

PUBLIC HEARING
AUSTINTOWN ZONING COMMISSION
February 5, 2009

In accordance with Section 519.12 of the Ohio Revised Code, the Austintown Township Zoning Commission held a public hearing on Thursday, February 5, 2009, at the Township Hall, 82 Ohltown Road, Austintown, Ohio, for consideration of and recommendation to the Board of Township Trustees Zone Change Request 2009-01-Z.

The following Commission members were in attendance:

Atty. Robert Price - Chairman
Keith Marsteller – Vice Chairman
Brett Hendricks
Eugene Benyo
Bonnie Sovik

The Public Hearing was opened at 7:00 P.M. by Chairman Price leading the Pledge of Allegiance.

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Court Reporter in attendance, complete transcript taken of the hearing.

Attorney Price turned the hearing over to Zoning Inspector Darren Crivelli to conduct elections for Chair and Vice-Chair of the Zoning Commission for calendar year 2009.

Motion by Mr. Benyo to nominate Mr. Marsteller as Chairman of the Zoning Commission for calendar year 2009. Seconded by Atty. Price.

Roll call vote: Mr. Benyo – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Marsteller – YES; Atty. Price - YES.

Motion by Atty. Price to nominate Mrs. Sovik as Vice-Chairperson of the Zoning Commission for calendar year 2009. Seconded by Mr. Benyo.

Roll call vote: Mr. Benyo – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Marsteller – YES; Atty. Price - YES.

Motion by Mr. Hendricks to **APPROVE** the minutes of the December 4, 2008 hearing.

Seconded by Mrs. Sovik.

Roll call vote: Mr. Benyo – YES; Mr. Hendricks – YES; Atty. Price – YES; Mrs. Sovik – YES; Mr. Marsteller – YES.

AMENDMENT 2009-01-Z

Atty. Thomas C. Nader, Nader and Nader, Attorneys at Law, 155 S. Park Avenue, Suite 123, Warren, Ohio, 44481, on behalf of Gary Ventling, 9 Raccoon Road, Austintown, Ohio, 44515, requests the rezoning of eight (8) parcels of land containing a combined total of 2.24 acres, Lot Nos. 11, 12, 34, 35, 36, 37, 38, and 39, Mahoning Heights Plat # 1, Austintown Township, from Residence R-2 Districts to Business B-2 Districts in their entirety. Lot Nos. 11 & 12 have a combined frontage of 100 feet and a depth of 227 feet and are located on the west side of North Raccoon Road, approximately 284 feet north of the North Raccoon Road-Norquest Boulevard-Mahoning Avenue intersection. Lot Nos. 34, 35, 36 and 37 have a combined frontage 200 feet and a depth of 250 feet and are located on the east side of Geneva Avenue, a dedicated unimproved right of way. Lot Nos. 38 and 39 have a combined frontage of 110 feet and a depth of 225 feet and are located on the east side of Geneva Avenue, a dedicated unimproved right of way. Lot Nos. 34-39 are located approximately 76 feet north of the Norquest Boulevard-Geneva Avenue intersection. Said properties are zoned as Residential R-2 Districts in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Darren L. Crivelli referenced Atty. Nader's letter of application, a GIS map submitted with the case, the case mailing list and two additional GIS maps prepared by the Zoning Office. Also noted were errors regarding the zoning classification of abutting lots on the Mahoning County GIS website.

Atty. Thomas C. Nader was present to represent Mr. Ventling. Advised that according to Eastgate Development Office traffic counts near these parcels were as follows: 6,000 cars travel Norquest Boulevard per day; 8,000 cars travel on Raccoon Road per day; and approximately 20,000 cars travel on Mahoning Avenue per day. Atty. Nader stated the car counts reflect the nearby B-1, B-2 and heavy R-2 uses existing in this area. Advised that the growth goals of Austintown Township, specifically, preservation of open areas and farmland, and preservation of adequate housing stock does not reflect these lots as there are no houses on the lots and the subject lots are not the type of open areas the township wants to preserve. Stated it was the position of Mr. Ventling that the entire area should be Business B-2 so the current homeowners can obtain the true value of their property. He referenced the bank across the street to the east, the large apartment complex to the north, and the existing B-2 on Mahoning Avenue and stated it was Mr. Ventling's belief the B-2 zoning is consistent with the concept of growth as set by Austintown Township. The change of the proposed zoning classification will not add to the already existing heavy traffic flow. The opportunity for commercial growth may allow for the creation of some new jobs.

After making his presentation, Atty. Nader left the meeting and did not return.

No one else in attendance to speak in favor of the request.

