

RECORD OF PROCEEDINGS

DANBURY TOWNSHIP BOARD OF TRUSTEES SPECIAL MEETING

Minutes of

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held _____

August 10,

20 **22**

The Special Meeting of the Danbury Township Board of Trustees held at the Danbury Township Hall on August 10, 2022, and was called to order at 5:30 pm by Trustee Dianne Rozak.

Roll call: Trustee Rozak and Trustee Hirt were present. Trustee Dress was excused. Fiscal Officer, Carolyn Adams and Zoning Inspector, Kathryn Dale were also present. Visitors in attendance were Linda Kroeger-Baum, Sonja Kristensen, Beth Mahler, Franklin Mahler, Christopher Mahler, Valeriee Mahler, Scott Mahler and Shawn Henning.

Ms. Rozak announced the following public hearing information and asked for Ms. Dale's staff report.

Public Hearing

ZC-2022-134

0 Von Glahn/S. Bridge Rd. (Rear)

Kristensen

Map Amendment

Request for a Map Amendment from "A" Agricultural to "C-2" General Commercial for part of Lot 10, Section 4, PIN# 0141181115783000 consisting of 25.6806 total acres. Sonja Kristensen, Owner/Applicant; Linda Kroeger-Baum, Agent.

Ms. Dale read her staff report and stated that the Owner was present.

Ms. Rozak asked Sonia and Linda if there was anything they wanted to present to the Trustees before going into the general public comments.

Ms. Kroeger-Baum said it is in conformation with the land use plan. The property has been for sale for years and Sonja also owns the property that joins this that has access to 269. We realize that if there is going to be any development, it's going to have to access most likely through 269. This is the first step. We also know that Sonja's deed said that she has a 50-foot easement from access through Von Glahn road.

We have talked with the attorney for the Mahlers and we understand that there is some discrepancy in whether or not that is an actual 50-foot easement. It appears that there may be a 25-foot easement and we're still trying to verify that. I haven't gotten the final report from the title company, but if there is only a 25-foot easement, we acknowledge that any development cannot happen through 25 feet. We do not want to make any problems for neighbors, but we also want to maximize Sonja's and her mother's investment in this property. There is currently a curb cut that they use for the farming for 269 and hopefully, once we have this rezoned, we will go forward with trying to get another curb cut from 269 for the use of this property.

Ms. Rozak asked to clarify that the attorney for the Mahlers is currently looking at this to see if it is a 25-foot or a 50-foot easement and it's unsure at this time?

Ms. Kroeger-Baum said there is apparently at least a 25-foot easement. Sonja's deed said 50, but it appears that the attorney who prepared the deed from the Mahler Estate may not have had the right to grant the 50-foot easement and that's what we're looking at.

Ms. Rozak asked that regardless if it were 25 or 50-foot easement, there'd be no building within that easement area?

Ms. Kroeger-Baum said that no, they will never build within the easement area.

Ms. Rozak asked for clarification of where the easement was, and Ms. Kroeger-Baum indicated this to Ms. Rozak on the map provided by zoning; stating that there is 25 feet on each of their property lines, however, they understand that one of them may not be valid and they're verifying that, but that has nothing to do with zoning. That's how it is listed.

Ms. Rozak showed this to Mr. Hirt for his clarification as well and asked them if they had anything further to add.

Ms. Kroeger-Baum finished by saying there are currently no sales contracts in effect. They would like to be able to get zoned for commercial development and proceed from there.

Ms. Rozak asked if anyone else would like to speak and if so, to please state name before proceeding.

Scott Mahler, Frank's son stated we have no problem with them doing commercial development, just don't want his private area impeded and that they go through 269 rather than Von Glahn road.

Beth Mahler stated she actually lives with her father at the Von Glahn address. We do have documentation from our attorney, that proves that there is only 25 feet. Dad owns that other 25 outright and it is not part of an easement.

