

**MINUTES OF THE MEETING OF THE
UPPER ALLEN TOWNSHIP ZONING HEARING BOARD
April 13, 2023**

The April meeting of the Upper Allen Township Zoning Hearing Board was called to order by Chairperson, Gary Scicchitano at 6:02 p.m. on Thursday, April 13, 2023. The following board members were present, Christopher Gleeson Vice-Chairman, Gerald Schultz, and Paul Rigney. Also present was the Zoning Hearing Board Solicitor Christopher Fisher

MINUTES

A motion was made by Mr. Rigney and seconded by Mr. Schultz to approve the Minutes from the February 9, 2023 meeting. A roll call vote was taken and passed (3-0).

NEW BUSINESS

**VARIANCE NO. 23-04 THE KING'S TABLE SCHOOLHOUSE, 1425 S. MARKET ST.
Variance under Section 245-14.50(c)**

Applicant is requesting a Variance under Section 245-14.50(c), to waive the requirement for schools that states outdoor play areas be screened from adjoining residentially zoned properties in accordance with Buffer Yard Type 1 which requires one shade tree per linear feet and one evergreen tree per linear feet be installed. This property is located in the Highway Commercial (C-2) Zoning District.

Michael C. Welt, Zoning / Codes Officer, announced that public notice was given, as required by law by publication in The Sentinel on March 30, 2023 and April 6, 2023, and the property was also posted, and neighboring properties were notified by certified mail.

Crossroads Community Church (Pentecostal Assembly of God) is the owner of 1425 S. Market Street. Beverly Smith represents the owner, as tenant under *The King's Table Schoolhouse*. Beverly Smith was sworn in to testify. The mission of the school is for individualized education for students who cannot be served by any private schools. The facility is available as long as they can get all needed approvals. Ms. Smith understands the ordinance, but is seeking a variance based on the answers given in her application. Ms. Smith distributed photos of the property and described them to the Board. The photos generally show the rear yard of the property where the play area is proposed. Proposing having 10-12 students. Outside time would be 2 hours max, if there are outdoor exercises to do. A local landscaping company was contacted to do trees just around the grass area lining the residential properties with a cost of \$4,960.

Mr. Gleeson asks: Q: The school does not currently exist? A: Correct. Q: Is there a plan to put any fencing to contain the children? A: No, other groups use this land for children recess, and with so few children we feel we can safely monitor the children. What is the proposed age

group? A: K-8. Q: Also states all outdoor play areas must provide shade trees and/or pavilion.
A: No, but we are discussing with Township Zoning.

Mr. Rigney asks: Q: where is the 25' buffer yard is. A: not clear on that myself, but starts at about where the shed is sitting. Q: I can understand your reluctance and financial hardship. Don't see a problem with concessions but still require some sort of buffer line. Also future owners might have an issue with the noise. A: So could the trees that create the buffer for winding hill be on the church side of the grass?

Mr. Scicchitano asks: Q: And they are for special needs? A: Mild issues. Q: What is the total number of students your space could hold? A: Probably 30. A: So would all 10-12 be out for recess at the same time? A: There is potential for them all to be out at the same time at that student level. In growth, it would be staggered.

Mr. Rigney stated he doesn't think we should be discussing safety issues related to the recess, and stick specifically to the buffer yard requirements itself.

Mr. Schultz asks about the breakdown of grades. A: We can't anticipate what grade levels we will have at this time.

Mr. Fisher expressed a sense that perhaps a continuance would be warranted for the applicant to revise their request to find a middle ground

Mr. Welt was asked about the requirements of the buffer yard, and the setbacks required as well as the BOC sense which is that they thought there should be some kind of buffer and a barrier for safety.

Jeff Weaver was sworn in to testify. He lives at 2 Reynolds Street. We try not to complain all the time. But I have contacted the fire department and the police about noise as well as the fire pit. The noise on Wednesdays can get very loud. I wear earplugs to sleep during the day because of the noise. I have been dealing with it for 57 years, it is getting louder and louder. A buffer should help. I don't mind having a school but they should respect the residents.

