

**Minutes of the Board of Zoning Appeals  
October 6, 2021  
City of Huber Heights**

I. Chair Don Stewart called the Meeting of the City of Huber Heights Board of Zoning Appeals to order at 6:30 p.m.

II. Roll call was taken. Present were Mr. Davidson, Mr. Deam, Ms. Newby, and Mr. Stewart.

Members Absent: Mr. Mach.

Staff present for this meeting: Don Millard, Code Enforcement Administrator, and Geri Hoskins, Planning & Zoning Administrative Secretary.

III. **Approval of Agenda**

Motion made by Mr. Davidson to approve the agenda. No roll call needed for approval of agenda.

IV. **Swearing of Witnesses**

Mr. Stewart explained the proceedings for tonight's meeting and swore in all applicants and persons wishing to speak tonight. All present responded in the affirmative.

V. **Old Business**

1. **None**

VI. **New Business**

1. **BZA Case 21-12**

**The applicant, Michael Skilwies, is requesting a variance from Section 1142 – Agricultural District, to operate a business not associated with agriculture and to operate the business with the use of an existing accessory building. Property is located at 9416 Taylorsville Road.**

Mr. Millard stated that the property owner is requesting a variance of the City of Huber Heights Zoning Code pertaining to the operation of a business on an Agriculturally zoned property but said business is not associated with an agricultural use. The owner wishes to **perform diesel truck and equipment repair on site and within an accessory building.**

In your packet you will find the Agricultural District Code which states the Permitted, Accessory, and Special Use references.

You may notice a reference to "Home Occupation" in section 1142.04 (f); this business falls outside the definition of a home occupation; there is work performed outside of the residential structure which is prohibited for a Home Occupation as defined in section 1123.53 of the City code, also in your packet.

**As a result, the requested business type does not fit within the allowable uses and requires a variance of section 1142 in order to operate.**

If this variance is granted Staff recommends it be restricted to the current property owner(s) exclusively. Staff also recommends that the variance further state: if the property is sold or changes ownership or occupancy, the variance is no longer valid.

Lot: The lot is approximately 5 acres.

Easement: There are no easements on the property

Structure: N/A

Placement: N/A

Engineering: The City Engineering has no issues regarding this request.

Mr. Millard stated the city received a telephone call on 10/6/21 from a neighbor, Jacob Pruitt objects to this business operation due to the impact from the noise of the diesel engines and from traffic congestion. Also, we received an email from Ross Goodspeed, 9454 Taylorsville Road. Concerns with value of property and in the safety considerations both on the road and in the potential chemical contamination.

Mike Skilwies spoke to the contamination and oil. Trucks are purposely built to have waste oil tanks. Go to a recycler after that. Everything is contained. We aren't open to the public, trucks aren't running in and out. 90% on site maintenance. Space out incoming trucks.

Ms. Newby asked how long have you been doing this? Mr. Skilwies answered 8 years. Discussion on did he ensure that it was ok with the City before. Mr. Skilwies said being zoned agricultural he thought that meant anything that supports agricultural and trucks, farm equipment is agricultural.

Mr. Larry Mouser, a neighbor spoke in favor of this request.

Ms. Kelly Skilwies wanted to reiterate their business is mostly mobile. Customers don't come to us. We go to them. Only bring back to us if it has to be torn apart for more than one day. It is a two-lane road, only stopping traffic for a couple of minutes.

Ms. Sharon Mouser, a neighbor also spoke in favor of this request.

### **Board Discussion**

Mr. Davidson said some neighbors' concerns are trucks being stopped out there, oil spillage, and other businesses. Not zoned for business. I did some hear some impacts on Saturday. Property value.

Mr. Deam said his concerns are with the homes being on wells, being zoned agricultural, other businesses will want to come in.

Mr. Skilwies said everyone down there runs some kind of business.

Ms. Newby said the case that we are presented today, we are talking about you trying to run a business in an agricultural area. We are not looking at other cases, we are looking at your case today.

Ms. Skilwies asked isn't that why we are here to request a variance from the current zoning. Ms. Newby said you haven't been following the rules, you had the business for 8 years. Ms. Skilwies said we read the definition and we thought it was alright and no one has ever had a problem with it. We are visible from the road. We are not the eyesore in that neighborhood.

Mr. Stewart read the code 1123.53 Home Occupation.

### **Action**

Mr. Davidson moved to approve the requested variance. Seconded by Ms. Newby. Roll call showed: YEAS: None. NAYS: Mr. Deam, Ms. Newby, and Mr. Davidson, and Mr. Stewart. Motion to approve failed 4-0.

### **Variance Standards**

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.
- B. Whether the variance is substantial. Answer: No.
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Answer: No.
- D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer, or garbage removal. Answer: No.
- E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.
- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

## **VII. Additional Business**

Mr. Davidson asked if on next agenda we can talk about Variance Standards.

**VIII. Approval of the Minutes**

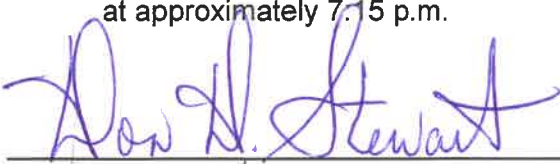
Without objection, the minutes of the September 1, 2021, BZA meeting are approved.

**IX. Upcoming Meetings**

November 3, 2021

**X. Adjournment**

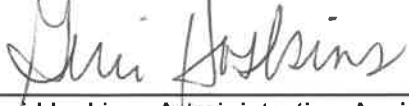
There being no further business to come before the Board, the meeting was adjourned at approximately 7:15 p.m.



Don Stewart, Chair



Date



Geri Hoskins, Administrative Assistant



Date