

RECORD OF PROCEEDINGS

Minutes of

Waterville Township Zoning Commission

Meeting

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 2008

ROLL CALL:

- Chairman George J. Cole - Present
- Vice-Chairman Tom Overmyer - Present
- Member Glenn A. Banas - Present
- Member Daryl Powell - Absent - Out of Town for Christmas
- Member Tom Wardell - Present

OFFICIALS:

- Zoning Inspector Eric H. Gay - Present
- Township Solicitor Walter J. Celley - Present
- Trustee Chairman A. Leslie Disher - Present
- Trustee Brett T. Warner - Present
- Fiscal Officer Kay Ann Robertson - Present

GUESTS:

- Molly Maguire, Lucas County Plan Commission Planner
- Lara Burkett, Lucas Soil and Water Conservation District
- Russ Schifferly, MetroParks, 6101 Fallen Timbers Lane, Maumee, Ohio
- Mike Gramza, O.D.O.T. District 2, Bowling Green, Ohio
- Larry Winkleman, Miller Brothers Construction, Archbold, Ohio
- James D. Wilson, E.S.Wagner Company, 840 Patchen Road, Oregon, Ohio

MINUTES:

The minutes had been prepared by Fiscal Officer Kay Ann Robertson and sent to each commission member prior to the meeting:

**Tom Overmyer** made a motion to dispense with the reading of the minutes of the November 17, 2008, meeting and to approve the minutes with no additions, deletions or corrections. Seconded by **Glenn A. Banas**. Motion Carried.

CORRESPONDENCE:

A letter was received from the Lucas Soil and Water Conservation District which mentioned they were in the process of registering a Class III compost facility. It will handle horse manure and other vegetarian animal waste. It was already included on the site plan submitted by the Metroparks for the special use permit for the Blue Creek MetroParks facility.

PUBLIC HEARING - Z20-C928 - METROPARKS SPECIAL USE PERMIT APPLICATION:

Chairman George J. Cole opened the public hearing which had been continued until this date and time. The purpose of the hearing is to consider a request for a Special Use Permit for the MetroParks Blue Creek Conservation Area parcels located at 10708 Neapolis-Waterville Road, 0 Neapolis-Waterville Road, 7700 Schadel Road and 7795 Schadel Road in Waterville Township. The matter was considered by the Lucas County Planning Commission at their meeting on Wednesday, November 19, 2008, and they recommended the request be approved.

STAFF ANALYSIS:

The request is for a special use permit for the Blue Creek Conservation Area to provide a park that will offer educational and passive recreational opportunities at 10708 Neapolis-Waterville Road, 0 Neapolis-Waterville Road, 7700 Schadel Road and 7795 Schadel Road in Waterville Township. The applicant, Russ Schifferly, is the Metroparks representative for this project.

The site plan submitted includes hike and bike trails, shelter houses, a green-space preserve, farmland to include developing an educational complex. The existing roads and parking spaces will be utilized to include an additional 154 spaces to be constructed. Port-o-johns will be used on site until the restrooms are constructed and a park sign will be placed on site. There is no lighting plan for the site and the hours of operation will be from dawn or 7:00 AM to dusk. The existing structures on the site will be renovated at a later date.

The Metroparks has partnered with Lucas Soil and Water Conservation for farming, growing native grasses and composting. Also, Nature's Nursery that offers rehabilitation of wild animals will remain on site. The park plans to open to the public in 2015 or later due to availability of funds for the improvements.

The Metroparks held five public meetings since 2001 to discuss future development of the park and to establish a general plan. The comments received assisted with the development of the land and recreational uses that are laid out within the park.

The Waterville Township Zoning Resolution states the purpose of a Special Use continued.....

Held \_\_\_\_\_ at 7:30 p.m. at the Waterville Township Hall on December 22, 2008 \_\_\_\_\_

Continued:

Permit is to allow for uses entirely private in character, which, because of their peculiar locational needs or the nature of the service they offer to the public, may have to establish a district or districts, in which they cannot reasonably be allowed as permitted use under zoning regulations. The request for a Special Use Permit will be within the guidelines as stated in the township resolution for the stated use. The Waterville Township Land Use Plan has this site shown as parkland.

**PLANNING COMMISSION RECOMMENDATION:**

The Lucas County Planning Commission recommends an approval of the Special Use Permit request for 366.419 acres located at 10708 Neapolis-Waterville Road, 0 Neapolis-Waterville Road, 7700 Schadel Road and 7795 Schadel Road, to the Waterville Township Zoning Commission and Township Trustees with the following nine (9) conditions:

Whitehouse Fire Department:

1. All future buildings and driveway plans are to be reviewed by our department for evaluation.

Lucas County Engineer:

2. The plan submitted for review is an overall conceptual site plan for the proposed project. Upon the submittal of detailed construction plans for each phase of the project, a detailed review will be performed by the Lucas County Engineers Office with detailed comments provided. Below are some general comments regarding the overall project.

