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Rec'd by:
Kimberly Banning
June 7, 2017
P.d. \$500

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June 7, 2017

Kim Banning, CMC
Clerk of Council
Gahanna Board of Zoning
& Building Appeals
200 South Hamilton Road
Gahanna, Ohio 43230

RE: V-0004-2017
Appeal from Decision of Gahanna Planning Commission

Dear Ms. Banning:

This letter is to serve as notice that Reklamation, LLC, appeals the decision of the Gahanna Planning Commission denying the application for permanent variance to allow outdoor stockpiling at heights greater than ten feet, up to a height of twenty-five feet.

There were three reasons that Reklamation requested the permanent variance. First, and most importantly, is that while the original intent of Reklamation with regard to this property was to cap the landfill and sell the property, it has become clear that this plan may be unworkable. While the landfill is capped, and the Ohio EPA Phase II assessment is in process, as well as an application for a "No Further Action" letter, or NFA, from the Ohio EPA, there has not been significant progress in finding a suitable buyer for the property.

As was discussed with the Planning Commission, and as explained by the City's own representative, Mr. Blackford, at the meeting, there is unlikely to ever be a use for this property that is not primarily outdoor and industrial in character. Indeed, there is currently no public right of access to the property. While Mr. Preistas insisted in council that there is going to be public access as they are working on having rights-of-way dedicated, that has not yet happened. The City's contention that there is access from the Leavitt service road is disingenuous at best, as that road dead ends at the property line, where there is a 15-foot bluff that is not scalable by any typical road vehicle. As currently situated, it would be impossible to market the property to a developer. The use proposed by Reklamation, which is its current use, only on a more permanent basis, would continue to generate both real property tax and income tax revenue in the City of Gahanna.

Second, Reklamation is asking only for considerations that many of its neighbors get. It seems that Reklamation is the only business in the area for which its stockpiling is an issue. There are several businesses in the area storing items such as kegs, pallets, barrels, and other items well over ten feet, outdoors, and not under the degree of control and supervision that Reklamation uses. Further, Reklamation's stockpiles are of matter like dirt and gravel, which are unlikely to topple over and hurt someone, which is presumably the reason for the rule in the first place. These stockpiles are safe, invisible to all but a few neighbors, and have caused no trouble to neighboring properties. In several years of constantly renewing conditional use applications here, there has never been a neighbor present to object.

Finally, Reklamation seeks a variance because the variance is the proper mechanism, rather than the conditional use. As Reklamation has been attempting to prepare the property for marketability for the last several years, it was thought by both Reklamation and the Planning Commission that this would be a temporary state of affairs until the NFA was issued and the property was marketable. Unfortunately, the Ohio EPA has, despite Reklamation's cooperation, not yet issued the NFA, and Reklamation, like any business, needs to make plans around its large capital assets, one of which is this land.

It is worth noting that the Planning Commission has repeatedly determined that this use is "in accord with appropriate plans for the area," "will not have undesirable effects on the surrounding area," and is "in keeping with the existing land use character and physical development potential of the area." These are the criteria for approval of a conditional use application (Gahanna Codified Ordinances § 1169.04(a)). Given that it would be foolish not to acknowledge that "there are special circumstances or conditions" of the land, and it "will not materially affect adversely the health or safety of persons residing or working in the neighborhood" and "will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood." The only criterion for approval of a variance remaining under Gahanna Codified Ordinances § 1131.04 is that the variance is necessary for the preservation and enjoyment of substantial property rights. Currently, this is the only realistic use of the property. Even with an NFA letter, the use is likely to be restricted to industrial uses, and potentially to primarily outdoor uses.

It would have been helpful for the Planning Commission to acknowledge any of this. Unfortunately, discussion with the Planning Commission was focused on Reklamation's conditional use request to store additional materials to the dirt and gravel already stored. Reklamation's decision to refocus its business was framed by members of the Planning Commission as some sort of elaborate bait-and-switch, when in reality, Reklamation is closer to this land than anyone else, and is in the best position to know how it ought to be used. It is helpful that Reklamation's position on the use of this property is confirmed by Mr. Blackford, who stated that there is not likely to be an office or other commercial use for this property.

While much of the Planning Commission determined that they would be more amenable to granting the variance if presented with a complete plan, this presents a conundrum for Reklamation, as there is no guarantee that if Reklamation did this, it would get any better consideration. Indeed, Reklamation has, for several years, done everything that was asked of it. It has repeatedly been before the board requesting conditional use permits from a Planning Commission which is open about its desire that Reklamation, which owns the property and pays real estate and payroll tax that benefit the city, should leave the property for a more "desirable" use.

In conclusion, Reklamation asks that the Board of Zoning Appeals reverse the decision of the Planning Commission in this case. At the minimum, this case should be remanded for an actual determination of the merits of the application, rather than a discussion about whether it is right that Reklamation change its plans based on the realities of its business.

Thank you,

A handwritten signature in blue ink, appearing to read 'BW', with a long horizontal flourish extending to the right.

Ben Worsowicz

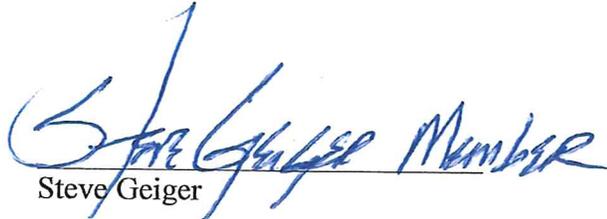
AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN ss:

Affiant, Steven Geiger, states the following:

1. I am an owner of Reklamation, LLC;
2. Reklamation LLC is the appellant in the matter before the Board of Zoning and Building Appeals;
3. I have personal knowledge of the matter set forth herein; and
4. The names and addresses of all property owners contiguous to the property herein and directly across any street from such property, are attached hereto as Exhibit A, incorporated herein by reference.

Further Affiant Sayeth Naught.


Steve Geiger

Sworn to and subscribed before me this 6 day of June, 2017.



BRITTNEY STEWART
Notary Public, State of Ohio
My Commission Expires 08-07-2021


NOTARY PUBLIC

Contiguous Property Owners for Parcel 025-006164-0

City of Gahanna
200 S Hamilton Rd.
Gahanna, OH 43230

Parcels: 025-004267-00, 025-006473-00
025-006693-00, 025-006692-00

Rob & Denise Freiheit
PO Box 2332
Granite Bay, CA 95746

Parcels: 026-190717-00, 025-006689-00

Geiger Excavating, Inc.
PO Box 307717
Gahanna, OH 43230

Parcels: 025-013680-00, 025-006160-00

Columbus & Ohio River RR Co. Parcel: 025-004266-00
STE 300
47849 Papermill Rd.
Coshocton, OH 43812