Frank Mahler state he is the owner of Von Glahn property, and going through some medical, but has a receipt from his dad, that he paid for the property.

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Beth Mahler stated she has a copy of the deed showing he owns it.

Ms. Rozak asked if that information had been provided to Sonja's attorney?

Beth Mahler said yes, and offered to give a copy to the Trustees?

Ms. Rozak said they do not need that for the record.

Beth Mahler stated that it is their understanding that Sonja has a copy of it.

Frank Mahler said that his dad bought the property, then he bought the property from him and turned it around, that way my son could build a house on it. My Dad had an agreement for a right away to get farm machinery back to that property off of Von Glahn.

Ms. Rozak asked if Ms. Dale had anything further to add with reference to what Mr. Mahler was saying?

Ms. Dale stated no, and pointed out that an easement is essentially a private agreement between two parties. It does not really have any bearing or consideration for the rezoning and it sounds as though they're attempting to work that out. So, whether the property is rezoned or not, they're still going to want to have that worked out.

Ms. Rozak asked the Mahlers if that was a fair statement; that you are trying to work out the issues of the easement? Because rezoning the property is not going to have an impact on the easement.

Beth Mahler stated it had nothing honestly to do with the easement because he owns that property.

Christopher Mahler said that the 25 feet easement is through him. His only question is when he presented the talk to the zoning board and as long as this decision wasn't made to go forward that there was a 50 foot right away from Von Glahn. Traffic flow was discussed and he's argued for years about 55 mile an hour speed limit on that Von Glahn road. Two cars cannot pass.

Beth Mahler added that there are too many little kids around there now.

Frank Mahler stated that his dad, when he was still living, zoning put a 35 mph sign up and when he passed away, the sign went away.

Ms. Rozak clarified with Mr. Hirt that this was a township road. She went on to explain why it's 55 miles an hour. I don't like it; there are a lot of roads in the township that are 55 miles an hour. It's 55 by law; we have to have all township roads 55 miles an hour. Can that be changed? We've tried in a few different areas. What we have to do is spend several thousand dollars to have a survey done of the road, and then that survey is then sent to ODOT and they make the determination. I think maybe in one instance it got lowered a little bit.

Mr. Hirt stated that Buck Road went from 55 or 45.

Ms. Rozak said it's probably a \$7,000 to \$8,000 cost to have a survey conducted and it's not our say; it's ODOT's say. Sadly, that ought to be 35, I don't disagree. She then asked Ms. Dale about Chris's question with reference to road right of way?

Ms. Dale stated there was a question raised at the Zoning Commission meeting, and I'm not sure I follow exactly what Chris was saying. But there was a question about whether or not a traffic study would have been required, that's only going to be required once development has been determined. It's not required on the front end until you know how that property is going to be used. There was discussion at the Zoning Commission and they were all "what if" scenarios. We don't know until we know how the property is going to be used. But, the twelve plus acres that's out along 269 plus 25 acres, is all owned by Sonja. So, could she sell the 25-acre piece by itself? Yes, she has an easement, but probably a better scenario would be to grant a secondary easement through her own property back to this property, so it has direct access up 269. At the same time, none of that is going to be determined now, because there's no purchaser. The other thing that Sonja could do is combine the two parcels and subdivide them differently so that every piece then, has frontage along 269. But that's all speculation until somebody officially shows interest in purchasing some of the property or all of the property. But once it's rezoned all the same way, it opens the door for her for different options. Then those bridges that need to be crossed at that time will be crossed, we just don't have the answers right now.

Mr. Hirt stated that was a very good explanation by Ms. Dale.

Ms. Rozak asked for other questions or comments.

Scott Mahler stated that the Mahlers have been committed to this community for over 100 years and do not plan on going anywhere. They're not looking to make money off neighbors; Dad has great grandkids, grandkids. Chris has a young one now. We're committed to being here as long as we possibly can.

Ms. Rozak stated they were happy to hear that.