3. The proposed access to Schadel Road shall follow the requirements of the Lucas County Access Management Regulations. An access permit application shall be submitted to the Lucas County Engineer's Office for review and approval.

4. The limits of the 100-year floodplain and floodway for Blue Creek shown are based on the 2000 FEMA Flood Map. This map is currently in the process of being updated and the limits of floodplain and floodway could change based on this revision.

5. A permit shall be obtained from the Lucas County Building Regulations Dept. for any work within the 100-year floodplain or floodway. Per the Lucas County Flood Damage Prevention Regulations there is a required 100 ft riparian setback for Blue Creek and this should be shown and included with the plan.

6. Storm damage calculations shall be submitted for review and approval. An internal drainage system with storm water detention to limit peak discharges to "undeveloped" conditions is required. Storm sewer culverts for road or trail crossings of all creeks or ditches shall be sized as approved by the Lucas County Engineer's Office.

7. Submit sign detail to the Zoning Inspector when available and location has been determined.

8. No permits shall be issued until arrangements are satisfactory to the Waterville Township Zoning Inspector has been made for compliance with the conditions as set forth above.

Lucas County Building Regulations:

9. All remodeling or renovations of existing buildings and all new construction, including plumbing, electrical and HVAC system work shall require permits from the Lucas County Building Regulations Department.

Comments:

Russ Schifferly: Mr. Schifferly, a representative of the Metroparks, mentioned it could be 2018-2020 before the project is completed depending on funds.

Tom Overmyer: Commission member asked that it be noted that at the November 17, 2008, meeting, there were residents attending that expressed concerns with the walking and bike trails and making sure there were barriers to prevent the public from getting onto adjoining properties and possibly destroying crops. He is also suggesting an yearly review.

Glenn A. Banas made a motion to recommend approval of the special use permit for the Metroparks Blue Creek Conservation Area parcels located at 10708 Neapolis-

continued.....

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Minutes of \_\_\_\_\_ Waterville Township Zoning Commission \_\_\_\_\_

Meeting

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held \_\_\_\_\_ at 7:30 p.m. at the Waterville Township Hall on December 22, 2008 \_\_\_\_\_

Continued:

Waterville Road, 0 Neapolis-Waterville Road, 7700 Schadel Road and 7795 Schadel Road in Waterville Township. An yearly review is also to be a part of the approval process. Seconded by Tom Overmyer.

Motion Carried.

Above recommendation to be forwarded to the Board of Waterville Township Trustees for their final approval/disapproval or modification thereof.

PUBLIC HEARING - Z22-C113 - RESOLUTION AMENDMENT REGARDING BORROW PITS:

Chairman George J. Cole opened the public meeting which had been continued until this date and time. The purpose of the hearing is to consider an amendment to the Waterville Township Zoning Resolution regarding borrow pits. The Lucas County Planning Commission held their hearing on Wednesday, December 17, 2008, and recommends that the request be disapproved.

**STAFF ANALYSIS:**

The Waterville Township Zoning Commission requests an amendment to the Waterville Township Zoning Resolution regarding borrow pits. This amendment will require property owners to apply for a Special Use Permit that will allow contractors to obtain fill from their property for the US 24 Bypass construction phase in Waterville Township.

The township will allow the borrow pits in all zoning classifications and require a site plan to be submitted as part of the application. The township decided not to limit the size of the parcel or the size of the borrow pit.

The Ohio Revised Code, Chapter 1514: Other Surface Mining, does state the extraction of minerals, other than coal, from borrow pits for highway construction purposes requires the extraction is performed under a bond and the contractor. A construction firm is required to have a building permit if the parcel is located in the floodplain.

The Ohio Department of Transportation (ODOT) reviewed a copy of this text amendment. ODOT has concerns with the time line, as it will affect construction due to the four month Special Use Permit process along with the bond and landscape requirement that will result in an additional expense for the contractor.

**PLANNING COMMISSION RECOMMENDATION:**

The staff recommends that the Lucas County Planning Commission recommend an approval of the proposed amendment to the Waterville Township Zoning Resolution shown in **EXHIBIT "A"** to the Waterville Township Zoning Commission and Township Trustees.

However, the Lucas County Planning Commission recommends disapproval of Z22-C113, an amendment to the Waterville Township Zoning Resolution shown in **EXHIBIT "A"**. Furthermore, the Lucas County Planning Commission recommends a site plan review instead of a Special Use Permit for the borrow pits.

