

MINUTES
Nimishillen Township Board of Zoning Appeals
4422 Maplegrove NE, Louisville, OH 44641
Wednesday, March 5, 2014 – 7:00 PM

Board Members Present: Bill Ehlers, Chairman
Pan Aslanides, Vice Chairman
Anthony 'Tony' Mucci, Secretary
Gary Brahler, Member
David Foss, Member
Arthur 'Art' Smith, Alternate

Zoning Inspector: Dale Riggerbach

Township Secretary: Sharon Shaub

Purpose - APPEAL #602 – Raymond Greene of 4863 Broadway Ave. NE, Louisville, Ohio, parcel #33-07608, zoned R-1 Single Family Residential, is requesting a variance for a Conditional Zoning Certificate for a home business to run a gun repair shop (Gunsmithing) subject to Article XI, Subsection 115, Paragraph F of the Nimishillen Township Zoning Resolution.

NOTE: All reports or attachments are available to the township office located at 4915 N. Nickelplate at a cost of 10 cents per page.

CALL HEARING TO ORDER:

Chairman Ehlers opened tonight's hearing at 7:00 PM and introduced all board members, zoning inspector and township secretary and explained the procedure of tonight's hearing. He then swore in everyone in attendance by asking them to swear that the information they were about to present, either in oral or written form, is true and accurate to the best of their knowledge. The people responded by saying, "I do". Ehlers then said if anyone in attendance does not agree with the swearing in, say "I don't". There was no response.

Raymond Greene of 4863 Broadway NE stepped to the podium and said he is requesting a variance to run a Gunsmithing business in his home as a supplement for retirement in a few years. He's been collecting guns for a long time and sells guns at gun shows. He said he'll be buying military guns and restoring them. He said it's better to have a license to sell because that way, you know who you're selling to. You can't sell to people with criminal records. You have to have an FFL (*Federal Firearms License*) to do that and that's what he does for the FFL.

Mr. Greene said he will be selling guns online and at gun shows. People can pick up their gun order at his home but only in the evening between 6:00 p.m. and 8:00 p.m. and it's by appointment only. He said he has a C & R License (*Curio and Relic Federal Firearm License*). He will be selling military weapons and needs the FFL. He has a gun safe and an alarm. The gun safe is bolted down and locked at all times.

The Board members asked Mr. Greene the following questions and/or made comments regarding his request for a Gunsmithing home business:

Gary Brahler:

- Do you just repair guns and then sell them?
- Mr. Greene said he has a C&R License but it would be better if he has a home based FFL business. He sells at gun shows and on-line. Said he won't do much business out of the house. Most people sell without a license and without a license you don't know who you're selling to; could be someone with a criminal record. Without a FFL, if you sell a pistol, you have to make sure the people are from Ohio and if it's a rifle, you just transfer the money and that's it.
- If someone places an order, how will he get it?
- Mr. Greene said orders will be picked up at his residence by appointment only between the hours of 6 & 8 p.m.

Pan Aslanides:

- When you repair a gun, you have to make sure it works. Do you do any shooting at your residence?
- Mr. Greene said he goes to a gun range.
- Do orders come to your home through the mail or UPS?
- Mr. Greene - yes.

David Foss:

- Will there be an increase in traffic at your residence?
- Mr. Greene - not much more than he has now.

Bill Ehlers:

- Will you be advertising? How big could this business grow? Where do customers come from? Is it by word of mouth?
- Mr. Greene - it's mainly word of mouth, internet and gun shows.
- Is there any competition in the area?
- Mr. Greene - there are two or three other gun businesses in the area.

Gary Brahler

- Will you have a sign in your front yard?
- Mr. Greene - no.

Tony Mucci advised Mr. Greene he could put up a sign if he wanted to.

Bill Ehlers:

- How many gun shows do you attend in a year?
- Mr. Green said he will do more gun shows if the variance passes tonight, but usually he goes 10 to 12 times a year; maybe more if he can get a table.
- Do you attend out of state gun shows?
- Mr. Greene said he only goes to the boarder of Ohio but at this time, he doesn't go out of the State of Ohio. Out of Ohio, you're not able to hunt with rifles – it's all shotgun and muzzleloader.

David Foss:

- What will you do if your business increases beyond the internet and gun shows?
- Mr. Greene said he would find a building in town.

Tony Mucci:

- Mr. Greene can go to gun shows and sell on line but for some reason, he wants to open a home based FFL shop in his home. Mr. Mucci said he could still get a license without opening a shop in his home.
- Mr. Greene said no, he would need to have a home based FFL. As a licensed gunsmith, he can get that license. It's mainly having the license more than anything.
- Mr. Mucci said why he wants it in his home is actually what the Board will be voting on.

