

SWANCREEK TOWNSHIP ZONING BOARD OF APPEALS

February 22, 2007

Record of Proceedings

Board members present: Earl Rowland, Bill Grimsley, Ron Rouleau, Darrin Gramling & Tom Baker

Alternates: Gregg Winseman, Chuck McPhearson, and David Smith

Elected Officials: Dawn Wheatley, Fiscal Officer; Phil Wiland, Trustee, Ron Holdeman, Trustee, Randal Ruge, Trustee

Employees: Walt Hallett, III, Zoning Inspector,
& Christine Lauch, Administrative Assistant

- Visitors: see attached sheets
- Meeting was called to order at 7:00pm.
- New Business: Thomas Wylie Conditional Use Permit Request & Jeffery Macek Variance Permit Request
- Old Business: Approving the minutes. Ron Rouleau motioned to accept the Minutes of October 19, 2006, Bill Grimsley 2nd.

Roll Call: Ron Rouleau – yes, Darrin Gramling – yes, Tom Baker – yes

- Earl Rowland asked that the election of board officers be put on the next agenda.
- Earl Rowland swore in Tom Baker and Darrin Gramling.

Thomas Wylie Conditional Use Permit Request:

Walt Hallett III: Stated his case –

- First issue was a request from the Wylie's to propose a horse riding arena under a zoning permit application # 6106, received by the township October 2, 2006 and approved by Walt Hallett, III on October 4, 2006; Subject to terms in a letter sent to the Wylie's regarding the use of that structure and construction of it. The Zoning Permit was issued to regulate the use of that structure. Walt described the size of the riding arena.
- The Township received an Agricultural Exemption request for a private stable to be constructed, in addition to the arena. The private stable was issued an Agricultural Exemption permit for an accessory use to the arena, received by the township November 29, 2006 and approved by Walt Hallett, III on December 5, 2006. Walt Hallett, III, Zoning Inspector, explained that the arena was approved for construction based on it meeting the requirements for the AGRE district.
- A Conditional Use Request was submitted for the stables, due to the fact that Mr. Wylie mentioned making it public instead of private. Walt requested Mr. Wylie submit, in writing, a letter of intent with an application or a site plan before any construction was done on the property. The Conditional Use includes the pond, stable, arena, parking and fence. The ¾ acre pond on the site plan was to be under the Agricultural Exemption permit also and had not been acted on yet.
- Walt then requested Mr. Wylie to submit something in writing to address the issue of profit and if the Conditional Use Permit was going to be used in any form for profit. Mr. Wylie indicated in a faxed letter to the Township that if he were to decide to board horses a fee would be charged to pay for only hay, feed, care and maintenance and that 4H shows are non-profit.
- Earl and Walt discussed Mr. Wylie's initial intent for private use. It became a public use issue presented to Walt during a meeting with Mr. Wylie on December 19, 2006, at

which time Walt discussed the change in zoning class of that property to meet a public stable for a commercial for profit operation with Mr. Wylie.

