

MUNICIPALITY OF MONROEVILLE

ZONING HEARING BOARD

OCTOBER 2, 2024

MINUTES

The meeting was called to order at 7:30 p.m. by Chairman Michael Gaydos.

PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE

The Pledge of Allegiance was recited and a moment of silence was observed.

ROLL CALL

The Recording Secretary, Sharon McIndoe, called roll and the following were present: Michael Gaydos, Larry D'Agostino, Heather Wilkins, Robert Hutchison, Kevin Whitfield, Bruce Dice and Paul Whealdon.

REPORTS OF MINUTES

There being no corrections or additions to the minutes of the August 7, 2024 Regular Meeting, a motion was duly made by Mr. Whitfield to approve them, as submitted, and Mrs. Wilkins seconded. Upon a voice vote, the motion carried unanimously.

NEW BUSINESS

24-12-A

BLAIR JOHNSON

The applicant is requesting a use variance from Section 504.S, Specific Standard and Criteria for Conditional Use, of the Monroeville Zoning Ordinance, No. 2779 to operate a Contractor's Yard for the explicit use of storing towed vehicles. The property is a 3.0-acre vacant parcel located along Forbes Road, Tax Parcel 861-B-181, in the S, Conservancy Zoning District.

Mr. Blair Johnson, the applicant, came forward to explain his request. He stated he was proposing to purchase a vacant parcel of land which is flat and accessible from Forbes Road. He wants to make an external storage lot for his towed vehicles and he does not intend on changing anything about the existing property except for a gate and fence.

Mr. Hutchison questioned whether he purchased the property yet and Mr. Johnson answered negatively.

Mr. Dice referred to the applicant's statement that it is flat land and Mr. Johnson explained the area he wants to use for his vehicles is flat. Mr. Dice inquired whether there is a hardship imposed by this land. Mr. Johnson reported the land is a difficult property because it requires a right-of-way to get access. He stated it is a vacant piece of land that does not have many purposes other than owning a piece of wooded property. He explained it is a conservancy and it is accessible only through a right-of-way. Mr. Dice asserted it is zoned conservancy and Mr. Johnson concurred. Mr. Dice inquired whether a building could be built on it and Mr. Johnson answered affirmatively. Mr. Dice explained when an

applicant comes before the zoning hearing board for a variance, the applicant has the burden of proof that the land has a hardship so it cannot be used for the use being proposed. He stated the land could be used for a building, a school or a nature center which are the permitted public uses in that zoning district. He suggested if the applicant cannot articulate a hardship on the land then the board cannot grant a variance. He stated that is the fundamental part of establishing a variance and there are permitted uses under the existing classification for parks, single-family structures, public uses and nature uses in this district. He pointed out the use requested does not fit within one of those districts and Mr. Johnson agreed. Mr. Dice was uncertain what action the zoning hearing board could take without a hardship except to deny because it does not fit within the definition of a variance. He pointed out the applicant is not just asking for a variance but a use variance which is the most difficult variance to achieve under the current zoning laws in Pennsylvania.

Mr. Whitfield questioned the number of vehicles the applicant was expecting to store. Mr. Johnson reported he originally estimated it to be 50 but was informed it is only 20 per month. He pointed out there would be less vehicles on the property at one time and he added they only keep them for 10 to 15 days. He printed out of the number of vehicles he has had over the past few months. Mr. Whitfield was concerned with whether the property is big enough if there would be a lot of cars and Mr. Johnson answered positively that it would absolutely be big enough.

Mr. Gaydos requested he explain the business. Mr. Johnson explained he picks up vehicles for banks and he is a repossession agent. He reported he stores the vehicles for 10 to 15 days then they are transported to an auction. Mr. Whitfield inquired whether the vehicles would ever stay longer than 10 to 15 days and Mr. Johnson answered never. He stated they never pay any storage because the banks are under contract with all the auctions.

Mr. D'Agostino questioned whether he currently has a lot of vehicles and where. Mr. Johnson answered affirmatively and explained he is currently located in Verona. He reported he took over the family business which is located on Sandy Creek Road. He intends on keeping his office at that location and his home base. Mr. D'Agostino inquired about the number of vehicles he has at that location and Mr. Johnson answered approximately 10-15 vehicles. He stated his end of September number is 18.

Mrs. Wilkins inquired whether he would have security on the lot and Mr. Johnson answered it would be monitored around the clock by cameras. He explained he likes this property because it is positioned off of Forbes Road and no one would see any of the cars from the road. He suggested it does not have curb appeal for someone to break in and steal parts because it is never seen and there is no foot traffic on that part of the road and no sidewalks.

