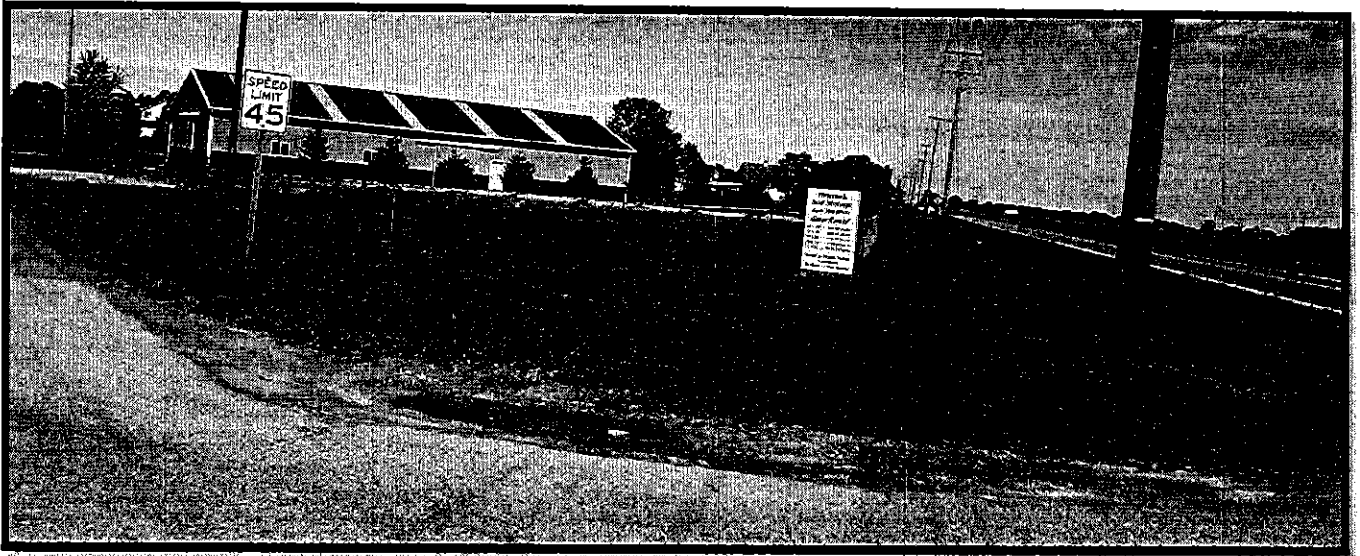
This is a photograph of the parking area added on the south side of the property for the accessory use. This photograph was taken from Smart Cole Road looking east.



This is a photograph of the south side of the pole barn and screening added along U.S. 42 from the southern entrance on Smart Cole looking north east.



This is a photograph looking north from the intersection of Smart Cole and U.S. 42.



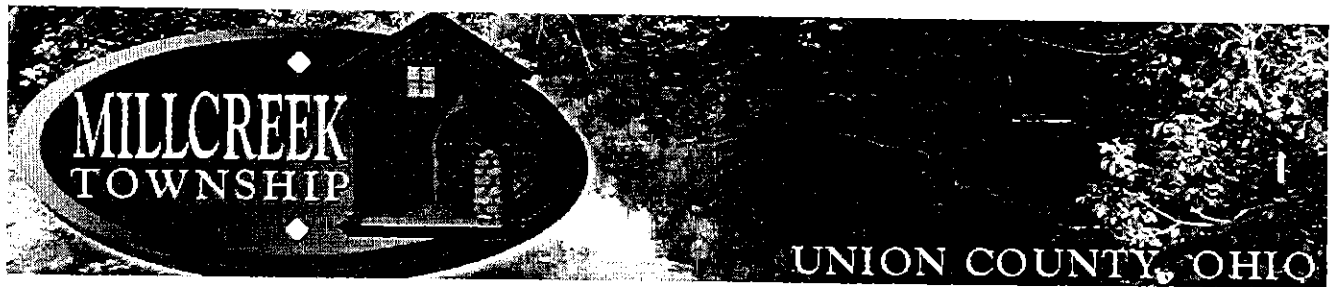
RECOMMENDED FINDINGS AND CONDITIONS

It is suggested that if approval is considered by the Board of Zoning Appeals, that the following findings and conditions be discussed:

1. The proposed pond on the south side of the property should be limited in depth and proximately to the adjacent roadways to ensure safety, if someone were to go off road. This is a variance from the standards of Section 10200.
2. Parking pavement should be considered in association with Section 12060. Gravel would be a variance from these standards.
3. All maintenance activity should be limited to inside the pole barn structure and should be allowed only during hours that are compatible with adjacent properties.

Otherwise the applicant should be bound to the text of the application and the testimony offered in their hearing.

