

Joseph E. Fisher  
Case 2022-05  
August 3, 2022

Upon announcing the case to be heard Ms. Cleary gave an explanation for the procedure that the board will need to follow. Ms. Cleary asked if the audience had any questions regarding the procedures.

At this time the Asst. Zoning Hearing Board Secretary, Carmen Wiker was sworn in. Mrs. Wiker confirmed that the meeting was properly advertised, and posted according to law and the Township has these proofs on file.

At this time Ms. Cleary asked if anyone wished to be recognized as a party. She read the notice for the hearing and announced that Mr. Fisher had council present. The following residents stepped forward: Fred and Lucinda Reynolds, Janice Longer, and Tammy Rineer. Ms. Cleary then asked the applicant if he had any objections to recognizing any of the residents that wished to claim party status. He did not.

A motion was made by Doug Eaby and seconded by Sara Hodgkiss to recognize the above stated residents with party status. The vote was unanimous.

At this time Mr. Fishers council Melvin Newcomer stepped forward to present his case by explaining the Special Exception request, reading from the pertaining zoning ordinance sections, details of the plan as well as location, zoning district and history of existing buildings and use of those buildings on the property.

All witnesses and those testifying were sworn in.

Mr. Newcomer called John Coldiron as his first witness. Mr. Coldiron prepared the plan that was submitted. Mr. Coldiron answered questions relating to his professional history, the location of proposed buildings and driveway on the submitted plan, the size of the parcel, who is planning on residing on the property, the current use of the property, setbacks for the proposed house, and the proposed use of request.

Ms. Cleary let the Board know they could question the witness first or allow the parties. Fred Reynolds asked about the actual plot plan that showed the proposed structures and he was shown the plan. He asked if the access shown on the plan is what will be actually installed and Mr. Coldiron confirmed that it is. Mr. Reynolds asked about any proposed secondary uses and Mr. Coldiron explained there is none. Mrs. Reynolds Tammy Rineer asked if there would be any further development and Mr. Coldiron stated he had not heard that there would be.

Janice Longer asked if there was a Storm Water Management requirement for this project and if so, would be completing it as well as asking him if the pencil markings on the submitted plan were drawn by him. Mr. Coldiron explained that all projects require Storm Water Management, and yes, he would be completing it and he explained he did draw the pencil markings of the proposed driveway and buildings. Ms. Longer also asked if there was a waterway on the property but he was not sure.

At this time Ms. Cleary took questions from the audience. Ann Ranck asked if the audience could see the plan that shows the location of the proposed house. A copy was passed around.

Scott Kulicke asked for confirmation that the Special Exception request involved only construction and no future subdivision. Mr. Coldiron confirmed. At this time Ms. Cleary opened up questions from the Board.

Ms. Hodgkiss asked about driveway stopping at the house, the thought behind the choice of location for the proposed house, and if soil testing had been done. Bob Stanley asked if the land has been disrupted in recent years where the new home is being proposed. Mr. Masterson explained that the existing structures have been there many years.

Mr. Coldiron explained the driveway is stopping at the house in order to keep as much farm ground as possible, the choice of location for the house is strictly for privacy, and no soil testing had been done.

At this time Mr. Newcomer interjected with a statement that the use requested is permitted in all soil classifications in the Colerain Township Zoning Ordinance.

Mr. Stanley questioned Mr. newcomer on the deed which lists two separate parcels. Mr. Newcomer responded that he is aware of that. he explained that according to the Assessment Office it is one parcel with one tax identification and only one lot.

Ms. Hodgkiss asked about a note on the 1990 Subdivision Plan that stated the plan was conditionally approved and she wished to know the conditions. Mr. Newcomer explained that the conditions were related to Subdivision and Land Development and not building.

Mr. Newcomer called Joseph Fisher as is second witness. After stating his name and address he answered many questions relating to when the property was purchased, current use of the property, existing buildings, what crop is planted, who will be residing in the proposed house, his awareness of setbacks, whether or not he had any plans to subdivide, where the woods are located on the property, approximately how many trees are being removed to make way for the proposed house, whether or not he would be clear cutting, his awareness of Section 6.36 of the Zoning Ordinance which Mr. Newcomer read aloud, if any planned equipment storage is planned other than typical home use equipment such as a mower or carriage, and if the reason Mr. Coldiron stated the choice of location for the proposed home was for privacy was correct.