Mr. Gaydos pointed out there are properties on either side of this property. Mr. Johnson reported there is a structure that shares the right-of-way to the property but he was uncertain whether it is occupied. Mr. Gaydos mentioned there is a house located on the right. He inquired whether any of the residents in the area have voiced concerns. Mr. Whealdon answered affirmatively.

Mr. Dice inquired whether the municipality felt there was any reason why the application should be granted the variance given the standard for a use variance and hardship. Mr. Whealdon answered negatively. Mr. Dice inquired whether he agreed with the applicant's description of the property that it is flat and could be built on. Mr. Whealdon stated there is a small portion of property that is flat. He reported out of the three acres there may be 10 percent that is a flat area and the rest of it is an

extremely valley and steep slopes. Mr. Dice inquired whether a building could be built on it and Mr. Whealdon answered affirmatively. He added something could be built on it.

Mr. Johnson reported he did contact counsel as recommended and all three of the attorneys were looking for half of what he would pay for the property to attend the meeting. He suggested legal counsel would be a hardship and was cost prohibitive. Further discussion ensued. Mr. Johnson stated would love to locate his business on this property. He pointed out he filed the application for a commercial use because his purpose does not fit a conservancy area but it also does not fit a commercial area. He stated his main purpose of this application is to get approval for it to be a commercial property or get the board's approval for him to set up his business at that location without the fear of being fined for every day he is operation.

Mr. Dice inquired whether there are areas within the community that are set up for auto repair and parking. Mr. Whealdon answered affirmatively and explained there are different areas within the municipality for vehicle repairs and service stations. Mr. Dice questioned whether those are permitted uses in various zoning classifications and Mr. Whealdon answered affirmatively. Mr. Dice inquired whether any of those are within the district that this property is located and Mr. Whealdon answered negatively. He added none of that is permitted in a conservancy.

Mr. Johnson asserted he does not work on cars and he will not be bringing in cars that need worked on. He did not think it fell into any of the categories required.

Mr. Martin McCuo, a resident, came forward to express his concerns. He reported the house next to the property in question is his rental property and the occupants have lived there for 30 years. He stated the other house he has lived in his entire life. He pointed out the whole area is conservation conservatory and he bought some of it further down the road to keep it the way it is and so no one would build on it. He mentioned the Westinghouse toxic waste was removed. He reported he inherited the little garage that touches this property and there was large equipment, old cars and a hundred tires. He felt they were doing their due diligence to get the property back to a conservancy property of farming or forestry. He stated he has a child with special needs and a teenager who wants to live on the property. He reported he has owned the property a long time and it is a beautiful place on a very busy road and they want to keep it that way. He suggested he did not want to hold anyone back but he lives there. He felt it would be a burden to the people living there with the cars going up and down the road because it floods once a year. He reported he has replaced it four times. He pointed out Kalvington Housing Project is on top of the hill and the runoff water comes out of two major pipes along with other ones. He explained about once a year after a heavy rain it washes down, clogs the pipes, floods out his road and he digs it out and replaces it. He suggested it is already a hassle to keep things in their current condition without burdening the area. He stated they all live in housing projects and he wants to come home and his children can live with what he has experienced. He felt it could be built on and the previous owner wanted to build a house but he bought it site unseen. He disagreed that it would be good for a house but it would be okay for anything else. He stated it was zoned conservancy for a reason and he is trying to keep it that way. He did not believe any commercial property or commercial business would benefit the area.

Mr. Gaydos questioned whether the former owner wanted to build a house there but decided against it and Mr. McCuo answered affirmatively. He added the wife did not want to build there and the owner bought eight acres somewhere else and put it up for sale. He stated there is no gas or water but

there are not a lot of amenities on the property. He was concerned with keeping the dirt and what is there.

Mrs. Georgiana Woodhall, a resident, came forward to express her concerns about the area. She reported in 2006 there was some drilling for gas wells and they were required to post a bond in case the well water was contaminated. She inquired whether the proposed property owner would agree to post a bond if there was any leeching into the soil. She mentioned there would be gravel and not asphalt so the vehicles could leak chemicals into the soil or nearby creek. She asserted this property was zoned S, Conservancy for a reason and there is a lot of history there. She was uncertain where the vehicles were coming from but she agreed it is a good hiding place because it cannot be seen from the road. She felt it would be a bad idea to do this knowing the history on the property. She suggested asphalt be required if this application gets approved.