-END-



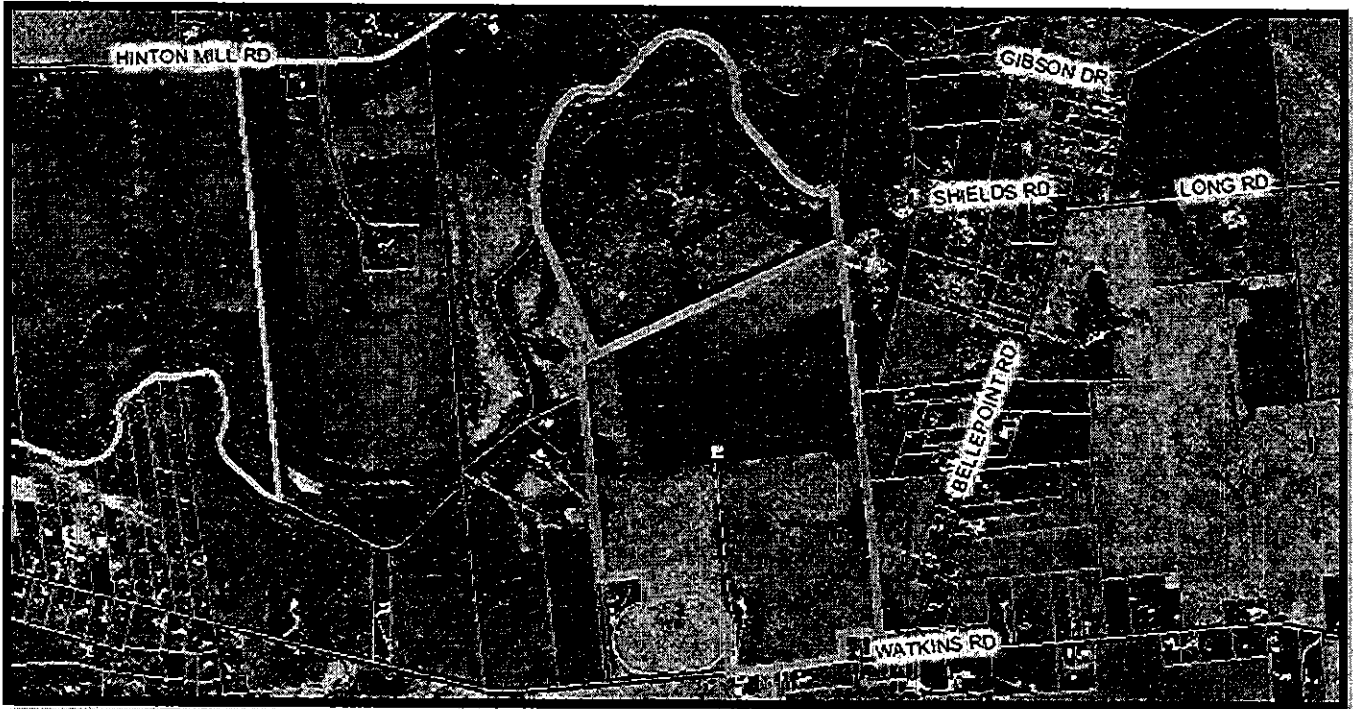
STAFF REPORT FOR APPLICATION #117

To: Board of Zoning Appeals
CC: Board of Trustees, Zoning Commission
From: Joe Clase, Zoning Administrator
Date: Monday, September 20, 2010

SUMMARY OF APPLICATION

An application (#117) for a Conditional Use Permit (CUP) was received on August 28, 2010. The applicant is requesting approval of a hunt club to operate on a portion of a 550 acre property owned by Dorral Farms LTD OLLC. This property has history of being used for the same, but operators of the club are applying for a conditional use permit to verify the limits of their permitted use of the property.

The following is a copy of a 2009 aerial photograph.



LEGAL NOTICES

A legal notice was published in the Marysville Journal Tribune on September 9, 2010 and posted on the township's website at www.millcreektwpohio.us. A copy of the full application was available in the Marysville Public Library and on the township's website.

Notices were mailed to property owners contiguous to and directly across the street from the property. In total, seventeen (17) notices were mailed by first class mail on September 6, 2010.

REVIEW OF COMPREHENSIVE PLAN

The plan prescribes the following objectives.

1. Protect the Township's quiet rural character and feeling of open spaces.
2. Be open to growth that pays for itself and enhances the community's economic health, while respecting Millcreek's core values.
3. Work collaboratively with community groups, businesses, neighboring jurisdictions, and State and County agencies to ensure the Township's continued ability to self-govern.

Though complaints of gun fire may not be in keeping with the "quiet" aspects of the plan's objectives, hunting is generally regarded as a "rural character". The Board should give attention to the idea of noise concerns.

REVIEW OF ZONING RESOLUTION

The hunt club is listed as a conditional use in the U-1 district. The application appears to meet minimum standards for submittal outlined in Section 4250.2 and contain required information from Section 4250.5. According to Section 4250.1, "the Board of Zoning Appeals has the authority to deny, grant or grant with conditions a Conditional Use Permit."

