

**MEETING MINUTES OF THE
GUILFORD TOWNSHIP TRUSTEES
March 23, 2021**

The Board of Guilford Township Trustees, Medina County, Ohio, met for a special Trustees meeting on March 23, 2021 at 7:00 P.M. at the Guilford Township Hall. The following Trustees were present: Gene Morris, Jerry Winkler, Bob Rohrer, and Fiscal Officer, Ray Ruprecht.

The following BZA members were present: Michael Colonna, Diane Allen, Tom Fields, Dan Ramsier, David Ohl, Seth Whitney, and Wendel Payn.
Also present were Trevor Jones, Jim Krahl, and Shannon Colonna.

The purpose of this meeting is to discuss topics related to the Board of Zoning Appeals.

Gene Morris called the meeting to order at 7:00 P.M.

Gene opened the meeting by providing some history about the purpose of this meeting. The Trustees sent Tom Fields, BZA Chair, a letter with questions about their processes, which he shared with the rest of the BZA. They have been trying to meet with the BZA chair for nearly a year to discuss some concerns and are meeting with the Board tonight in a public meeting at the request of the BZA.

A rift between the Board and the Trustees started at the Organizational Meeting last year. Jerry and Gene were both at that meeting and had concerns. The positions of Chair and Vice Chair were elected at that meeting, and a revote was requested for clarity at the next meeting.

Jerry clarified that the reason they had a question is because some members voted 'present', and they did not know what that meant. He understood that 'present' was the same as not voting but it was treated as if it was an affirmative vote.

Tom Fields responded that there were two meetings. At the first meeting, a new member voted 'here' and a senior member also voted 'here'. Those votes are abstentions and would not have impacted the outcome of the vote. They agreed to hold a second vote. Tom believes that it is the job of the Chair to call a meeting. It was a situation that 'went South' because the authority to call a meeting is questionable, and it would have been easier for someone to just call to clarify or ask a question at the meeting. Tom questioned if he wanted to accept the position of Chair if it seemed like the Trustees were going to interfere.

Gene responded that the Trustees did not schedule that meeting. They asked David Houk to have a re-vote to ensure the outcome was clear.

Tom responded that David Houk told them that the Trustees asked them to call a meeting. It sounds like this was misinformation, and he apologized for his response.

Jerry said that he thinks there was a comment about the Trustees telling the Board how to operate,

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and they are just trying to understand because they need to be able to answer questions about what is going on.

Tom said that they can not discuss the case with the Trustees or the Zoning Inspector. The prior chairman, John Troche, was always looking for more involvement from the Trustees. Part of the problem is that John ran the board one way and Tom is trying to get to the place where they are following the best practices of the state.

Gene then shared audio and a transcript from the February 6, 2021 meeting where Tom requested the public meeting be suspended so that he could speak with other board members privately. Tom stated in the private meeting that 'Gene had questioned the vote' and suggested that the Trustees might want to inject themselves into the BZA process. He wanted to make sure other board members would stick together if there was any interference from the Trustees before he accepted the Chair position.

Dan Ramsier said that they have experienced some disappointing behavior in the past with Trustees interfering. One Trustee in the past told them they were a bunch of 'yes people'. That trustee attended subsequent hearings and was in favor of them passing variances.

Gene said that this audio was played for the purpose of new members that were not there. This was an illegal executive session, and the Township is liable for illegal executive sessions for up to two years.

Gene asked if anyone on the BZA has experienced any interference from the current Trustees. Tom responded that he spoke with John Troche and was told that he and Gene worked together quite a bit on past hearings. Tom said that he has talked to the Prosecutor about this. They agreed that they did not go into a proper executive session. The Prosecutor did say that it was an appropriate discussion. He said that the recording was not supposed to be recording, and that this part of the meeting was supposed to be removed. If the tape had not been released, it could have been erased. He wants to know why it ended up in the public record in the first place.

Gene said that he did not recall working with John Troche.

Dan Ramsier asked if this would have been considered deliberation. Tom responded that that was different. Gene noted that the BZA operates under two sets of rules, one for meetings and one for hearings, and it can be confusing.

Tom said that his decision to take the Chair position was dependent on if the Board would support him if there was interference, and it was important to meet with them to discuss.

