

COLERAIN TOWNSHIP ZONING HEARING BOARD MINUTES
Kenneth & Judy L. Beiler Case 2022-12
January 4, 2023 at 7:00 P.M.

Members present were: Bob Stanley, Chairman, Doug Eaby, Vice-Chairman, Tammy Rineer, Member, Josele Cleary, Zoning Hearing Board Solicitor was present as well as Christy DellaRova Court Reporter. Christy can be reached at 717-299-8091. A listing of others in attendance will be kept on file.

The meeting was called to order at 7:00 p.m. A motion was made by Mr. Stanley to have a reorganization of the Board, second by Mr. Eaby and approved by all members. Mr. Eaby nominated Mr. Stanley as Chairman, second by Mrs. Rineer and approval of all members. Mr. Eaby nominated Mrs. Rineer as Vice-Chairman, second by Mr. Stanley and approval of all members. Mr. Eaby was nominated to be a member of the Board, second by Mrs. Rineer and approval of all members. Mr. Stanley nominated Adrienne Bonser and Sara Hodgkiss as alternate members, second by Mr. Eaby and approval of all members. Mr. Stanley nominated Ms. Josele Cleary as Zoning Hearing Board Solicitor, second by Mrs. Rineer and approval of all members.

The motion to approved the minutes for December 7, 2022 was made by Mr. Eaby, second by Mrs. Rineer and approval of all members.

The motion to render the decision for Case No. 2022-12 Kenneth & Judy Beiler was made by Mr. Eaby, second by Mrs. Rineer. Ms. Cleary shared that the Board took this case under advisement at last month's meeting. The Board requested that Ms. Cleary prepare a draft of the proposed decision to reflect their decision. The proposed decision contains 30 finds of fact, 13 conclusions of law and adjudication which states the Board deny the Beiler's application at 65 Lakeview Rd to turn a structure into a second single family dwelling. Mrs. Rineer made the motion to accept this proposed decision which denies the applicant's request, second by Mr. Stanley. A roll-call vote was conducted, Mrs. Rineer and Mr. Stanley were in favor of denying the applicant, Mr. Eaby was not in favor of denying the applicant. The decision to deny the applicant's request was passed by vote of 2-1.

Ms. Cleary explained the procedure for the meeting and the process of determining parties to the hearing. She shared that you do not have to be recognized as a party if you do not want to appeal the decision made by the Board. After all parties have been recognized, the applicant will be given the opportunity to speak. All parties need to be sworn in. Persons in attendance, but not recognized as parties will also be given the opportunity to speak. Sworn parties must be sworn and affirmed and can be cross examined. The audience can make statements, but need to be sworn and affirmed. After all evidence is presented, the Board will close the record for the hearing. A decision can either be given at the end of the hearing or given within 45 days of the conclusion of the hearing. If a hearing is taken under advisement, the decision will be rendered at the February 1st meeting of the Zoning Hearing Board.

A court reporter is present. Only one person may speak at a time. Audience was instructed to give their name and correct spelling of their name so the record of tonight's meeting is complete and accurate.

There were no questions regarding the procedures for the meeting.

At this time, the hearing of CASE NO. 2022-11 Application of Paul and Twila Ranck concerning property located at 365 Sproul Road, Kirkwood, within the Residential District was began. Applicants request a special exception pursuant to Sections 5.03.03.E and 6.04 for a home occupation (counseling services). (Continuance from December 7, 2022 meeting.)

The Ranck's were represented by their legal counsel, Mr. Melvin Newcomer of the firm Kluxen, Newcomer and Dreisbach.

The following were approved as parties to the hearing:

Richard and Babsi Clark, 368 Sproul Road, neighbor.

Daryl & Teresa Brackin, 363 Sproul Road, neighbor.

Steve & Dawn Mobley, 367 Sproul Road, neighbor.

Rick and Charlene Jilek, 389 Sproul Road, lives approximately 6 houses down the road and cannot see the property from their home.

Richard and Sylvia Foulk, 423 Sproul Road, ½ mile from applicant.

Dale and Linda Smith, 35 Ambler Lane, within 1 mile from applicant, cannot see property from their home.

Jeromie Hanna, 343 Cooper Drive, 3 to 4 homes between him and applicant.

Tom and Karen Bulthaupt, 30 Ambler Lane.