Scott Mahler said that this is not a business venture for us, this is a life.

Ms. Rozak thanked Scott.

Shawn Henning stated that he is interested in that backlot and wouldn't need access to the backlot off of Von Glahn. But he is curious to see how it would work with transferring hands because

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the easement is an agreement between two parties. If he moved on or wanted to sell, does that agreement continue on with the property; how does that work?

Ms. Dale asked Ms. Kroeger-Baum if she would like to answer that?

Ms. Kroeger-Baum said that generally if the easement is valid, and it states that it runs with the land, which Sonja's statement says it does run with the land, and we know that there is at least 25 feet, that easement would run with the land.

Ms. Rozak asked that whomever the purchaser is, it runs with the owner of the land and transfers?

Shawn Henning asked if he would have to have their agreement with whomever owns the property again.

Ms. Dale stated that easements typically have language that indicate that they're perpetually, some easements have a drop-dead expiration date, or a means within the easement on how either party can dissolve or modify the agreement. So, it's ultimately whatever they come up with, but generally, easements do run with the land.

Ms. Rozak asked for clarification in that changes could actually be made?

Ms. Dale stated yes. I can share this easement situation that my parents experienced. They purchased four acres of land that was only accessible through a church parking lot. And it was a 20-foot-wide easement. My parents wanted to modify that easement because it was strictly for ingress and egress vehicles to come in and out. It was also intended only for a tractor to farm the four acres, which they only needed to come in twice a year. When my parents wanted to build a house on the four acres that meant vehicles coming in and out daily, with a lot more wear and tear across the church parking lot. My parents wanted the utilities to be buried underground, but they had to modify the easement agreement because the easement agreement was only for access in and out. When they modified it, they got into more specifics with the church about resealing. How much my parents would have to contribute towards the resealing or re-blacktopping of the church. That was set up in perpetuity. When my parents sold the land, it carried on with the next buyer. But, both parties in that scenario, were able to modify the agreement. There are all kinds of different wording for easements. Utility easements don't usually get modified, because there's a utility in the ground. But things like this can be negotiated or reworked or refiled, as long as both parties come to an agreement.

Ms. Rozak asked if there were any other comments?

Shawn Henning stated that when he was out looking at the property, he had a neighbor come up and tell him a sewage line would have to be put in after the property sells.

Ms. Dale stated he'd have to contact the Ottawa County Sanitary Engineers office.

Ms. Rozak clarified that they do call it the Danbury sewer plant because it's located in Danbury, but it's not our sewer plant. Kathy, is absolutely right, it's sanitary engineering at the courthouse. She continued; not hearing any further comments or questions, I would like to close the public hearing at this point in time. We do have a resolution and we only read our resolutions in title, but certainly anyone is welcome to a copy. The Board of Trustees of Danbury Township, county of Ottawa, met in special session at 5:30 on August 10, 2022, at Danbury Township Hall, 5972 East Port Clinton Eastern Road, Marblehead with the following members present: Ms. Diane Roszak and Mr. David Hirt. Ms. Roszak introduce the falling resolution and moved for its adoption: Resolution 27-2022, a resolution adopting an application for a map amendment to the Danbury township zoning map. The balance of the resolution identifies this property. Is there a second?

Mr. Hirt; yes, second.

Ms. Rozak asked Mr. Hirt, since we have a motion and a second, at this point time, do you have any further discussion for anyone?

Mr. Hirt did not.

Ms. Rozak stated they have a motion and a second. Mr. Dress is excused.

Mr. Hirt voted yes.

Ms. Rozak voted yes; motion carried. She also asked Ms. Dale to confirm this is effective in 30 days?

Ms. Dale stated yes.

Ms. Rozak stated that any actions by the Board of Trustees, such as this, do go into effect within 30 days. What that 30 days allows anyone to do, if they disagree with what we've done, it gives them an opportunity to file a referendum and then that would be voted on at the at the next regular elections. So, I do need to make you aware of that and I thank everyone for being here.