The following spoke against the request:

John Seranko, 14 Rheims Avenue stated the nearby homes, church, and school would have no protection if the zoning is granted. Criticized the Township for granting commercial zone change years ago. Stated the property is being used for an industrial use with the heavy machinery employed by Ventling. Zone change will not enhance abutting property owners. The neighbors had to take Ventling to court to have his garbage removed from abutting properties and neighbors had to construct a fence at their expense.

Father Popovich, Immaculate Heart of Mary, 4490 Norquest Boulevard opposed the request. Stated a good portion of the traffic count on Norquest Boulevard is due to the school and church. Ventling knew the property was residential when he purchased it and stated it would be spot zoning if changed. Further stated Ventling has not been a good neighbor as he had to be taken to court over a dispute with a fence. Has not spruced up his property.

Steve Seranko, 4445 Norquest Boulevard stated that saws and heavy equipment are being used as early as 7AM and making a lot of noise. Opposed original zone change and stated he would prefer to see the business shut down and relocated somewhere else.

Thomas Seranko, 3882 Artmar Drive stated he had children who attended IHM safely. Has concerns about the safety of the children who attend the school if the zone change is granted and Ventling expands his business.

Bill Bassista, 4455 Norquest Boulevard stated he lives about 200 yards from the "Industrial" building and can hear saws cutting into stone. Only comparable noise comes from Heinz Industries and Steel Door which are located in an Industrial District. Stated Ventling is a bad neighbor and is costing his neighbors money. Parks his trucks in the IHM driveway because he has no room for them on his property. Ventling wants to make his neighbors miserable so they will move out.

Rich Kunkle 5645 Revere Drive, Canfield, Ohio, 44406 represented his mother who owns the dwelling at 36 North Raccoon Road. Stated Ventling's plan is to have commercial from Mahoning Avenue to the apartment building to the north. Ventling has harassed the neighbors, including old ladies, in an effort to intimidate them.

Rusty Kunkle, 10 Dartmouth Drive, Canfield, Ohio, 44406 represented his mother who owns the dwelling at 36 North Raccoon Road. Stated Ventling bulldozed this area and has created a storm water problem for his mother's yard. If he puts black top down the water problem will get worse. Stated the original zoning was to allow for display only, however, he constructed a steel building and began cutting and sandblasting stone.

Anna Dulick, 3239 Columbia Road, Westlake, Ohio represented her mother who owns the single-family home located at 4434 Norquest Boulevard and asked if he currently has business zoning why is he allowed to conduct industrial activities at his current location. She also questioned the process if the case is taken to court. Zoning Inspector Crivelli stated the Township would be represented by the Mahoning County Prosecutor. Atty.

Price stated the residents could hire an attorney and file an inter-plea and become part of the lawsuit. He also advised if the applicant were denied his request and files a case in court the local newspaper and daily legal news would publish notice of the filing or residents could contact the zoning office to check the status of a case filing.

Eula Thomas, 22 North Raccoon Road stated Gary Ventling was bad news and she had to have her house waterproofed after he moved in. Said if approved Ventling would sandwich her property and cause her more headaches.

Katherine Dulick, 4434 Norquest Boulevard opposed the request and stated she spent between \$2,000.00 and \$3,000.00 on lawyers and surveys and had to construct a fence because of Ventling. Stated she has a nice brick home but she can't sell it if Ventling has all his garbage behind her. She also stated there are a lot of kids on the playground at IMH and how many will get hurt if he gets this zoning.

No one else in attendance to speak in opposition of the request.

Zoning Inspector Crivelli requested the map submitted into evidence by Atty. Nader be marked as Exhibit "A".

Zoning Inspector Crivelli advised that the Mahoning County Planning Commission recommended disapproval per the agenda at their meeting held on January 27, 2009.

Commission members recessed at 7:30 P.M. to deliberate.

Chairman Marstellar reconvened the hearing at 7:35 P.M.

2009-01-Z-Ventling

Motion by Mr. Hendricks to accept the recommendation of the Mahoning County Planning Commission and recommend **DISAPPROVAL** of the request. Seconded by Mrs. Sovik. Roll call vote: Mr. Benyo – YES; Mr. Hendricks – YES; Mrs. Sovik – Yes; Atty. Price – YES; Mr. Marstellar – YES.

There being nothing further to come before the Commission, the hearing was adjourned at 7:35 P.M.

AUSTINTOWN ZONING COMMISSION

Darren L. Crivelli, Zoning Inspector

APPROVED: _____
Keith Marstellar – Chairman

DATE: _____