David Foss:

- According to zoning regulations, he's allowed to have one (1) unlighted name plate not more than three (3) square feet in area announcing the name and home occupation. Mr. Foss said he noticed a garage out back and said he could put a sign over the garage door.
- Mr. Greene said he is not planning on putting up any signs unless he would need to send a picture to the license facility.

Tony Mucci said a home business **must** be inside the residence and not in an unattached accessory building. The only way it could be in an accessory building is if the building is somehow attached to the house.

Pan Aslanides:

- Do you have insurance?
- Mr. Greene said he can't get insurance until he gets his license.

Gary Brahler:

- Can you sell guns at a gun show without a vendor's license?
- Mr. Greene - most people do but you really should have a license. With a license, he will probably lose sales because people don't want to fill out all of the required paperwork.

Chairman Ehlers asked the Board if they had any more questions for Mr. Greene. They had none.

LETTERS/PHONE CALLS:

Chairman Ehlers asked township secretary, Sharon Shaub, if any letters were received at the zoning office. Mrs. Shaub said no letters were received.

Zoning Inspector Dale Riggensch said he received one phone call but the person did not leave her name or number. Mr. Riggensch said Mr. Greene has abided by all zoning regulations and he has a neat, clean property.

With no further discussion at this time, Chairman Ehlers asked if there was anyone in attendance who wanted to speak for or against Mr. Greene's variance request.

RESIDENTS NOT IN FAVOR:

1) Joyce Hicks of 4845 Broadway stepped to the podium and said she had a statement she wanted to read. Her residence is south from Mr. Greene's residence – it's literally 25' from Mr. Greene's house. Mrs. Hicks said Mr. Greene has requested a variance to open a gun repair shop and has some questions about the procedure for requesting a variance.

1. Doesn't understand why the time restraints publishing it in the Louisville Herald was an issue. The letter she received was dated February 18th which was ample time to get it into the local paper instead of publishing it in the Alliance Review. The only Nimishillen Township residents who get The Review are the ones who live too far away from this issue to care about it.
2. The sign that was placed in Mr. Greene's yard is poorly lettered, can't be read as a person drives by and gives absolutely no information as to what is about to transpire. The phone number is hard to read as well.
3. Would like to ask the Board why the rush to suddenly get this variance pushed through.
4. Would like to know why only four (4) homeowners received letters about this. Back in the day, you might have had four neighbors within ¼ mile but two of the abutting neighbors in this neighbor's request live in an allotment with a lot of people who should have been notified. I am wondering if that is why it was not published in The Louisville Herald.

Mrs. Hicks said she is opposed to this variance for several reasons; a lot of which she would not discuss today. But she said she would say this. "I'm afraid for my 8 year old

granddaughter to play in my back yard and I have been for a while. Guns next door make me all the more concerned and after living here for 28 years, it is the first time I have ever been afraid about going outside. To sum up how I feel about this issue, I will say this. Gun shops do not belong in a residential neighborhood.”

Chairman Bill Ehlers: Could you give each question one at a time so we can answer them.

Mrs. Hicks: Sure. Didn’t understand the time restraints to get it published in The Herald.

Township Secretary, Sharon Shaub: The Herald has deadlines. Variance info was received either Feb. 13th or 14th. Mon. the 17th was a holiday. The timeframe to notify the public is 10 days prior to the date of the hearing. *Since The Herald is a ‘weekly’ publication*, there wasn’t enough time to get it in the Feb. 20th publication; therefore, it was placed in The Review. The next date for publication in The Herald was Feb. 27th which would fall short of the required 10 day notice prior to this hearing date. There was plenty of time to get the letters dated Feb. 18th to the four abutting property owners in the 10-day timeframe but not to get the Legal in The Herald. Mrs. Shaub said she would be happy to give Mrs. Hicks a copy of the procedures for a variance. Mrs. Hicks said that was ok. She understood.

A Board member said he thinks what Mrs. Hicks is asking is since there wasn’t time to get it published in The Herald, should the variance request have been pushed back to the hearing in April. Mrs. Shaub said no. The ‘Legal’ is posted on our website at www.nimishillentownship.com, placed in a local paper and posted at the township office. BZA hearings are held the first Wednesday of each month; therefore, residents would be able to find the Legal Notice at least 10 days prior to the first Wednesday of each month.

Mrs. Hicks: The sign in Mr. Greene’s yard is poorly lettered and can’t be read from the road.