Mr. Fisher stated he proposing a new home for his son who will farm the property by planting corn and possibly some cows, and his daughter will move into the existing house. Some trees will be removed in order to build the house, he is aware of all setback requirements as well as Section 6.36 and is willing to comply with that section. No Subdivision is planned and he stated the Mr. Coldiron was correct about the privacy choice.

Ms. Cleary asked all parties if they had questions for Mr. Fisher. None did. She then opened up questions form the audience.

Scott Kulicke asked Mr. Fisher if was aware that according to the terms of the Special Exception the proposed home could only be used by members of the immediate family and never rented. Mr. Fisher stated he is aware of that fact.

Mr. Stanley asked Mr. Fisher is was planning on installing a diesel generator and the location and Mr. Fisher stated it would be located near the barn and that it would be an outside unit. Mr. Stanley then asked Mr. Fisher if would be willing to install it so as not to cause a noise problem and stated he would.

Ms. Hodgkiss asked about the proposed sizes for the barn and house, number of stalls in the barn, and pasture size per horse. Mr. Fisher gave her approximate sizes for each, most likely three or four stalls, pasture size one acre per horse.

Mr. Newcomer asked Mr. Fisher if would agree to a condition to locate the diesel generator behind the barn on the north side opposite 6113 Street Road and he agreed.

Mr. Newcomer asked if Mr. Fisher is in agreement that he is subject to any applicable Zoning requirements in respect to the size of the horse barn and asked him to confirm that he not asking for a Variance form any requirements of the Zoning Ordinance. Mr. Fisher agreed and stated he is not asking for a Variance.

Mr. Reynolds asked Mr. Fisher if there would be additional animals stored in the barn other than horses. Mr. Fisher stated yes there may be dogs and perhaps a few cows.

Mr. Newcomer asked Mr. Fisher to confirm that the proposed dogs would be pets only and that a kennel was not being proposed.

Ms. Hodgkiss asked for confirmation that there would also be no breeding as well as no kennel. Mr. Newcomer asked Mr. Fisher t confirm that he is not requesting permission from the Board for a kennel or to breed dogs.

Mr. Newcomer requested that the Assessment Listing be submitted as an Exhibit. Ms. Cleary allowed the listing to be submitted as Applicants Exhibit #1.

Ms. Cleary asked the parties if they wished to testify. None did. She then asked the audience if they wished to testify or present evidence. No one stepped forward.

Mr. Reynolds wished to question the Board but Ms. Cleary explained that he could not do that. Mr. Reynolds asked Ms. Cleary if it was customary for the Board to make decisions before having a definitive plot plan and storm water in place. Ms. Cleary explained that the Zoning Hearing Board does not have jurisdiction over SALDO and Storm Water, only the Zoning Ordinance.

A motion was made by Doug Eaby and seconded by Sara Hodgkiss to close testimony. The vote was unanimous.

At this time Ms. Clearing explained the options available to the Board for the purposes of rendering a decision.

At 8:01 Mr. Stanley announced the Board would adjourn for an executive session. At 8:08 Mr. Stanley called the meeting back to order.

A motion was made by Sara Hodgkiss to grant the application with conditions which were read by the Ms. Cleary. Doug Eaby seconded the motion. The vote was unanimous.

The Conditions are as follows:

1. The property must only be used for two single-family detached dwellings and agriculture. No business may be established without further approval from the Zoning Hearing Board
2. Applicant shall comply with the Storm Water Ordinance and all other applicable Ordinances.
3. Both singe family dwellings shall at all times be occupied by members of the land owners family.
4. Applicant shall locate any diesel engines in a manner to minimize noise reaching other properties and shall place diesel engine between the new house and the existing house and away from lot 3 to the extent practical.

5. No person shall breed dogs or operate a kennel on the property.
6. Applicant shall comply with and adhere to all of the testimony presented.
7. Any violation of a condition is a violation of the Zoning Ordinance punishable as such.
8. The Applicant shall obtain permits necessary for the use.
9. Conditions are binding on the landowner, his successors and assigns.

Case 2022-06 was opened immediately after.

Respectfully Submitted,

Carmen B. Wiker, Asst. Zoning Hearing Board Secretary