Bob Rohrer said that it sounds like there is agreement that the BZA had an illegal meeting, and wanted to know where to go from there.

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Gene responded that it is also important to clear up that the Trustees were not setting meetings for the BZA, and they need to get everyone on the same page.

Dan Ramsier asked if anyone realizes how much David Houk and John Troche have done for this Township. Bob said that he has talked to both of them in the past year. Jerry said this was a strange year without being able to hold the year end meeting, and that is typically when people would be recognized for their years of service.

Gene said that there was also a problem with the meeting that he was accused of cancelling, which was scheduled for February 18. This meeting was not advertised in the paper as required. They were not allowed to have that meeting, and Gene contacted Ray Ruprecht and Mike Lyons to confirm and make sure the meeting was not held. His best interest is the Township, and he will not allow them to do things that may get them in trouble.

Wendel Payn said that this was a big changeover of the Chairman and the Secretary, and there are going to be mistakes.

Tom responded that this was before that changeover, and he heard from David Houk that he often did not advertise the second meeting to approve minutes because the meetings were so short. It was usually held right before the Trustee meetings. Ray Ruprecht said that was not part of the Trustee meeting that he advertised. David Houk was supposed to take care of advertising all zoning meetings. With public meetings, they want as much transparency as possible and auditors often confirm that meetings have been properly advertised.

Dan asked if David Houk retiring had something to do with the meetings not being advertised. Tom said this was before, and he said that if he had known that was the reason the meeting was cancelled, he would have done the same thing. He apologized if he has done anything wrong and wishes the Trustees would have called to discuss any concerns.

Tom said that they are working on changes to the process. The changes include having the Zoning Inspector present the case and defend the Township's position instead of that falling on the BZA.

Gene said that the Trustees are working as a group, and the only time they can discuss Township matters is when they are in a group. He has lived in the Township since 1994, and he cannot recall in this time where the BZA had to defend the Zoning Inspector's decisions.

Gene said that some people are not happy with the way the township is going with changes, but the thing he misses is people in the Township trying to work together. People used to knock on doors and talk to other people and resolve matters before they escalated to the BZA.

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Tom added that the Township could get in trouble if the Trustees try to pull an approved variance. They also were not prepared to have these types of hearings, especially over Zoom. If they have to do more of this, they are going to be very unpopular. He said that this also depends on the enforcement of zoning.

Gene said that zoning in general is a means of protecting property values, and asked Trevor Jones, Zoning Commission Chair, if he had any input. Trevor responded that it does have that effect, but he is not sure if that is the sole purpose. He looks at it as a community of people that agree to live together and follow the same rules.

Gene said that zoning is also there to help people in the community, such as if they want to run a business from their home. He feels like if someone is granted a variance, it should be enforceable and help protect the property values of the neighbors. He has been in front of the BZA twice to request variances for his own business. He wants property values to be considered and protected in this process.

Wendel read an excerpt from the first version of the zoning regulations, and it states that one of the purposes of zoning is to preserve property and property values.

Tom asked about Home Occupations. The internet and other new technology are making home-based businesses more and more possible. He understands that the original intent was to control traffic (car and foot). The biggest impact on neighbors is the traffic – how many cars are coming and going, parking, etc. He thinks they should consider the purpose of the home-based variance in the future.

Dan Ramsier read an excerpt from the Comprehensive Plan. The Plan requires review of the plan to ensure quality of life and help plan for growth.

Wendel read an excerpt from the original Zoning Regulations about Home Occupations. Essentially, a home business is allowed unless it changes something. He is not sure if any of the regulations for Home Occupations have changed since then.

Jerry said that they want to discuss communication and intent. It seems like they started with some issues last year at the joint zoning meeting. That meeting was to help get everyone on the same page, introduce new people and discuss updating the Zoning Manual. The intent was never to tell them how to do their jobs. As Trustees one of their responsibilities is to be able to answer questions, and this was one of the reasons for the letter that was sent to Tom. Some of the questions were from them and some were from other people. They also wanted to understand the approach better.

Tom said that he shared this with everyone because he was not able to answer all of the questions.

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There were some questions about how the hearings were handled and a question about the discussions between the BZA Chair and the Zoning Inspector. Tom said that Curt called him and asked a question about taking a commercial property and rezoning it as residential. That is a question that Tom said would need to go to the ZC. He also took Curt through a presentation about Township Zoning.