The following conditions shall be considered in the public hearing and employed in the review of an application for a Conditional Use Permit, in accordance with Section 4260:

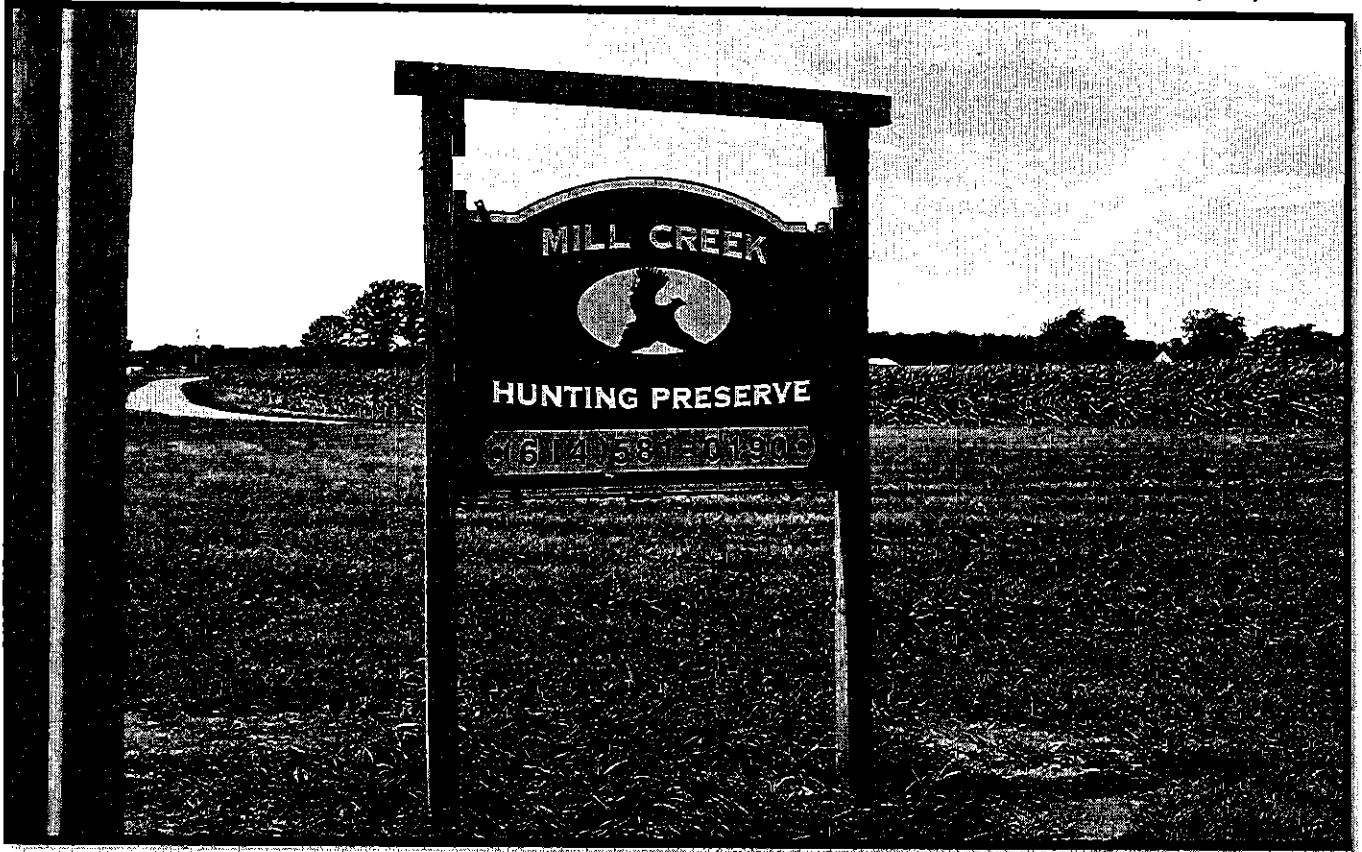
1. Whether the proposed use is in accordance with the general objectives and specified objectives of the Zoning Resolution.
2. Whether the proposed use will be designed, constructed, operated and maintained so as to be compatible and appropriate in appearance with existing or intended character of the neighborhood and zoning district.
3. Whether the proposed use will create an undue burden on public facilities and services and whether it will be detrimental to the economic welfare of the community.
4. Whether the proposed use will be hazardous or disturbing to existing or future permitted uses or entails a use, structure or condition of operation that constitutes a nuisance.

PHOTOGRAPHS

The following photograph indicates the view of the property from Watkins Road. The is shared with the home pictured on the right. The buildings used for the hunt club are faintly visible at the end of the drive that forks to the left.



The following is a photograph of the existing sign on Watkins Road at the entrance to the property.



RECOMMENDED FINDINGS AND CONDITIONS

It is suggested that if approval is considered by the Board of Zoning Appeals, that the following findings and conditions be discussed:

1. The regularity of gun shots has been the primary focus of complaints received by others. This should be addressed.
2. When the operator holds special events, additional signage is sometimes used. The Board should consider what type of additional signage is desirable.
3. The operator has stated that for the safety of people around this property, they have installed property markers. There should be requirement that these are maintained.

Otherwise the applicant should be bound to the text of the application and the testimony offered in their hearing.

-END-