**EXHIBIT "A"**

(new language in bold italic fnt)

**SECTION 7.2 Special Uses and Procedures**

The Board of Trustees may permit by resolution, the amendment of this Zoning Resolution and Zoning Map, the following uses of land or structures in any district except as specifically provided otherwise, alter report thereon by the Zoning Commission and subject to the requirements and procedures set forth herein. Special Uses existing at the time of adoption of this Resolution may be continued and shall be considered as uses conforming to the Resolution.

**7.2.1 Special Uses Permitted****In an "A" District:**

Airport or Aircraft landing Field  
 Animal Care Facilities  
 Auction Market  
 Boarding of Livestock and Domesticated Animals  
**Borrow Pits**  
 Cemetery/Memorial Gardens  
 Dwelling, Two-Family

continued.....

RECORD OF PROCEEDINGS

Minutes of Waterville Township Zoning Commission

Meeting

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 2008

Continued:

- Flea Market
- Institutional Health Care Facilities
- Landscaping/Lawn Care Services (Rev. 12/14/05, Z22-C101)
- Nursery
- Nursing Homes
- Radio Tower
- Small Wind Turbine
- Tourist Home/Bed and Breakfast

In any "A" or "R" District:

- Day Care Facilities
- Borrow Pits**
- Group Homes
- Recreational Facilities, Commercial
- Public Uses
- Recreational Facilities, Non-commercial
- Semi-Public Uses

In any "R" District:

- Borrow Pits**
- Ham Radio Antenna (if higher than maximum allowable height permitted for principal buildings in zoning district)
- Telecommunication Tower (Sec 9.26)

In an "R-3" District:

- Adult Group Home
- Borrow Pit**
- Health Care Clinic
- MRDD Group Home
- Nursery School
- Nursing Home
- Self Service Storage Facilities

In an "C-1" District:

- Borrow Pit**
- Manufactured Home Parks (See 9.22)
- Motor Vehicle Service Stations
- Radio Tower
- Recreational Facilities, Commercial
- Recreational Facilities, Non-Commercial
- Restaurant/Lounges
- Self Service Storage Facilities

In an "C-2" District:

- Animals
- Auction Markets
- Boarding of Livestock and Domesticated Animals
- Borrow Pits**
- Flea Markets
- Large-Scale Retail Project
- Radio Tower

In an "C-3" District:

- Borrow Pit**
- Manufacturing - Restricted
- Radio Tower
- Research Laboratories

In an "C-4" Mixed Business Use District:

- Automotive Refueling and/or Service Stations
- Automotive Washing Facility
- Building Material, Supplies, Equipment or Storage Yards
- Borrow pits**
- Coliseums, Stadiums and Similar Facilities (designed to seat more than one thousand (1,000) people at one time)

continued.....

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 1998

Continued:

Commercial Recreation Facilities (open to the general public, such as theme parks)  
 Community Centers (open to the general public)  
 Convenience Stores  
 Day Care Facilities  
 Hotels and Motels  
 Indoor Recreational Uses (such as bowling alleys and skating rinks)  
 Large-scale Retail Projects  
 Movie Theaters  
 Outdoor Commercial Sales or Rental (of goods stored outside a building)  
 Outdoor Recreational Facilities publicly owned or operated (such as but not limited to, golf and tennis clubs, athletic fields and swimming pools)  
 Radio Towers  
 Research Laboratories  
 Restaurants with drive-up or drive-through facilities  
 Self-Service Storage Facilities  
 Wholesaling (including the storage, handling, or sale of merchandise primarily to retailers or other wholesalers)

**In any "M-1" District:**

Airport or Aircraft Landing Field  
**Borrow Pit**  
 Manufacturing - General  
 Radio Tower

**In any "M-2" District:**

Adult-Oriented Uses  
 Airport or Aircraft Landing Field  
**Borrow Pit**  
 Extraction Industries  
 Landfill  
 Manufacturing - Heavy  
 Radio Tower

**SECTION 9.27 Extraction of Minerals from Borrow Pits**

The construction and operation of borrow pits for highway construction purposes creates a real or substantial risk to the public health, safety or general welfare of the Township's citizens and the regulation therefore is deemed necessary in the interest of the public health and safety:

**9.27.1 General Requirements**

- a) The term "minerals" shall have the same definition as minerals are defined in ORC 1514.01(B).
- b) The extraction of minerals from borrow pits for highway construction purposes is deemed a Special Use under Section 7 of this Zoning Resolution and shall require a Special Use Permit in all zoning districts and is subject to all of the provisions of Section 7 of this Zoning Resolution.
- c) The application for a borrow pit special use shall contain sufficient detail to demonstrate that the borrow pit meets or exceeds all applicable design and development provisions required under Section 10 of this Zoning Resolution.
- d) The application for a borrow pit special use shall include the names, address and telephone numbers of the applicant and the primary contractor(s) who will be involved in all aspects of extraction, reclamation and site work, along with a copy of a contract or contracts to provide extracted minerals for highway construction purposes.