- Tom Baker asked what an Agricultural Exemption was. Walt explained Agricultural Exemption, according to what is written in the resolution: the Swancreek Trustees cannot confer any power to regulate an agricultural operation in the zoning. Earl passed out a copy of the zoning resolution. Earl then explained what an Agricultural Exemption use is and that the Township cannot restrict it. Earl explained that the question at hand is whether the Wylie issue is in fact Agricultural Exemption use, which does not require a Conditional Use permit if it is for non-profit.
- Lisa & Tom Wylie were sworn in to testify. Lisa Wylie stated her case: Originally when they started plans to build they were told by Mr. Hallett that they needed a building permit. Then they asked if they could make it public. She explained due to the weather in Ohio, it's impossible to ride horses outside. She said that her 13 year old son is very interested in horses and she would like him to be able to ride inside all year round. She wants to allow 4H advisors and other's to ride in the indoor riding arena. She explained that as far as the stables go, they will only be boarding their own horses, but there will be times when they put on a show/clinic that people will be keeping their horses at their stables. She also has barn help that she allows to keep horses in her stable for trade of barn work.
- Mrs. Wylie explained that it was for non-profit because her payment on this building is \$4,400.00 per month, so if they were to charge approximately \$5 per person for use of the riding arena it would only absorb their debt a little, due to their payment, electric and heat. Earl reiterated that it would only be to cover costs, not to make a profit. Mrs. Wylie said yes, that it would only offset her costs. Mrs. Wylie spoke about 4H groups paying approximately \$500 for use of the facility and that it pays for electricity, the tractor and things of that nature, but the group itself makes all the profit.
- Earl read through the preamble of the Zoning Resolution and explained the language and that the zoning inspector does not have a choice, he has to enforce the Zoning Resolution. If a Variance or something doesn't fit within his guidelines it has to be put in before the Zoning Board of Appeals to decide on.
- Ceci Tolson, a Wylie supporter, was sworn in. Ms. Tolson explained that she is a High School equestrian instructor and that this would be the only indoor facility that she could use during the winter months in this area. Earl and Ms. Tolson discussed the size of events as far as how many people and horses could be expected to be present at the shows. She also explained to the board the importance of keeping the horses in good physical shape by exercising them and that an indoor facility would greatly assist in that in the winter months. Ms. Tolson concurred that horses do not make money/profit.
- Tom Baker asked if it was intended that this facility be used for meets of the high school team and if so, how many meets would there be in a year. Ms. Tolson said her teams have four meets. Mrs. Wylie said she would have no problem allowing them use of her facility.
- There was discussion again of how many people and cars there would be for such event. Ms. Tolson stated that for 50 – 60 horses there would be approximately 20 "rigs" there.
- Mr. Rowland inquired about parking. Mr. Wylie hung up his site plan and explained where he planned to have parking.
- Clayton Gambits, attorney for Wylie's, requested the site plan be made apart of the record. Earl Rowland concurred.

- Mr. Wylie stated that parking would be on about 15 acres he has on the back side of his property that he plans to grate and grass heavily. Mr. Wylie pointed out on his site plan where short term parking would be and the back area where the big event parking would be.
- Earl inquired about the location of the riding arena. Mr. Wylie explained that he wants to landscape the entire front area and that is why he placed the arena where he did. The existing driveway will be used.
- Earl questioned why a Conditional Use Permit was requested.
- Clayton Gerbils explained to the board; originally, the Wylie's put up the two buildings for private purposes and then approached the zoning inspector inquiring about opening it up to the public. At that time, the Zoning Inspector indicated that they needed a Conditional Use Permit.
- Earl explained that if it was a commercial operation that the Wylie's were looking to profit from it would fit under a Conditional Use Permit and that can only be done under a Variance Permit. Mr. Rowland then explained the Wylie's arena and stables fall under an Agricultural Exemption Permit if they had only incidental profit and the board has no jurisdiction.
- (Transcript of Testimony on file)
Chris Hill sworn in to testify – Wylie/arena supporter
Mike Kennedy sworn in to testify – Wylie/arena supporter
Dare Meyer sworn in to testify – Wylie/arena supporter
Kelly Bowser sworn in to testify – Wylie/arena supporter
- Jeffery Macek sworn in to testify. Mrs. Wylie spoke prior in her testimony (see Durham transcript) about the facility being used and constructed mainly for her 13 year old son. Mr. Macek wanted to know if/when her son moves out would their facility then be a profit organization. Mrs. Wylie said "Absolutely".
- Tom Shumaker sworn in to testify. Mr. Shumaker is an adjoining neighbor of the Wylie's. He questioned if this is recreational or agricultural and stated that agricultural is usually the raising of crops, livestock and propagation. His concerns were rest room facilities, drinking water, property values, quality of life for neighbors and asked if there will be an outdoor arena as well. He stated his dismay about the neglect of common and acceptable practice in a private or public planning meetings being before the ground is broken. These constructions are already in place. Mrs. Wylie stated 'yes' to the outside riding arena. Earl Rowland inquired as to where the outside riding arena would be located. Mrs. Wylie said they haven't figured out where it will be as of yet and stated 'yes' to the restroom facilities.
- There was discussion of the restrooms.
- Darrin Gramling asked Tom Shumaker his feelings/opinions about the area being light residential or heavier residential. Mr. Shumaker stated that he considers it moderate residential. Mr. Shumaker discussed his concerns about living adjacent to a public facility. Mr. Wylie said that he would be planting large trees for a barrier. Mr. Shumaker said that would be great, however, doesn't feel that it resolves the issue of living near a private situation verses a public facility.
- Earl Rowland: "Again, if it is Agricultural, we're trumped. That is the discussion we have to have".
- Natalie Polletta sworn in to testify. Concerned neighbor about the parking and being responsible for people being on her property. Mr. Wylie stated a fence would be installed. Ms. Polletta is concerned about traffic coming and going from the Wylie

