



## Board of Zoning Appeals

**Perrysburg Township**, *Established 1823*

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Russell R. Miller, Chair  
Bob Warnimont, Vice-Chair  
Linda Wilker, Secretary  
Craig Biniker  
Joe Goodell  
Bill Irwin, Alternate

## Board of Zoning Appeals Meeting Minutes August 17, 2021

Mr. Miller, Chair of the Perrysburg Township Board of Zoning Appeals, called the meeting to order at 6:00 p.m.

### Pledge of Allegiance

Mr. Miller welcomed Mr. Goodell to the board as the newest board member and thanked him for his membership.

Mr. Miller asked for cell phones to be silenced, and asked that those that need to take calls to step to the foyer for those calls. Any discussions should be taken to the foyer as well, as our sound system is sensitive.

Members present: Mr. Miller (C), Mr. Warnimont (VC), Ms. Wilker (S), Mr. Goodell and Mr. Biniker

Mr. Miller asked for a motion to approve the agenda. **Mr. Warnimont moved to approve the agenda without revisions. Ms. Wilker seconded the motion.** Mr. Miller asked Mr. Celley to call the roll. *Yes – Mr. Warnimont, Ms. Wilker, Mr. Biniker, Mr. Goodell and Mr. Miller*

Mr. Miller asked for a motion to approve the minutes for June 15, 2021. **Ms. Wilker moved to approve the minutes, Mr. Biniker seconded;** *YES – Ms. Wilker, Mr. Biniker, Mr. Warnimont, Mr. Goodell and Mr. Miller. Motion carried.*

Mr. Miller asked all those who intend or think they might need to make a presentation to stand and be sworn in; he subsequently swore all those in.

**2021-0079** Jesse H. Smith, 9692 Bishopswood Lane, appeals the decision of the Perrysburg Township Zoning Administrator denying the application to operate an elder care facility at 9692 Bishopswood Lane in Perrysburg Township due to insufficient off-street parking. The property is further known as Oakmont Plat V Inlot 207, Wood County Parcel No. P60-400-090305008000. Said property is zoned PUD-R Planned Unit Development Residential, containing 0.1928 acres of land.

Jesse Smith, 9692 Bishopwood Lane, Perrysburg, OH, spoke on helping his grandmother when she was physically unable to care for herself at home. He and his wife moved in to assist her, and now wish to add several other elders in the home. His application for an elder care facility was denied by the Zoning Administrator as having insufficient off-street parking. Mr. Smith talked

about the Fair Housing Act. His home is a single-family home and the Fair Housing Act considers group homes as single family dwellings. According to the current Zoning Resolutions, he only needs two parking spaces, which he has. He stated that under the law, unrelated individuals living and acting as a family, you are considered a family. The Ohio Supreme Court states that treating a group home like it does not count as a single family home is familial status discrimination. We are talking of a group home with three to five individuals that will eat communally and be cared for by the family; getting one-to-one care throughout their day. We could apply for a variance, but per the township application, a variance is granted for undue hardship. This is an incorrect test; the correct standard only has to show it will cause a practical difficulty. Mr. Smith distributed materials for review.

Mr. Miller asked for questions from the board. Mr. Warnimont said, you said you are a family, and you live on a curve, where parking is very limited for your neighbors. If you have five family members, and five more cars show up, where are they going to be parking? Mr. and Mrs. Smith both responded that it is no different than if someone had three or more children after they moved in, how would that be different? Mrs. Smith stated that visitors to the elders staying in their home will have visitation appointments only that must be scheduled in advance, especially with COVID. We park in our garage, so that leaves spaces available for an employee or people visiting our elders.

Mr. Miller asked Mrs. Smith if she would be speaking more, or are you depending on your husband's statements. Mrs. Smith stated that no, she would only step in to clarify any issues. Mr. Miller asked if the Smiths have spoken to their neighbors concerning their plans. Mr. Smith stated yes, they have spoken to those on either side and across the street. Mr. Miller asked specifically if they had spoken to Nathaniel Weyandt, Scott Burnett, Megan Frazier or Todd Bortz. Mr. Smith responded yes, we had one neighbor that had an objection but we worked it out. They did not speak to Todd Bortz. Mr. Miller asked if any other communications have been received from any neighbors, Mr. Celley responded, no.

Mr. Miller asked Mr. Smith the nature of the disabilities for their clients. Mr. Smith stated that anyone from the age eighteen forward would qualify. They may have dementia, they may need other help they would be considered an adult mental health or addiction center. Mr. Miller asked if what type of medical care. Mrs. Smith said no medical care would be given, no medical would be provided, and just assistance with taking prescribed medication at the appropriate time. Mr. Miller discussed visitation by appointment only; also transporting clients to doctor's appointments, hair or barbershop appointments. Mrs. Smith stated transportation would be arranged and other appointments would be in the residence, no more than once per month.

