

BLUE ASH BOARD OF ZONING APPEALS

June 14, 2010

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ITEM 1. – Meeting Called to Order

Chairman Marc Sirkin called the regular meeting of the Board of Zoning Appeals to order at 7:05 p.m. on Monday, June 14, 2010.

MEMBERS PRESENT: Marc Sirkin, Julie Brook, Paul Collett, Jr. and Mark Kirby

MEMBERS NOT PRESENT: Terry Peck

ALSO PRESENT: Assistant Community Development Director Dan Johnson, Administrative Clerk Traci Smith and interested citizens

ITEM 2. – Nominations and Elections

Chairman Marc Sirkin presented the following nominations to be effective beginning July 2010:

Mark Kirby, Chair
Paul Collett, Vice-Chair
Terry Peck, Secretary

DECISION: Marc Sirkin moved, Julie Brook seconded to elect the slate as presented. A voice vote was taken. All members present voted aye. Motion carried.

ITEM 3. – Approval of Minutes

The Board waived the reading and approved the minutes of the Board of Zoning Appeals regular meeting of May 10, 2010.

ITEM 4. – 10300 Alliance Road – Pfeiffer Place

Appeal to allow two building signs above the first floor of a multi-story office building

PRESENT: Gene Bare – United-Maier Signs, Appellant

Chairman Marc Sirkin swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Gene Bare said that earlier this year Sunny Delight was granted a variance for a sign on the west elevation of the building. They are now proposing to replace the IKON sign currently on the northeast corner with a new sign on the northwest elevation reading MarketVision. He said they are within the allowable square footage area. Jay Morey, Duke Realty, clarified that when they requested the variance for Sunny Delight, the Board was aware that there were two signs on the building. What is being requested tonight is to move the sign that is there now from one corner to the other.

As there were no further questions Chairman Marc Sirkin closed the public hearing portion of the meeting.

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DECISION: Paul Collett moved, Mark Kirby seconded to grant the appeal as submitted. A roll call vote was taken. All members present voted aye. Motion carried.

ITEM 5. – 5131 Brasher Avenue – Cassandra Hazelrig

Appeal of Zoning Administrator's Zoning Code interpretation that chickens are prohibited at a residential property that is not a suburban farm

PRESENT: Cassandra Hazelrig, Appellant

Chairman Marc Sirkin swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Cassandra Hazelrig said she got chickens for her granddaughter's birthday. She said they make less noise than her neighbor's dog and the chicken coop is nicer than some dog houses that she has seen. She said she has had the chickens for a year and all of them have since died; however, she would like to get more. She reiterated that they are just pets for her granddaughter.

There was general discussion regarding the definition of animal husbandry and what distinguishes a pet from a farm animal. Johnson noted that the Zoning Code does not specifically mention chickens, but does refer to poultry husbandry. Poultry husbandry does not seem to be defined in common dictionaries, but must have been intended to cover farm-raised birds. The Zoning Code does not address keeping of pets of any kind. He explained that the construction of the Zoning Code is permissive, meaning that if a use is permitted in one district, but not specifically permitted in another, then it is assumed to be prohibited where it is not listed as permitted.

Sandy Frye, a resident of Loveland, said chickens are allowed there and she has 3 that she keeps as pets. She said they are quiet and do not stink, if you take care of them. They are kept outside; however, she said she has heard that some people buy diapers for their chicks and take them inside.

Valerie Taylor, a resident of Montgomery, questioned whether chickens are inherently farm animals. Chickens have been raised in backyards all around the world in small towns and big cities throughout history as both pets and to get eggs. Chickens have never been exclusively raised on farms. A small number of chickens should not be considered farm animals, even if they do produce eggs for food. She agreed that they might not be considered pets if someone had 50 chickens.

Dan Johnson clarified that the Board is considering an appeal to the interpretation of the Code that would affect the way it is interpreted for other similar instances. It is not a request for a variance that would allow only this appellant to keep chickens.

As there were no further questions Chairman Marc Sirkin closed the public hearing portion of the meeting.

Julie Brook said she feels confident that this particular interpretation is so restrictive that it does not uphold the letter or the intent of the Zoning Code and that the Zoning Administrator was incorrect in his decision to say that chickens may be kept only on a Suburban Farm.

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Paul Collett said some points have been raised that are interesting in that chickens are not inherently farm animals and are permitted in most communities. He said he agrees that the intent of the Code was not to restrict chickens in this way or determine that all farm animals cannot be pets.

Mark Kirby agreed with both Ms. Brook and Mr. Collett.

DECISION: Julie Brook moved, Paul Collett seconded to grant the appeal in that the Administrator's interpretation is so restrictive that it does not uphold the letter or the intent of the Code. A roll call vote was taken. Three members present voted aye and Marc Sirkin voted nay. Motion carried.

ITEM 6. – Miscellaneous Business

Marc Sirkin swore-in Mark Kirby.

ITEM 7. – Adjournment

DECISION: There being no further business, Paul Collett moved, Mark Kirby seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 7:55 p.m.

Marc Sirkin, Chairman

MINUTES RECORDED BY:

Traci Smith