property. Asked about Mr. Wylie's truck business traffic. Mr. Gerbitz, Wylie counsel, stated that the trucking company issue is in litigation.

- Nick Polletta sworn in to testify. Mr. Polletta questioned the hours of operations, to which Mrs. Wylie stated would be as much as possible.

Mr. Polletta questioned how many people would attend the events. Mrs. Wylie stated it varies. Mr. Polletta stated his dismay about traffic from the golf course and now the Wylie's public facility.

- Earl Rowland instructed the audience to allow one conversation at a time.
- Paul Kennedy of the Fulton County Prosecutor's office advised the board that they have to make their decision based on testimony of the Wylie's and any other witnesses that want to testify, not open discussion and opinions being shout out.
- Bill Grimsley motioned that this is an Agricultural Exemption, not Conditional Use permit, 2nd by Ron Rouleau. Roll call: Earl Rowland – yes, Darrin Gramling – yes, Tom Baker – yes.

Variance of Jeffery Macek –

- A Zoning Permit for a garage to be built in front of his home was denied.
- Mr. Macek, already sworn in, stated he wanted to renovate his attached garage into a living area and to build a separate garage in front of his home. Mr. Macek explained his plan of a 152' X 360' garage and to use the existing driveway. He explained that there are many other houses in his area that have garages in the front yard. Walt Hallett, III, Zoning Inspector, stated that the Board of Zoning Appeals did grant one of Mr. Macek's neighbors a Variance Permit for this.
- Mr. Macek had written approval from his neighbors, but they were not notarized. Earl Rowland explained to Mr. Macek that they cannot accept anything that is not notarized.
- Discussion of the fact that the new construction would actually be safer leaving and entering the traffic on County Road D.
- Darrin Gramling motioned to approve Variance permit request, Bill Grimsley 2nd
Earl Rowland – yes, Ron Rouleau – yes, Tom Baker – yes
- Variance approved.
- Phil Wiland was sworn in to testify. Mr. Wiland questioned the Board of Zoning appeals about not allowing the opposition of the Wylie case to pose their opinions. Earl Rowland stated that he heard enough opinions, but stated that the opposition needed to back up their facts and pointed out that Mr. Paul Kennedy, Fulton County Prosecutor's office voiced in when testimony started turning to banter. Earl Rowland stated that he wanted to make sure everyone had information and did not want the meeting to get out of control.
- Bill Grimsley motioned to say the Pledge of Allegiance before the Board of Zoning Appeals meetings in the future. Tom Baker 2nd. Earl Rowland doesn't feel it is necessary. Roll Call: Ron Rouleau – yes, Darrin Gramling – yes, Earl Rowland – No
- Earl Rowland motioned to adjourned the meeting, Ron Rouleau 2nd
Roll Call: Bill Grimsley – Yes, Darrin Gramling – Yes, Tom Baker – Yes.
- Meeting adjourned at 9:10 p.m.