**9.27.2 Area and Design Requirements**

- a) The size of a borrow pit shall be determined by the parcel's location, existing structures on the parcel and availability of minerals therefore the size is not restricted.
- b) Borrow pits shall be graded not to exceed four (4) feet height so it will not obstruct an adjoining property owner's view.
- c) The side slopes of a borrow pit shall not exceed a 3:1 ratio horizontal to vertical. This ratio shall be maintained to a minimum depth of 17 feet.

continued.....

RECORD OF PROCEEDINGS

Minutes of Waterville Township Zoning Commission

Meeting

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 2008

Continued:

- d) Drainage calculations, sediment and erosion control methods shall be submitted as part of the site plan.
- e) A detailed site grading plan shall be submitted for approval. The plan will include existing and proposed grades and grades for the land abutting the proposed development from the development boundaries for a distance of approximately one hundred feet (100'). All storm drainage must be directed internal and not runoff onto adjacent properties unless approval by the Lucas County Drainage Engineer. The grading plan must be based on Lucas County datum.
- f) If disturbing more than one acre of land, an Ohio EPA, NPDES permit is required and provisions for water quality, sediment and erosion control shall be provided in accordance of this permit.
- g) The application for a borrow pit special use permit shall have attached a detailed landscape plan meeting the requirements of Section 10.4 of this Zoning Resolution.
- h) If a borrow pit is deemed to pose a safety hazard because of the density of development or in close proximity to a road in the vicinity of the parcel, the township may require that a four (4) foot high perimeter fencing be installed after the construction is complete.
- i) Any borrow pit approved hereunder must be fully extracted within eighteen (18) months after extraction activities are commenced.
- j) Final landscaping and any required fencing must be completed within twenty-four (24) months after extraction activities are commenced.
- k) All borrow pit extraction activities shall be performed under a bond in such reasonable amount as the Township shall determine. Said bond shall be payable to the Township in the event any property owner, applicant or the primary contractor or contractors are determined by the Zoning Inspector to be in violation of the terms or conditions of the Special Use Permit or this Township Zoning Resolution. No extraction activities shall commence until said bond has been approved by formal action of the Board of Trustees.
- l) Inspections of nearby structures and water wells to determine structural integrity and water levels.
- m) Compliance with Ohio EPA, ODNR, U S Army of Corps and other applicable federal, state and local laws and regulations.
- n) The Zoning Commission or Board of Trustees may also require as a condition of approval, the following specific measures:
  1. Identification of specific roads, as approved by the Lucas County Engineer to be used as the primary means of ingress and egress from the proposed facility;
  2. Compliance with reasonable noise abatement measures;
  3. Compliance with reasonable dust abatement measures; and,
  4. Any other measures reasonable related to public health and safety.
- o) The hours of operation shall be limited to:
 

Monday through Friday:	7:00 a.m. to 7:00 p.m.
Saturday:	7:00 a.m. to 5:00 p.m.
Sunday:	Not permitted

9.27.3 Setback

- a) A borrow pit shall have 100 feet minimum setback from the centerline of public roadway right-of-way.
- b) The minimum side yard setback is 25 feet.
- c) The minimum setback for borrow pits from septic systems or leach fields is 100 feet.

9.27.4 Refilling

The refilling of an area which has been excavated for the development of a borrow pit shall be considered disposal and shall meet the requirements as set forth by the Lucas County Board of Health for solid waste disposal under ORC 3734.05.

continued.....

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 2008

Continued:

**9.27.5 Requirement for Issuance of Permit**

**Provide a written description of location and site plan.**

**COMMENTS:**

**Eric Gay:** Both Inspector Gay and Chairman Cole attended the Lucas County Plan Commission's hearing on December 17th. The plan commission was not in favor of the special use permit process. They felt a site plan review would be sufficient.

**Walt Celley:** Solicitor Celley stated the trustees have been wrestling with this issue. The trustees feel the public should be able to comment and that adjoining property owners needed to be advised and the only process that affords the option is the special use process. The Village of Waterville will have a borrow pit in their limits and they will be using the special use process.