Kevin and Delores Sams, 357 Sproul Road.

Mr. Newcomer had no objections to these parties being recognized.

Mr. Stanley made the motion to approve the parties, second by Mr. Eaby and approval of all members.

Mr. Newcomer presented the Board with exhibits for this case. The applicant is asking for a special exception for a home occupation if all objectives are met. Mrs. Ranck offers tutoring services. Mrs. Ranck was sworn in. She and her husband, Paul, purchased this property in August 2020.

Exhibit 1 was the deed. Mr. Newcome shared the size dimensions for this property.

Mrs. Ranck shared that she is a tutor that helps children with math and reading. She offers tutoring services at a location in Parkesburg at the present time. Approximately 85% of her clients are pre-school and school aged Amish children. She also helps adults. She is not a medical professional and does not provide diagnosis for her clients, nor does she prescribe medication or offer overnight stays. Her clients are referred by the Amish school boards and teachers. She does not have court ordered clients. A typical appointment is approximately 1 hour, sometimes as long as 2 hours. All appointments are scheduled and staggered so she only sees 1 client at a time. There are no overlapping appointments.

Mr. Newcomer shared Exhibit 2, which was 2 photos of the inside of the home showing where the sessions will be held.

Mrs. Ranck shared that the Parkesburg location will remain open as of this point in time. She would like to offer session 1 day per week at her home office with hours of operation being 9 a.m.-8 p.m. She shared that she usually does not have any appointments after 5:00 p.m. Her Amish clients will

be coming by horse and buggy or by a driver. A hitching post will be available and there is parking for drivers. There will be no non-resident employees. Mrs. Ranck sees all clients, but her husband will help if needed. Mr. Newcomer shared that Mrs. Ranck's requested use is within the requirements of 6.14.

Exhibit 3, shared by Mr. Newcomer is photos of the Ranck's driveway to the parking area. There is room for 5 parking spaces. Mr. Christman was onsite and viewed the parking area and indicated that there was sufficient parking for the proposed use. Mr. Newcomer shared that there are no specifications in the ordinance for home occupations.

Mr. Newcome shared that Mrs. Ranck, based on his opinion, meets all the general requirements of the ordinance. They do not feel that this request is a determinant to neighbors, and will not injure or detract from neighboring properties. Per Mr. Newcomer, Mrs. Ranck is providing a service to the community.

Mr. Jilek asked if the counseling services being provided will involve persons with emotional problems, and does Mrs. Ranck have a degree. Mrs. Ranck responded that she offering tutoring and educational counseling and that she does not, nor is she required to have a degree to offer the types of services she provides.

Tom Bulthaupt asked if the 5 parking spaces include parking for their personal vehicles. Mrs. Ranck responded yes. In reality there are 3 additional parking spaces for her clients.

Jeromie Hanna asked if Mrs. Ranck was planning to continue operating from her Parkesburg location, or was she planning to move her services to her home. Mrs. Ranck responded that she plans to keep the Parkesburg location for now, and just have her home for clients in this area. Her goal is possibly to move from the Parkesburg location.

Kevin Sams questioned if grief counseling was part of the services that will be provided. Mrs. Ranck shared that grief counseling is not part of her tutoring. Mrs. Ranck shared that she plans on seeing clients at her home location as soon as she receives approval.

Mr. Dale Smith asked how clients hear about her service. Mrs. Ranck responded word of mouth and from teachers and principals. She teaches Amish, but can also tutoring English clients as well. She does educational tutoring.

Mr. Daryl Brackin asked how many days Mrs. Ranck is at her Parkesburg location. Mrs. Ranck responded 3-3 ½ days per week. Mr. Brackin clients she anticipates at her location per day. Mrs. Ranck responded that she only sees one client at a time. She may see 6-8 clients per week. Mr. Brackin asked if Mrs. Ranck plans to hire more employees. She responded, no.

Mr. Steve Mobley shared that Mrs. Ranck told him in a private discussion, not during this hearing, that she deals with mentally challenged and disabled children. Mrs. Ranck responded that she assists anyone who needs her help with reading and writing, she does not work specifically with diagnosis. Mr. Newcomer objected to this line of questioning. Mrs. Ranck is offering educational tutoring, not a care facility. Mrs. Ranck shared that she does tutoring and educational counseling. Mr. Christman used the term counseling on the application, but she is a tutor, not a counselor.