Charlotte Leahy was sworn in to testify. She lives at 8 E. Winding Hill Rd. I am here representing homeowners whose properties are immediately adjacent to the church property. We feel we have been very tolerant of activities at the church. The activity on Wednesday, I thought that this new school program would be similar in scope and disturbance to the neighborhood. I went to the 5 other adjacent homes. A total of 6 homeowners are opposed to the variance.

David Leahy was sworn in to testify. He lives at 10 E. Winding Hill Rd. We do notice increased activity on Wednesdays and didn't know it was a school. If it is approved today at 10-12, would it be revisited again when it is 50? A: No, the decision today would stand. Mr. Leahy said we need to take that into consideration.

Tom Rice was sworn in to testify. He lives at 11 E winding Hill Rd. Concerned about bussing. Trucks come in now for the donation drops and drive through our grass. Mr. Fisher stated that this issue would not be before the Board tonight.

Ms. Smith returned to testify. I appreciate you sharing your concerns. That Wednesday is a homeschool group who only use the area to meet. We also, at this time, will only be making use of vans for students.

Mr. Rigney asks if the church put a cap on the number of students. A: No they haven't.

Mr. Fisher asks if she knows how many students are in the homeschool group. A: No. Q: Based on what we talked about this evening, do you want to have a decision tonight, or to hold to next month for a revision? A: Yes we would like a continuance to next month. (May 11th).

The Board went into Executive Session at 7:14pm. The board returned from Executive Session at 7:30pm. No decision was made regarding the application.

OTHER BUSINESS

There being no other business, the meeting was adjourned at 7:30 pm.

REOPENED MEETING

The April Meeting was reopened at 6:02 PM on May 11th 2023 and was called to order by Chairperson, Gary Scicchitano. The following board members were present, Christopher Gleeson Vice-Chairman, Gerald Schultz, Paul Rigney and Ross Buchan. Also present was the Zoning Hearing Board Solicitor Christopher Fisher.

Beverly Smith was sworn in to testify. Ms. Smith returned with a revised buffer yard plan. Ms. Smith provided the board with new exhibits, photographs of where trees are proposed to be provided. Also provided was a signed agreement with Mr. Bonita where it was agreed that the property owner was agreeable with using his tree row as the buffer yard, rather than plant new trees on the church property.

Mr. Scicchitano asked about the picture emailed this week. Which portion of the property is represented by Mr. Bonita? A: It is north of that picture. (Ms. Smith showed a previous exhibit that showed that property).

Mr. Rigney: I think it is great that you tried to comply, and great that the neighbor agrees. But what happens if a new property owner comes in and wants to take out the trees? A: One of the owners sons wants to inherit the property and also has given his approval to the arrangement. Planning to plant evergreen trees such as fir or Norway spruce. Trees will be planted at the proper height and caliper to meet code.

Mr. Fisher asks about the agreement, and questioned about the agreement is valid as long as he is the owner. The agreement will never bind that property. Also if the trees die, he is not obligated

to maintain the buffer yard. Are you amenable to a condition that if the buffer dies or is removed, that it is your responsibility to complete the buffer yard? A: Yes.

Mr. Welt was asked about technical details of Code, and was asked about what buffer yard deficiencies remain that require a variance. Mr. Welt stated that trees were being planted densely enough to comply with ordinance except along the northern property that has the evergreen tree line, that still needs a variance.

The Board went into Executive Session at 6:34pm. The board returned from Executive Session at 6:44pm.

After discussion on motion duly made by Mr. Rigney and seconded by Mr. Schultz, it is:

RESOLVED, that the Applicant's request filed to case no. 23-04 for a Variance under Section 245-14.50(c), is hereby granted.

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances, and law.

(Motion carried unanimously)