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Held _____ August 10, 20 22 _____

The Board of Trustees of Danbury Township, County of Ottawa, Ohio, met in special session at 5:30 p.m., on August 10, 2022, at the Danbury Township Hall, 5972 E. Harbor Road, Marblehead, Ohio 43440, with the following members present:

Ms. Dianne Rozak; ~~Mr. John Paul Dress~~; Mr. David Hirt

Mr./ Ms. ROZAK introduced the following resolution and moved its adoption:

RESOLUTION NO. 27 - 2022

A RESOLUTION ADOPTING AN APPLICATION FOR A MAP AMENDMENT TO THE DANBURY TOWNSHIP ZONING MAP

WHEREAS, Ohio Revised Code section 519.12(A)(1) authorizes amendments to the zoning map initiated by the filing of an application by one or more of the owners or lessees of property within the area proposed to be changed, and

WHEREAS, Sonja Kristensen, Owner of property at Von Glahn/S. Bridge Road (Rear), Part of Lot 10, Section 4, PIN# 0141181115783000 filed Case No. ZC-2022-134 requesting a Map Amendment from "A" Agricultural to "C-2" General Commercial for 25.6806 total acres; and

WHEREAS, the Ottawa County Regional Planning Commission held a public hearing on June 21, 2022, and recommended unanimous approval of the proposed map amendment; and

WHEREAS, the Danbury Township Zoning Commission held a public hearing on July 6, 2022 and by motion and vote recommended 4-1 approval of the proposed map amendment as presented; and

WHEREAS, on August 10, 2022 the Board of Trustees held a public hearing on said amendment, received public comment, and reviewed all pertinent documents; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees at the conclusion of the public hearing, by motion and vote, voted to accept the recommendation of the Danbury Township Zoning Commission and that the application for a Map Amendment be approved as presented, finding that the Decision Criteria "b" of Section 7.7.3.E.ii of the Danbury Township Zoning Resolution is satisfied and that the amendment would be in the best interest of the Township and the public, and is in keeping with good land use planning.

BE IT FURTHER RESOLVED by the Board of Trustees of Danbury Township, Ottawa County, Ohio:

- 1) The Board does hereby adopt the amendment to the Danbury Township Zoning Map attached hereto as Exhibit A; and
- 2) That the property be subject to the regulations of Article 3 ("C-2" General Commercial) and other applicable sections of the Danbury Township Zoning Resolution, including but not necessarily limited to area regulations, building setbacks, landscaping, buffering and screening, signage, lighting, and parking standards; and
- 3) That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code; and
- 4) That this Resolution shall be effective at the earliest date allowed by law.

Mr./ Ms. HIRT seconded the Resolution, and the roll being called upon the question of its adoption, the vote resulted as follows:

Vote Record: Ms. Rozak Yes Mr. Dress Excused Mr. Hirt Yes

ADOPTED this 10th day of August, 2022.

Attest:
Carolyn Adams
Fiscal Officer

Board of Trustees
Danbury Township
Ottawa County, Ohio
Dianne Rozak
Dianne Rozak

John Paul Dress
David Hirt
David Hirt

AUTHENTICATION

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution duly passed by this Board of Trustees in session this 10th day of August, 2022 and filed with the Danbury Township Fiscal Officer.

Carolyn Adams
Carolyn Adams
Danbury Township Fiscal Officer

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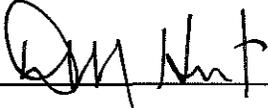
Held August 10, 20 22

Adjourn

There being no further business before the Board regarding this special meeting, Ms. Rozak motioned and Mr. Hirt seconded, to adjourn at 5:56 pm. All ayes, motion carried.



Fiscal Officer



Danbury Township Board of Trustees

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DANBURY TOWNSHIP BOARD OF TRUSTEES SPECIAL MEETING

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10143

Held _____

August 10,

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