Tony Mucci explained we use the same sign over and over because we really can’t produce a sign for every variance. It’s a good point.

Mrs. Hicks said it needs to be a little clearer. Use bigger letters and put the website address on the sign along with the phone number.

Mrs. Hicks: Why did only 4 people get letters?

Dale Riqgenbach explained for every variance, only the adjoining property owners are required to get letters. It doesn’t matter how close anyone else lives, letters are only required to be sent to property owners in front, in back and on each side of the variance requester. This is standard procedure for all variances.

Pan Aslanides: You fear what? Are you anti-gun?

Mrs. Hicks said she's not anti-gun and she's not anti Mr. Greene. She doesn't think gun shops belong in residential neighborhoods.

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Tony Mucci: The only thing we have to go on is you said there are other things you can't talk about and I understand, but the only reason you really have is you think gun shops should not be in residential neighborhoods.

Mrs. Hicks: Yes – not in such close proximity.

2) Jim Hicks of 4845 Broadway stepped to the podium and said he has the same concerns as his wife. He doesn't feel a gun shop belongs in a residential neighborhood with houses so close together. He said granting the variance so Mr. Greene can get his license could open up other problems such as selling black gun powder, rifles and ammunition. He would want to sell powder, the balls and stuff to go with it. All that 'stuff' would have to be housed in his house.

Mr. Hicks continued by saying back about three weeks ago, there was a thing on TV where a gentleman up in S. Cleveland area did the same thing. For whatever reason, they found out the gun powder in his house exploded – wiped his house out and both neighbors on either side and damaged other houses in the area. Mr. Hicks feels the variance should not be awarded due to the close proximity to Mr. Greene's house to his house. If his house was 300' to 400' away, he wouldn't have a problem with it. Because of the potential hazard and safety factor, that's why he's opposed to this variance.

RESIDENTS IN FAVOR:

Art Smith of 4884 Broadway stepped to the podium and said he is north of the Greene's residence. He lives next door and has no problem with Mr. Greene's request. Mr. Smith said due to ATF regulations imposed on Mr. Greene, the ATF (*Bureau of Alcohol, Tobacco & Firearms*) will be checking on him. He said Mr. Greene is a good neighbor and keeps his property neat and clean.

RECALL MR. GREENE TO THE PODIUM:

Board member Tony Mucci called Mr. Greene back to the podium and asked him about his intentions for black gun power and what safety factors he has in place per gun regulations. Mr. Mucci was concerned about the fire department going to Mr. Greene's house not knowing he has a gun business and said if Mr. Greene had 3 or 4 kegs of black powder, the fire department wouldn't know.

Mr. Greene said he won't get black gun power because it's too dangerous and he doesn't want to mess with it. You can't do black gun powder at gun shows. He said he doesn't sell muzzle loaders. He only has his personal one he uses to hunt with.

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David Foss:

- Do you reload?
- Mr. Green said no.
- So the only ammunition you have is boxed ammunition?
- Mr. Greene said the only ammunition he has is for his personal weapons.

Pan Aslanides:

- If you are only fixing and selling guns and the only ammunition you have is for personal use, where will the business be located?
- Mr. Greene said in his basement.

David Foss:

- What would you be doing as opposed to what you're doing now?
- Mr. Greene said probably more for parts, barrel receivers, etc. Put stocks on them, etc. Sell mostly military - won't be increasing the amount of ammunition he has on site.

Tony Mucci said that's the issue. Once he's approved....we may have more guns and ammunition than Mr. Greene. Just because we're not asking for a license...The issue is selling from his house.

Zoning Inspector, Dale Riggerbach said the ATF has been to Mr. Greene's house. Mr. Greene has to meet ATF requirements and said he's met them all except he doesn't have a vendor's license and he can't do that until this variance is approved. ATF has to go to his house because he applied for a license. They have to come out.

Dale Riggerbach:

- Would the ATF do any follow up visits after you receive your license?
- Mr. Greene said you never know when the ATF is going to show up for inspection. They don't let you know ahead of time. Everything has to be logged in a log book and this is what the ATF is looking for. More discussion followed on this subject.

Bill Ehlers:

- Was there a follow up letter from the ATF?
- Mr. Greene said ATF called and they are holding off until they see if the variance passes. You have 30 days to comply after you get the license and if you don't comply within the 30 days, the ATF will come and pull your license.

Chairman Ehlers: Is there anyone else who would like to step to the podium and speak either for or against this variance request.