Mr. Miller asked if they purchased the home for personal use, then decided to change the use. Mrs. Smith stated that they purchased the home for this group home use. Mr. Miller read the definition of family in the Zoning Resolutions, and asked the Smiths if they were aware of the definition. Mr. and Mrs. Smith responded that the State of Ohio says under Department of Health and Addiction services are not required to adhere to local zoning laws. Mr. Miller asked if they felt state or federal law superseded local zoning laws. Mrs. Smith responded no, the local

government is entitled to set zoning law, but discrimination is a cause to be trumped. Mr. Miller asked if it would only relate to the protected classes. Mrs. Smith responded yes, sir. Mr. Miller asked if they acknowledged the difference between the original use of the home, and use as a group home. Mrs. Smith responded that they only had the definition of family from the zoning resolution in an e-mail. Mr. Smith expounded on their interpretation of federal and state laws. Mr. Miller asked why they did not license as an elder home. Mrs. Smith stated that they are not exclusively an elder home and did not want to limit their clients to those 65 and over.

The board asked about social workers in the home, and what employees would be in the house. Mr. Smith stated that they would have one employee for an eight hour shift, but not a RN. Mr. Goodell asked if there was a need for physical therapy, or blood draws would be handled. Mr. and Mrs. Smith responded that the required service (re: PT) could be coming in to the house to perform the service. Mr. Warnimont asked if both the Smiths would be in the home caring for clients on a 24 hour basis, Mrs. Smith responded no, they would be on site during second and third shift hours and would have an employee for eight hours during the daytime.

Mr. Miller asked for anyone wishing to speak in support of the application; hearing none, asked for anyone wishing to speak in opposition. Jody Burnett, 9676 Bishopswood Ln, stated that she lives adjacent to the property; she stated that the Smiths had never mentioned that they intended to make the home a group home. They never notified the HOA; Ms. Burnett was the one that brought it to HOA's attention. There are limited sidewalks, so people walk in the street, and parking is an issue for the Burnett's without the addition of the group home. Ms. Burnett continued with the liability of clients being confused, falling on her property and the lack of a privacy fence. She notes that the hallways are narrow, the bedrooms are all second floor, and there is no chair lift at this time. She also spoke about the difficulty hiring in local home health agencies. She also stated that they intend to get the home staffed and started, and then intend to move out, and have the home staffed 24/7. Mrs. Burnett praised them for their passion, and ideas of providing a great service, and hope that this is type of service is available to her parents when she needs it, but the home is not ideal, and the neighborhood is congested and could be dangerous for the care of the elderly.

Mr. Warnimont stated the board was only here to address the parking spaces; Mr. Miller expounded that the board was not a trial, there would be no back and forth and that they could only address the current Zoning Resolutions as they currently stand. Mr. Miller stated that it is an allowed use within the Zoning Resolutions; however, other considerations are under scrutiny.

Ms. Burnett spoke again, and Mr. Miller stated that the trustees were very open to citizen concerns, and the she could approach them, but if she spoke out again, she would be asked to leave the meeting.

Another individual who was not sworn wished to speak, and Mr. Miller had them approach the lectern to be sworn. After swearing in, Ms. Christina Smith, Jesse Smith's mother from Liberty

Center, spoke briefly to address vehicles parked in the street, as well as a van Ms. Burnett was speaking about.

Mr. Miller again asked for anyone wishing to speak in opposition to the application. Greg Rufty, 26671 Foxton Ct. works as a school bus driver and covers Oakmont. He agreed with Ms. Burnett concerning the parking situation on the street and difficulty navigating a school bus in the narrow congested neighborhood. He stated that he first heard about the issue two days ago on the Oakmont Facebook page. Mr. Rufty discussed the neighborhood congestion, the number of children playing in the streets or cul-de-sacs and his own efforts in caring for his aging parents.

Abigail Sadowy, 9553 Bishopswood Ln. my husband passed away from cancer and we had home health agencies in our home for about five years. I am new to the area, and looking at the traffic and congestion, I agree with Ms. Burnett and Mr. Rufty.

Mr. Miller stated that we have three options under the resolution. First, to find it is not a family residence, second is to find it a family residence or third to uphold the zoning administrator's original denial. Is there any discussion from the board, or can we open it for a motion. Mr. Warnimont stated that he feels that the first option – so to consider it “other” than a single family dwelling would be his choice if he were to make a motion. Mr. Miller stated that he is concerned with the interplay of federal and state law, that the applicants are sincere in their passion and goals, but he is concerned with turnover for the business, and the argument for the business being a family, or a business rather than a single family. A brief discussion followed. Mr. Goodell moved to affirm the zoning administrator's prior denial of the application, Mr. Biniker seconded. *YES – Mr. Goodell, Mr. Biniker, Mr. Warnimont, Ms. Wilker. NO – Mr. Miller.*

Mr. Miller stated that the application is denied and the zoning officer's denial stands.

Mr. Miller stated that the board had one other thing to consider on the agenda for the meeting. We have had discussions on updates to the Perrysburg Township Zoning Resolution; especially concerning Article VII, Section HH. Solar Panels as expressed by Mr. Warnimont – installations are too restrictive, and Article VII, Section BB. Swimming Pools for Private Use – Mr. Miller feels again that the requirements are too restrictive considering new products for safe use on private pools.

With no other business on the agenda, Mr. Miller asked for a motion to adjourn. **Mr. Warnimont moved to adjourn, Mr. Biniker seconded.** Mr. Miller asked Mr. Celley to call the roll. *YES - Mr. Warnimont, Mr. Biniker, Ms. Wilker, Mr. Goodell and Mr. Miller. Meeting adjourned: 7:28 p.m.*

**Respectfully submitted,**  
Liz Avery