Mr. Delwin Cosia, owner of the property, came forward to address the zoning hearing board. He reported he purchased the property with an acre cleared off and he cleared off another half because they were going to built there but it was not big enough for what they wanted. Further discussion ensued concerning the amount of property that is clear. He reported he has two sets of prints, one is commercial that was approved and another set that was not approved. He felt the property is great for the location of a business or work. He did mentioned there are dirt bikers that use it. He again stated it is a good location for a business because there is a well, and a utility pole and it would be a perfect spot for storage. Further discussion ensued.

No one else came forward at this time to give testimony and the record was closed. Mr. Dice advised the zoning hearing board could act on it or wait until next month.

Mr. Whitfield pointed out the property is currently S, Conservancy and the applicant is requesting for it to be changed. Mr. Dice corrected that the applicant is requesting a Use Variance in an S, Conservancy district to permit a use that is not permitted in that zoning district. Mr. Whitfield clarified that it is an S, Conservancy and the applicant wants to use it for another purpose other than what the S, Conservancy permits.

Mr. Hutchison mentioned the entrance and right-of-way and stated he did notice the flooding in the area. He questioned whether this proposed use would affect how the right-of-way is maintained. Mr. McCuo explained it is a gravel road and after it washed out the second time, a tri-axle full of large stone was put in then more gravel was put on top. He asserted it happens about once a year. He felt large vehicles will tear it up but normal sized vehicles will not. He pointed out there is a large pipe that has to be driven over and it would have to be graded to handle normal sized vehicles but large ones may be an issue. He suggested the road is already beat up and it will not handle any more abuse. He reported it is an old abandoned Monroeville Road and they have graded it as best they could. Mr. Hutchison inquired who would be responsible if the road was affected by the multiple vehicles going in and out of the property. Mr. McCuo answered he would because the applicant only has a right-of-way and he would own the property. He suggested if the roads gets deteriorated he cannot afford to build it again.

Mrs. Wilkins inquired whether a flat-bed truck would deliver the cars to the site and Mr. McCuo assumed it would be a flat bed or a tow truck. He suggested if the flat bed has a couple of cars it would be heavy and it would do more damage but a typical tow truck would not do much damage. He added it

would depend on the amount of volume and he explained his tenants have small vehicles. He felt the damage would be what a normal gravel road would sustain.

Mr. Johnson indicated he was familiar with rights-of-way and he suggested it is a cordial agreement between the parties. He felt the parties would mutually agree to who would make repairs on the right-of-way. He stated he would take responsibility for any repairs or improvements to it since it would be traffic from his business traveling on it. He reported he does not have a flat bed and he has an old pickup truck that tows one car at a time.

Mr. Dice stated the right-of-way has no relevancy in this matter whether it is the Turnpike or a small gravel pathway. He explained it is not something that should be considered for this request for a use variance and the use should be the focal point.

Mr. D'Agostino inquired whether this S, Conservancy can be changed to commercial and how it would be done. Mr. Dice explained anyone can apply for rezoning but this would characterize as a spot zoning. He reported it is a small area and it would be surrounded by conservancy. He stated the applicant would be developing a spot and anyone could object to it if it is less than 20 acres. He reported there have been spot zones that have been approved as small as seven acres but courts scrutinize them. He explained they do not want to create that atmosphere in a neighborhood that is conservancy in nature and bring in a business. He added they are reluctant to do that and explained how it would not be conducive to the neighbors.

Mrs. Woodhall again came forward to question the closeness to the creek and anything that would enter the creek. She inquired whether the Army Core of Engineers have been notified. Mr. Dice suggested those would be considerations for the municipality as opposed to the zoning hearing board. He suggested the applicant would have to make a building permit application and they will review the size of the driveway and all of those considerations raised.

Mr. Gaydos stated all testimony is closed on this matter. Whereupon, Mr. D'Agostino duly made a motion to deny Application No. 24-12-A and Mr. Hutchison seconded it. Upon a voice vote, the motion carried unanimously.

ADJOURNMENT

There being no further business to come before the Zoning Hearing Board, at this time, a motion was duly made by Mr. Hutchison to adjourn the meeting at 8:06 p.m. and Mr. D'Agostino seconded it. Upon a voice vote, the motion carried unanimously.

Respectfully submitted,

Michael Gaydos
Chairman

MG/sam