**Larry Winkleman:** Mr. Winkleman is with Miller Bros. Construction and potentially will be a bidder for the borrow pits. His questions is what if he gets the bid from the state and then his special use permit is turned down.

**Molly Maguire:** Lucas County Plan Commission planner Maguire suggested holding a neighborhood meeting and see if there is opposition. Currently, none of the county townships have any language in their zoning resolutions that address borrow pits.

**James Wilson:** Mr. Wilson is with E. S. Wagner Company and is a potential bidder. He would like to see the process streamlined so it does not take four (4) months from start to finish. Ideally, whichever contractor gets the bid(s), the best case scenario is to have the borrow pit adjacent to the proposed highway thus avoiding the local roadways to haul the dirt. However, the quality of the fill will determine the location of the borrow pits.

**Brett Warner:** Trustee Warner verified that the main objection the plan commission had to the special use permit process was the length of the process. The problem with not involving the township residents is that the state will be in and out as soon as the project is complete - the township could be dealing with the fall-out for years to come.

**Mike Gramza:** ODOT representative Mr. Gramza stated the contractor will need to submit bids for a February opening. The special use process could add millions of dollars to the process. Which ever the process, the state will make sure all restrictions are followed.

**George Cole:** Chairman Cole mentioned that there will always be people that do not want a borrow pit anywhere. There is just no good answer for Trustee Warner.

**Walt Celley:** Contractors just need to have faith in the system.

**Brett Warner:** It would have been nice to have been able to have started sooner and to have had all the time in the world to work out the details.

**Les Disher:** Trustee Chairman Les Disher asked why the state waited until the last minute to bring this to us. The way our zoning stands now, borrow pits are not permitted. We would still not know if Mr. Wilson (E. S. Wogner) had not come to one of our meetings. As trustees, we can do everything in our power to expedite the process if the contractor(s) that are going to bid on the borrow pits get their information to us.

**Molly Maguire:** The deadline to be on the January plan commission schedule has passed. To make the February hearing, the information would have to be in by January 10, 2009.

**Mike Gramza:** He is afraid that the contractor(s) will not let their plans out before the bid opening.

**George Cole:** We are trying to help you, but you seem to not know where you want the borrow pits.

**Glenn A. Banas** made a motion to recommend to the Waterville Township Trustees that they accept the recommendation of the Lucas County Plan Commission and handle the process with a site plan review with the addition of having meetings with the adjoining property owners. Seconded by **George J. Cole**.

Motion Carried.

George Cole, Aye; Glenn Banas, Aye; Tom Overmyer, Aye; and Tom Wardell, Aye.

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Minutes of Waterville Township Zoning Commission

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BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held at 7:30 p.m. at the Waterville Township Hall on December 22, 2008

Continued:

Les Disher: Mr. Disher asked the contractors that if the trustees would vote to use the site plan review process, would they be willing to tell where they proposed the borrow pits would be located.

James Wilson: After the bid opening. They would get the governing body's approval after they make arrangements with the property owners. They also have to contact ODOT and ODNR. However, after the bid opening, the township would only have to deal with one contractor.

Brett Warner: It feels like the township is being pushed into a corner by the state. This project is going to change the face of out township and I feel we need to give our residents a voice.

George Cole: We are being put in a hard position.

Larry Winkleman: I know I speak for Miller Brother and E.S. Wagner in that we want to be good neighbors. Mr. Winkleman was present because he wanted to do it right.

Mike Gramza: Mr. Gramza was told the next step was the trustees public hearing on January 14, 2009. The trustees have the final decision.

Chairman George J. Cole closed the public hearing portion of the meeting.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

ZONING INSPECTOR:

- 1) Forty-two (42) permits to date.
- 2) The compost site was on the original site plan for the Metroparks special use application. Planner Maguire advised not ruffling any feathers with comments.
- 3) Inspector Gay stated that E. S. Wagner Company had submitted a special use permit application for a borrow pit. Planner Maguire stated she would not accept it until the trustees made a final decision on January 14, 2009.
- 4) There is an issue at Betty Schultz's on Dutch Road. Her son is repairing trucks in her special use horse arena.
- 5) There is a big issue at the Richard Guyton property on Neowash Road. Efforts to reach Mr. Guyton by phone yielded it has been disconnected.
- 6) Terry Strayer, 11236 Neapolis-Waterville Road, has improved somewhat. Some of the vehicles he is using for parts and others he wants to license.

ADJOURNMENT:

There being no further business, Tom Overmyer made a motion to adjourn. Seconded by Tom Wardell.

Motion Carried.

Adjourned at 9:04 p.m.

Attest: Gay Ann Robertson

Commission: [Signature]

[Signature]