Jerry asked if everyone had an updated manual. Tom responded that they all now have the updated manuals. The problem they have is that he has an older manual with section dividers. Since some pages have a chapter ending and a new section starting on the same piece of paper, he cannot use the dividers. This makes it harder to reference quickly. If they are going to make these changes, they now have to relearn the whole manual. Tom still carries both copies because it is easier for him to navigate the old copy. He said that they also used to include the date something was approved and when it was implemented. They need to have that information to see when something was changed. If they continue, they will have a lot of dates so they can see when something took effect. He has taken these changes to Jerry. They would like updates to be distributed at meetings so that the pages are physically updated at the same time. The Trustees need to consider that there are varying levels of technical abilities on the Board.

Shannon said that the format could possibly be changed. It was formatted the way it is to make it flow easier for people who are accessing the manual online, which is the majority of people in the Township. She also stated that the entire Zoning Administration was asked for feedback before this was published, and she received none. When manuals were reprinted, she shared a link to the online copy and said that she would work with anyone who wanted to get a physical copy while they were not meeting publicly. The only people on the BZA who had updated copies before the October 28, 2020 BZA hearing were Michael and Wendel. She distributed physical copies to other members at that meeting.

Jerry confirmed that if they included blank pages at the end of section it would solve the problem.

Michael Colonna said it sounds like part of the problem is that timely feedback was not submitted.

Shannon said that she could potentially make that changes but wants to consider the impact and not make changes for just a couple people if it is working well for others.

Bob asked everyone to read the emails from Shannon and respond.

Ray Ruprecht said that he wants to make sure the suggestions will work for Shannon since she will be maintaining this going forward. Trevor said that one thing he likes about the electronic version is the ability to search and find all occurrences of that term. Tom agreed that is nice if they have access to a computer.

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Gene said it is true that Shannon requested feedback back in April and did not get any, which is the real problem.

Jerry noted that there was a report that a BZA member discussed with a complainant.

Gene said that there was also an issue of the minutes not being prepared and approved in a timely manner. Tom responded that it was a split meeting, and it took a while for the minutes to be prepared and signed.

Gene said that the Township received a public records request for meeting minutes and the appeal decision, which had not been provided. Since Shannon was part of the hearing, it would not be appropriate for her to be involved with this request. Tom responded that the form was completed and signed, and then the BZA is done with it and the Zoning Secretary handles the paperwork. Ray confirmed that this was a public records request. Tom and Diane offered to provide a copy. Tom knows the attorney and can deliver a copy to him. Shannon suggested that the documents could be emailed from the Shared Drive.

Jerry asked about the BZA decision and how the decision was delivered. He felt like everything about the facts found that there was a in violation of zoning. He was confused why the statement from the BZA seemed to confirm a violation, but they determined that it was okay.

Tom wondered if they were allowed to discuss their deliberations after the case. He said that Hal was trying to build a case that there was a build up of wood and that this was commercial. They did not feel that he proved this. A lot of the case was about the state statute for if something was a business. He had a vendor's license, but that did not necessarily prove that it was commercial. There was a question about the volume, and they did not think they could prohibit it because there are so many people selling wood. The other question is if the wood was coming from the property. Tom said that based on the zoning regulations, it is only a requirement if the wood was being sold in a stand. He said that they also have to take the resident's word that he was only selling the soft woods.

Jerry said that this was confusing because they determined that he was engaged in commercial activity. He suggested that the Zoning Commission may need to look at this because he can see a lot of loopholes down the road with this.

Tom said that a lot of this goes back to if this is prohibited by zoning, and they did not feel it was. There were also concerns from others that if they stopped one person from selling wood, that they would stop other people in the township. They felt there would be problems if they tried to restrict this too tightly. He would suggest that they not make the rules any stricter so that the BZA can make intelligent decisions.

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Tom said that they accepted a letter that was submitted by someone who was at the previous hearing. The letter was not admissible.

Jerry feels like they have covered a lot tonight, and they hope to get past the adversarial past.

Wendel said that in the early 2000's it was more 'good old boy' and now there are more challenges getting everyone on the same page.