Mr. Mobley wanted clarification on the number of days services will be offered at this location and the Parkesburg location. Mr. Newcomer denied this question as there are no requirements in the ordinance.

Mrs. Babsi Clark asked for what types of therapies are offered with tutoring. Mrs. Ranck shared that she offers play, art and music therapy to help with math and reading tutoring. Mrs. Ranck focuses on how we learn, and learning can be improved with the help of music and art. Mrs. Clark noted that she saw a young boy playing at the home. Mrs. Ranck responded that she was not sure that Mrs. Clark saw, but she is not offering services in her home at the present time.

Ms. Geraldine Parker asked if this home was new. Mrs. Ranck responded yes. Mrs. Parker asked if the home was built under the state building codes. Mrs. Ranck responded yes. Mrs. Parker questions ADA compliance. Ms. Cleary noted that ADA compliance is beyond the power of this Board. This Board cannot render a decision on compliance with ADA. Mrs. Parker asked if the sewage officer has been informed of use beyond a single family residence. Mrs. Ranck responded that she did not know. Mrs. Parker asked if Mrs. Ranck was a license teacher. Mrs. Ranck responded no. Mrs. Parker asked for clarification on what treatment means. Mrs. Ranck responded support for reading and writing. Mrs. Parker feels that what Mrs. Ranck has testified to is unclear. Ms. Cleary responded that Mrs. Ranck has testified.

Ms. Sara Hodgkiss shares that she operates an equine therapy around the corner from the Ranck's. She questioned when this house was built, was this planned? Mr. Newcome responded that he doesn't understand the relevance of the question as there is no requirement on the timing of this objective. Ms. Cleary noted that the Board can overrule Mr. Newcomer's objection or sustain the objection. A motion was made by Mr. Eaby, second by Mr. Stanley to move on from this question.

Mrs. Danielle Kulicke, 5312 Street Road, shared that she is confused about the type of work that will be done at this location. Mrs. Ranck shared that she will only be offering academic tutoring, she will not be providing counseling. Mrs. Kulicke asked if other kinds of work will be performed in the future. Ms. Cleary noted that the applicant asked for 1 home occupation. The Zoning Hearing Board can grant a special exception and conditions can be imposed. The testimony is set forth in the findings of fact. The application states tutoring in reading and math. That is what may be granted. If something else is done, that will be in violation if the applicant does not come back for additional approval.

Mr. Rodney Prewitt wanted clarification on the definition of what a home occupation is. Mr. Newcomer objected, noting that the zoning ordinance speaks for itself and this is not something that the applicant needs to explain.

Mrs. Becky Kleinz, 433 Liberty Lane, asked if this will be a Monday through Friday operation. Mrs. Ranck responded that it will be Monday through Friday with the occasional Saturday, but Saturdays will be very rare.

Mrs. Linda Smith, 35 Ambler Lane, shared that she has personally witnessed odor coming from wagons. She questioned who will be cleaning up after the wagons and how often. Mrs. Ranck responded that this is her residence, so they will be cleaning up.

Ms. Cleary at this time, shared that the Board can open the hearing for questions, but given the time, they are not obligated to. Mr. Stanley made the motion, second by Mr. Eaby to move on.

Ms. Cleary shared that at this time, testimony can be presented by parties and the parties can be cross examined.

Mr. and Mrs. Clark had no further testimony.

Mr. and Mrs. Bracking are opposed to this request due their feelings that in the future it could expand. Mr. Newcomer had no questions.

Mr. Mobley had questions about a home business and the zoning ordinance. He outlined his concerns. He also feels that Mr. Christman recommended the Ranck's get an attorney and Mr. Christman recommended Mr. Newcomer. Mr. Mobley feels that Mr. Christman is a representative of the township and should not be giving an unfair advantage to anyone. He feels this is breaking the trust and not keeping information confidential.

Mr. Jilek feels that what the Zoning Hearing Board is looking at is very vague. What was shared tonight is all open ended. He is hopeful that the application does not pass. He doesn't think this is going to be for teaching kids. Mr. Newcomer had no questions.

Mr. Foulk has concerns about the number of people coming to the neighborhood. He feels this is unsafe for neighbors and there will be Amish kids walking along the road. Mr. Newcomer had no questions.

