

**XENIA TOWNSHIP BOARD OF TRUSTEES**  
**PUBLIC HEARING FOR KIL-KARE REZONE FROM**  
**AGRICULTURE TO B-3 HIGHWAY DISTRICT CONTINUED**

August 17, 2017

**THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE HEARING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.**

The Xenia Township Board of Trustees held a public hearing on August 17, 2017 at 6:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH, 45385 with the following members present:

Mr. Combs called the continued hearing to order at 6:00 p.m. and asked everyone to stand and participate in the Pledge of Allegiance.

Attendees: Steve Combs, Trustee, Chair; Susan Spradlin, Trustee; and Sheila Seiter, Fiscal Officer; Scott Miller, Trustee; Alan Stock Zoning Inspector. A Court Reporter was also present.

Mr. Combs advised that the last thing done at the August 3<sup>rd</sup> hearing was to close the public comments portion and stated the Trustees were ready to deliberate on the application.

Mr. Combs stated that he felt there is a nice cross section of people between the elected officials and the Administration. He stated that even though only three vote the discussion comes from many angles. Mr. Combs also stated that many years ago he had a conversation with a federal judge about a non-compete clause which basically came down to impeding commerce. Mr. Combs was told that Federal Courts do not like to impede commerce. He stated that he went to the site for this application and sat for about 45 minutes, he observed traffic and watching the area and looking for a reason to impede commerce there; he saw the gravel pit across the road which conducted a lot of commerce in the area. He stated that he also drove the road more of the week due to work which helped give him more time to observe the area.

Mr. Combs stated that he knows the Trustees have denied businesses in the Township in the past, but that he was pro property rights and being a small business man, he was pro business. He stated that ironically all those involved have more in common than many think. He stated that the issue of water and sewer for this project we mentioned but knows of other Store and Locks that do not have water and/or sewer facilities. He stated that if they continue to turn down every business proposition that comes their way then he had concerns that the Township would be pushing people toward annexation.

Mr. Miller stated that what the communities of Xenia Township, the County, and neighboring areas needed to survive were a good atmosphere, jobs for the people in the communities, and jobs take businesses. He stated that for families to thrive and to grow, business has to happen in some form. He stated that when he looks at a business he looks at whether it fits into the area; does the operation fit the area, was the business a good neighbor to the community around them, were they good employers by treating the employees correctly and appropriately, were they professional in what was accomplished, were they good environmental stewards to the community and the land. He stated that he looked at this particular property and the owner and had looked at what had happened in the time frame that the current owner owned those businesses. He stated that he saw development and major investment in those properties and investments that are beneficial to the property and the owners, but also an investment in the community by upgrading the properties. He stated that the owner had made improvements that have helped the community around the area to help with traffic flow during events. Mr. Miller stated that this had shown him a strong investment in the community including outreach. He stated that the request was for B-3, which was much broader than this request but this was the applicant's pursuit. He stated that during research of the request, the concern brought to them was the availability of water and sewer. He stated that in his opinion, instead of zoning stated you shall do this it basically says you may do this. It is not as strong as a shall. Mr. Miller spoke about the access to water and sewer and that the Health Department and the EPA would have oversight to that, so if and when it was required they would give the procedures. Mr. Miller stated that when it comes to annexation, for a Township to grow at least business wise, the only way that was going to happen was through annexation, because the providers of those services in our area was the City of Xenia and for them to extend those services would be through annexation at this point in time. He hoped that would change in the future but it had not in recent years. Mr. Miller stated that there were ways to accomplish the water and sewer issues that are liable and protect the public interest. He believed that the business model that had been taken on was one of taking in the consideration of the public, neighbors and congratulate them on their ability to do the business that they do.

Mrs. Spradlin stated that this was brought to them for the first-time last year in 2016 for B-3 zoning, and she had stated then that she was against B-3 zoning and had recommended a PUD. She stated that this was before them again for B-3 zoning, and stated in the last meeting that she felt that allowing the highest level of zoning was not in the best interest of the remaining properties in the area. She stated that it could place a lasting negative impact on the adjacent properties. Mrs. Spradlin advised that she stated last year and again this year that she has no problem with storage units, and had listened to people talk against the B-3 zone not the storage units. She stated that she would like to be able to permit the building of the storage units on this property; however, she had not been satisfied and not comfortable knowing that she could give the parcel the entire B-3 zoning and all that was included with it. She stated that she did not believe that the current owners have any of the other uses in mind but her concern was that the property could be sold and the zoning goes with the property. Mrs. Spradlin stated that she did not want to base anything on the character of the current individuals, but with what a B-3 district could allow versus what a PUD, allow and not allow. That was what she would base her decision on tonight.

Mr. Miller stated that commerce had been mentioned and the pros and cons of additional commerce. He stated that in this case it was a small business to add this store and lock operation. He advised that the chances of it having two to three new jobs is a possibility. He stated that the other side of it would be that if it accomplished what they asked for and gives them enough cash flow that it balances out the rest of the operation. This would add to the local economy and provides a service to the community. He stated that there would be an impact to the area but he did not see it as a negative impact.

Mr. Combs stated that this project also had the in-favor support with a 4 to 1 zoning commission vote. He stated that he looked for a good reason to attempt to impede this desired commerce but he could not find it. He stated that commerce creates jobs and revenue. He recommended that this request be approved, unless there was any more needed discussion.

Mrs. Spradlin stated that she was thinking back to the farmers that spoke at the last meeting who stated that this would impact them. She stated that she does not have a problem with storage units just with the B-3 zone that has many uses and they would not have any control over that at all. Even though this was not the intention of the current owner; she was thinking of the farmers, business people, the Township Trustees, Zoning and their oath.

Mr. Combs stated that he thought hard and long about what Mr. & Mrs. Hawkins had to say because they were Xenia Township residents and that carries a lot of weight with him, but he added they could not consider just one family but the overall picture.

Mrs. Spradlin agreed on the store and lock but she also agreed that B-3 was not the way to go about it. It could be achieved with a PUD and would give the Trustees and the Zoning Commission the ability to put restrictions on it and to keep it as a store and lock and not any of the other uses allowed in B-3. Mr. Combs stated that he respected Mrs. Spradlin's opinions on this matter but he was perplexed why the Zoning Commission would vote for this change with a vote of 4-1. Mrs. Spradlin stated that it was denied the first time. Mr. Combs stated that it was this year's vote that matters, and Mrs. Spradlin stated both votes should count. Mr. Combs stated that what really counts was right now.

Mr. Combs moved to approve the zoning map change being considered at 1166 Dayton-Xenia Road, Parcel Number M36000100160004500 change from Agricultural to B-3 Highway Business District. Mr. Miller seconded the motion. ROLL CALL: Mr. Miller – aye; Mr. Combs – aye; Mrs. Spradlin – nay. Motion PASSED by roll call 2-1.

**RESOLUTION NO. 2017-163**

Mr. Miller moved to adjourn the public hearing. Mr. Combs seconded the motion. ROLL CALL: Mr. Miller – aye; Mr. Combs – aye; Mrs. Spradlin – aye. Motion PASSED by roll call 3-0. Meeting adjourned at 6:28 p.m.

XENIA TOWNSHIP BOARD OF TRUSTEES

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Resolution #

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Steve Combs, Chair

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Date Approved

\_\_\_\_\_  
Scott Miller

ATTEST:

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Sheila Seiter, Fiscal Officer  
MEH

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Susan Spradlin