Tom asked the Trustees which way they were going to be going with the active enforcement. Gene said that is one of the things he has noted. He thinks that more active enforcement may help, but he has mixed feelings.

Bob said that in the past years, complaints or things that were blatantly wrong were addressed. He said that you can probably find violations all over the township, but he does not think they should go out and actively look for violations.

Tom asked about following up on variances. Bob and Gene said that they absolutely want to see that happen. Tom said that they add conditions and timeframes, and they have always wondered why they bother to do that if it is not enforced.

Wendel said that he often saw violations when he was working and would often report them to the prior Zoning Inspector, Ray Lee. Gene also drives through the Township a lot and has asked Curt to look into some things.

There was some discussion about the Sulzener hearing. Jerry said that it seems like there are more properties in the Township that have barns in front of the house. Tom said that they are not required to follow the zoning rules if the property is over 5 acres.

Diane said they are not supposed to suggest solutions to issues that come before the BZA.

Bob said that with zoning each person has a different condition and reason they are requesting a variance. Tom said that there is some case law and that they should make sure they make consistent decisions.

Bob acknowledges that there have been a lot of changes with the zoning administration in the past year.

Ray Ruprecht said that he probably gets 50 calls a year about zoning issues. He said that it sounds like more people are referencing the zoning regulations and forms that are posted on the website. It has always been a challenge to get this information out to the people, and some people do not even

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realize they have zoning.

The BZA does not have any feedback on the zoning forms that have been posted on the website.

There is some discussion about the updated BZA Organization Plan and suggestions submitted by Shannon.

Shannon suggested that they remove 'via Zoom meeting' from the hearing follow up. Tom responded that they could remove that when it is no longer allowed by the State. Shannon said that changes to the Plan can take a long time to coordinate, and there is no need to include if a meeting is virtual or in person in the Organizational Plan. The BZA agrees that can be removed.

Shannon stated that she cannot commit to sending notices 15 days before the hearing based on the amount of notice she has been given. In some cases, Curt has not turned over the information to the BZA immediately, and it can take days for the meeting date to be set. Tom said that they also want to set a fixed hearing date, but there have been some challenges with Curt's schedule. The idea is that his could be the same day every month so they would always know when it was scheduled. Curt's schedule has been a real problem for them. They have to give sufficient notice and have run into a case where someone did not get enough notice.

They need to have someone at the BZA hearing to present the Township's schedule. Curt's schedule rotation will not allow him to commit to a set schedule. He suggested setting it for the third Thursday. The Trustees could present the case or designate someone else.

Tom said that it would be helpful if the Zoning Inspector provided the history about how the rules have been enforced in the past when presenting his case.

Tom suggests switching the 15 days back to 10. All vote aye.

Tom suggests setting a date each month, which may change from month to month. He would also like them to identify a backup to Curt.

Shannon wanted to confirm how mail notifications were mailed. Tom said that they could change this to proof of delivery, so they still had record. They will change hearing notification # 2 from regular mail to mailed with proof of delivery.

Shannon confirmed if they wanted to continue posting notices on the bulletin board. Jerry suggesting running this past the county prosecutor. Ray said that he is working on a draft letter for the Trustees. He said that Mike Lyons said that there is nothing requiring them to do anything as long as they declare how they are going to advertise.

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There is some discussion about a conflict of interest with Michael and Shannon. Tom said that in this case, Michael is a voting member of the BZA. By the logic that Bob had explained to him, would this be a conflict of interest. Ray said that the Trustees have appointed Shannon to do her job as a Secretary and have appointed Michael as a voting member. Bob asked if David Houk voted. He did and was an alternate, but Shannon is not an alternate.

Tom spoke with Mike Lyons about training, and he suggested holding it as an open meeting. They want to try to get everyone on the same page. Jerry said that one of the Lafayette Township Trustees has mentioned doing some Zoning/BZA training and they may be able to coordinate some joint training.

Jerry thanked everyone for attending.

Adjournment

Bob Rohrer **moved** to adjourn the meeting. Jerry Winkler seconded the motion. Roll call: Morris – yes, Rohrer – yes, Winkler – yes. The meeting adjourned at 9:14 P.M.

Bob Rohrer

Gene Morris

Jerry Winkler

Ray Ruprecht