Mr. Sams shared his experiences when he lived in another area with what was approved vs. what really happened. He doesn't see respect from the Ranck's for their neighbors. Mr. Newcomer asked if respect runs both ways. Mr. Sams responded, yes.

Mrs. Parker believes this request should be denied because she feels everything presented was very vague. She doesn't know what they will be doing. Mr. Newcomer had no questions.

Mr. Eaby made the motion to close testimony, second by Mrs. Rineer and approval of all members.

On motion of Mr. Stanley, second of Mrs. Rineer the Board went in to Executive Session at 8:44 p.m.

The meeting resumed at 9:00 p.m.

Mr. Eaby made the motion that the Board approve the applicants request with conditions which Ms. Cleary will make as part of the decision, second by Mrs. Rineer and approval of all members.

The following hearing was conducted immediately following the Ranck hearing.

CASE NO. 2023-01 Application of Bertha Turnball concerning property located at 239 Mount Eden Road, Kirkwood, within the Agricultural District. Applicant requests a variance or a special exception to enable a second single family dwelling as a second principal use under Sections 4.05.02 and 6.17 of the Zoning Ordinance.

Ms. Turnball represented herself.

The following parties were recognized:

Daniel and Andrea Collins, 242 Mt. Eden Road, neighbor.

Ms. Turnball shared that the structure in her application is a free standing building. She shared the dimensions and set backs. It will have a finished room upstairs and downstairs. They did add a bathroom. The property will be used for visiting family and friends. There is no intentions to rent the building.

Mr. Stanley noted that the building was existing when the property was purchased, they just added a bathroom. Ms. Turnball noted that was correct. Mr. Stanley asked if Ms. Turnball got a sewage permit. Ms. Turnball responded no, but she has paid the fines and spoke to Martin Stoner. She is working with Brian Masterson as well to resolve this matter.

Mr. Eaby asked Ms. Turnball to show him on her map where the building is located. She shared she will not be using this as a exercise arena, just for a house. Mr. Eaby asked if this is passed, who will be in this house. Ms. Turnball responded that it will be used for visiting family or when her kids are home from college. It will not be a rental.

Mr. Stanley asked where it stand in regarding to sewage. Ms. Turnball responded that she has paid the fines and it perked in 3 areas.

Mrs. Rineer asked if this building has its own well. Ms. Turnball responded, no, it comes off the main house.

Mr. Eaby asked if the spring house was being used. Ms. Turnball responded no.

Mr. Stanley questioned something on the application that was hard to read. Ms. Turnball responded that what Mr. Stanley was questioning was a response that was in the wrong place.

Ms. Hodgkiss asked if there was electric to this building when Ms. Turnball purchased the property. Ms. Turnball responded that there was, there is one meter on the main house for all.

Mr. Collins asked if the bathroom added was a full or half bath. Ms. Turnball responded that the bathroom has a standing shower, toilet and sink. Mr. Collins asked if someone could live there. Ms. Turnball responded that the upstairs is an open floor. Downstairs has a sink and refrigerator but no stove or oven.

Mr. Eaby asked if there was a kitchen. Ms. Turnball responded that there is no kitchen, just a sink and refrigerator. There is 1 bathroom and people can sleep upstairs. There is one room upstairs and 1 room downstairs.

Ms. Cleary asked that if granted, will the applicant agree that this will not be used for a short-term air BNB and it will be limited to family and friends of the principle dwelling. Ms. Turnball agreed.

Mr. Collins did not attest to this request.

Walter Todd III, 32 Watobri Lane, Quarryville asked how many acres is this parcel? Ms. Turnball responded a little over 5.

Charles Kulicke, 5212 Street Road asked who the contractor was that put in the septic without a permit. Ms. Turnball responded it was someone from Massachusetts.

Testimony was closed on motion of Mr. Eaby, second of Mrs. Rineer and approval of all members.

Ms. Cleary shared that the Board can now go into Executive Session, or render a decision as the applicant has agreed to the condition noted.

On motion of Mr. Eaby, second of Mrs. Rineer and approval of all members, the Board approved the applicants request with conditions.

On motion of Mr. Stanley, second of Mrs. Rineer and approval of all members, the meeting was adjourned.

Respectfully Submitted,

Cheryl L. Todd, Zoning Hearing Board Secretary