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James Hicks stepped to the podium again and said his brother-in-law deals with guns and has his federal license. He knows what he tells him about the laws and regulations but the license would allow Mr. Greene free reign to buy, sell and do whatever he wants. Mr. Hicks said maybe there is more money in reloading with black powder and selling accessories that goes with black powder. With a license, he could do that. Mr. Hicks said Mr. Greene has to convince the Board of Appeals to pass the variance and Mr. Hicks is asking the Board to consider everything very carefully before allowing this to happen.

Pan Aslanides said that's his turmoil but at least Mr. Greene will be regulated and monitored by the ATF.

Chairman Ehlers asked the Board if they had any more questions for Mr. Greene.

With no further questions or comments, Chairman Ehlers asked for a motion for a ballot vote to enter into Executive Session.

MOTION FOR A BALLOT VOTE:

PAN ASLANIDES MOTIONED TO ENTER INTO EXECUTIVE SESSION AT 7:43 PM SECONDED BY GARY BRAHLER. MOTION CARRIED.

Roll call voting:	Bill Ehlers	-	In Favor
	Pan Aslanides	-	In Favor
	Tony Mucci	-	In Favor
	Gary Brahler	-	In Favor
	David Foss	-	In Favor

BILL EHLERS MOTIONED TO RETURN FROM EXECUTIVE SESSION AT 8:00 PM AND RETURN TO THIS REGULAR HEARING SECONDED BY PAN ASLANIDES. MOTION CARRIED.

Roll call voting:	Bill Ehlers	-	In Favor
	Pan Aslanides	-	In Favor
	Tony Mucci	-	In Favor
	Gary Brahler	-	In Favor
	David Foss	-	In Favor

Chairman Ehlers asked the Board if they had any more questions or discussion. With no further questions or discussion, Chairman Ehlers asked for a motion for a ballot vote.

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MOTION FOR A BALLOT VOTE:

Chairman Ehlers asked the Board for a motion for a ballot vote explaining this is a paper ballot vote *'in favor'* of Mr. Greene's variance request. If anyone is not in favor of Mr. Greene's variance request, a reason must be given.

PAN ASLANIDES MOTIONED FOR A BALLOT VOTE SECONDED BY DAVID FOSS. MOTION CARRIED.

Roll call voting:	Bill Ehlers	-	In Favor
	Pan Aslanides	-	In Favor
	Tony Mucci	-	In Favor
	Gary Brahler	-	In Favor
	David Foss	-	In Favor

Chairman Ehlers said the **request for Appeal #602 for a variance for a Conditional Zoning Certificate #751 for a Gunsmithing Home Business is APPROVED** and advised Mr. Greene to contact Dale during regular office hours (11:30 a.m. to 3:30 p.m. Monday thru Friday) to make arrangements to pick up the proper permits.

ORGANIZATION OF THE BOARD OF ZONING APPEALS:

After discussion, *GARY BRAHLER MOTIONED TO RETAIN BILL EHLERS AS CHAIRMAN, PAN ASLANIDES AS VICE CHAIRMAN AND TONY MUCCI AS SECRETARY SECONDED BY DAVID FOSS. MOTION CARRIED.*

Roll call voting:	Bill Ehlers	-	In Favor
	Pan Aslanides	-	In Favor
	Tony Mucci	-	In Favor
	Gary Brahler	-	In Favor
	David Foss	-	In Favor

OLD BUSINESS:

Discussion was held regarding the Governmental Law Seminar that was held Saturday, February 8th. Per O.R.C. 519.15, the chairperson, or in the chairperson's absence the Vice Chairman may

administer oaths, and the Board of Zoning Appeals can compel the attendance of witnesses to come to a hearing to testify. (ORC 519.15 attached) More discussion followed.

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NEW BUSINESS:

Dale said there's a possible case for April 2nd if they get their paperwork to the office in time.

APPROVAL OF MINUTES:

GARY BRAHLER MOTIONED TO APPROVE THE WRITTEN MINUTES FOR DECEMBER 13, 2013 SECONDED BY PAN ASLANIDES. The Board responded by saying 'I'. There were no 'Nays'. **MOTION CARRIED.**

ADJOURNMENT:

PAN ASLANIDES MOTIONED TO ADJOURN AT 8:30 PM SECONDED BY TONY MUCCI. The Board responded by saying 'I'. There were no 'Nays'. **MOTION CARRIED.**

Bill Ehlers, Chairman
Nimishillen Township Board of Zoning Appeals

Anthony Mucci, BZA Secretary
Nimishillen Township Board of Zoning Appeals

BZA Minutes: 2014 March 5 – BZA Minutes-Gunsmithing Home Business @ 4863 Broadway.docx

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