

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETING MINUTES**

Tuesday, October 11, 2022

Painesville Township Office 55 Nye Rd. Painesville Twp., OH, 44077

Present: Dave Enzerra, Dave Lindrose, Dale Lewis, Ken Sullivan, Tom Hill
Absent: Randy VanBuren
Zoning Inspector: Harley DeLeon
Legal Counsel: Jeremy Iosue

Chairman Tom Hill called the meeting to order at 6:30 P.M. The Pledge of Allegiance was recited. A roll call revealed that a quorum was present.

Legal Advisor Jeremy Iosue did not have to swear in as there were no persons who were present to speak, and intended to testify during the Public Hearing.

Public Hearing: None

Closing of Public Meeting:

Chairman entertained a motion to close the Public Meeting.
Ken Sullivan made a motion to close the Public Meeting. Dave Enzerra seconded.

Roll Call: Lindrose; Aye, Sullivan; Aye, Lewis; Aye, Enzerra; Aye, Chairman; Aye.
Motion carried.

Regular Meeting:

Chairman asked the Board if there were any comments or edits to the **September 27, 2022 Meeting Minutes**. Hearing none.
The **September 27, 2022 Meeting Minutes** were approved as submitted.

Old Business:

- **Case 2022-0022-BZA :**

Applicant Kurtz Bros. INC. submitted a Conditional Use Application for property located at 775 Hardy Rd. (PPN 12-A-051-0-00-012-0). The proposed project consists of the excavation of 150 to 200 thousand yards of clay from a 7 acre site. The total depth of excavation will be 35 feet and the project is scheduled to run until the year 2032. The proposed elevation after reclamation of the site will be near if not the same as the site's current elevation.

Zoning Inspector Harley DeLeon let the Board know that the applicant could not make the current Meeting. The applicant would like Case 2022-0022-BZA continued for the November 8, 2022 Meeting, and a representative would be able to come to the Meeting.

Chairman asked if a reason was given.

Harley DeLeon replied that the applicant did not know that a representative needed to be present at the Meeting.

Dale Lewis asked if a reason had been given for the current Meeting.

Harley DeLeon replied that there was a schedule conflict for the applicant for the current Meeting.

Chairman asked Legal Advisor Jeremy Iosue, if any laws would be violated discussing the case. Legal Advisor Jeremy Iosue replied no, the Board was currently in the Public Hearing.

Chairman discussed referencing the Zoning Resolution regarding concerns with conditions that the Board may have.

Chairman asked Zoning Inspector Harley DeLeon regarding contiguous property to the case, as the applicants may already be in violation being closer to neighboring property than allowed.

Dale Lewis asked if it were possible to have the applicants reapply for the permit and pay, as they have missed three (3) Meetings. A penalty possibly.

A discussion was held with Zoning Inspector Harley DeLeon, and Legal Advisor Jeremy Iosue.

Harley DeLeon will discuss this with the Trustees, to get their input.

Jeremy Iosue asked if past cases have been dismissed without prejudice.

A discussion was held regarding dismissing the case.

Jeremy Iosue let the Board know that if the case was not continued for the November Meeting, then they could have the applicant refile the permit.

Chairman asked if the fee for a permit could be lessened for the applicant, for refiling. Zoning Inspector Harley DeLeon was not sure.

Dave Enzerra asked that if the case was continued, but with a stipulation with a recommendation to the Trustees, to get their input on a possible additional cost, or penalty to the applicant.

A discussion was held with Legal Advisor Jeremy Iosue, what other possible outcomes could happen if the Board were to deny the case without the applicant in person.

Chairman asked Zoning Harley DeLeon to review reasons the applicant had given for missing past meetings. A discussion was held regarding the past meetings.

Dave Lindrose needed clarification on how to make a motion so that the applicant could reapply their application.

Legal Advisor Jeremy Iosue clarified that if the total vote on the motion to continue Case 2022-0022-BZA was no, the applicant could reapply.

Legal Advisor Jeremy Iosue asked Zoning Inspector Harley DeLeon if there was a time frame that the applicant would need to follow to reapply.

Harley DeLeon replied no, unless the applicant wanted to reapply in time for the November Meeting. The applicant could reapply whenever they would like.

Chairman asked if there were any more questions or comments. Hearing none, Chairman entertained a motion to continue Case 2022-0022-BZA.

Dave Lindrose made a motion to continue **Case 2022-0022-BZA** for the November 8, 2022 Meeting. Ken Sullivan seconded.

Roll Call: Lewis; Nay, Sullivan; Nay, Lindrose; Nay, Enzerra; Nay, Chairman; Nay.
Motion carried.

Chairman asked if the motion would need to be journalized. As the applicant would not be able to reapply until the current Meeting Minutes (October 11, 2022) were approved. Legal Advisor Jeremy Iosue replied to journalize the motion.

Dave Enzerra made a motion to journalize to not continue **Case 2022-0022-BZA** for the November 8, 2022 Meeting. Dave Lindrose seconded.

Roll Call: Lindrose; Aye, Sullivan; Aye, Enzerra; Aye, Lewis; Aye, Chairman; Aye.
Motion carried.

New Business:

Zoning Inspector Harley DeLeon discussed with the Board some information regarding a Zoning Seminar that Staff had previously attended.

Zoning Secretary Rachel Muro let the Board know she would email the Seminar information packet to them to look over.

Harley DeLeon could also send "Finding of Facts" forms that were provided from the Seminar that the Board could use to help make their decision to approve or deny applications. A discussion was held with Legal Advisor Jeremy Iosue, regarding having everything on the record, in case a decision is appealed. Regarding using the "Finding of Facts" form.

Chairman adjourned the meeting at 7:04 P.M.

Next official meeting date is Tuesday, November 8, 2022.

Respectfully submitted,



Tom Hill, Chairman



Rachel Muro, Secretary