Scioto Township Trustees
Zoning Hearing
December 8, 2010

Chas Kaiser called the December 8, 2010 meeting of the Scioto Township Board of Trustees to order at 7 PM.

All in attendance joined in the Pledge of Allegiance.

Roll call was answered by: Sandra Stults, Rodger C. Finks and Chas Kaiser.

Others in attendance: Bill Swaney, Doug & Karen Eddy, Ben Jackson B&C Communications, Andrew & Mrs. Knight, Tim & Leyan & Austin Kelleher, Julie & Alec Andrews, Dick & Elaine Salsba?, Nick & Brian Beougher, Ryan & Stacy Sayer, Andy Zairns, Bill Cox, Shane Dawson, Cl Rl?, Jeff Kasburg, Bruce Stayner, Mike Knapp, Jason Hutchisson, others not signed in.

Chas: We are going to run right to the public meeting now on the rezoning application. Mr. Andrews would you like to speak?

Alexander Andrews: Thank you very much. I am Alexander Andrews and this is my wife Julie Andrews. We are the applicants for the zoning change at 9716 Fontanelle Rd from FR-1 to C-2 neighborhood commercial as sent out in the resolution 13.01. The purpose of neighborhood commercial as a Zoning district is stated in the zoning resolution. It is the intent of the Township to create a commercial district which together with the regulation of future areas and rehabilitation of existing facilities will provide the atmosphere and opportunities to develop small neighborhood shopping areas which are pleasant, safe, and convenient to the neighborhood yet not designed to serve the public at large. As the proposed use falls squarely within the intent of the zoning ordinance, we are talking about taking an existing structure which is on the national historic register and changing its use from residential to light commercial and a possible café. With the exception of a small sign there will be no real change to the exterior of the structure or to the grounds. It is our goal to preserve the residential look and feel of the property as it currently exists. Our application addresses each of the relevant conditions of the zoning resolution. I will not rehash each detail here. Instead we are here to answer any questions that you as board members might have. To summarize where we are in the process, our application was reviewed and approved by the Delaware County regional planning commission on October 28, 2010. The director's comments were that this is a suitable and appropriate use of C-2 zoning and this particular property. He also felt that the proposed use would facilitate preservation of the historic structure on the property. The zoning commission recommended approval of our application at their public hearing on November 8, 2010. We have had preliminary walk-through by the fire department and the Delaware County building department to learn what they will require for a certificate of occupancy. And we have had a walk-through by the county health department to discuss their requirements. We have also had the County sanitary engineer to approve both the septic and the water on the site. We have a hearing tomorrow night before the

BZA to discuss our application for a 3 foot variance of the setback for the front property line. We have done a substantial amount of work to get here this evening and to ensure that we will comply with all of the County building, sanitary, and health requirements as well as the zoning requirements for the Township. The retail shop and light fare eating establishment proposed is specifically permitted in the C-2 district. No prohibited or conditional uses are contemplated or requested. The proposed zoning change provides a benefit for the Township on several levels in our view. First, it will be the first new business started in the Township in quite some time. Second, we will need a small number of employees to help us staff the store, so perhaps we'll have some new employment here in the Township. Third, this is not a venture where we are receiving tax abatements or incentives, in fact I expect our tax contribution to the Township and the County will rise as a result of this proposed change. And finally the Felkner-Alexander House which has been privately owned for over 150 years will now be open to the public. There is some information on the Felkner-Alexander House, its heritage and architecture and the reason why it was placed on the national historic register. That can be found at www.Felkner-Anderson.org and we have made that available to the public for the first time. With that I am ready to answer any questions members of the board may have.

Chas: The only question I have is about employment, what are you thinking about possible part-time or full-time employment.

Alec: At our initial opening we are going to have limited hours of operation so one part-time employee. If we get this café concept going we may have two or three additional employees on a part-time basis. So, perhaps four employees if everything goes as planned.

Chas: What is your ultimate goal with this facility?

Alec: To have an antiques store that sells furniture, artwork, rare books, home furnishings and a small café that will be of service to the customers while they are shopping.

Rodger: Do you plan to use any of the out buildings for storage or sales?

Alec: Not for sales as such. We will use one of the small and outbuildings for refuse. We are required by the zoning resolution to screen that so we can keep our trash bins in a small out building. There is a barn on the property where we can store inventory until we begin in for sale.

Rodger: My question is about the driveway entrance. It is narrow there, and you might have a problem with trucks getting in. Are you going to widen the driveway to 20 feet?

Alec: The driveway is 13 feet wide and it can be widened without too much trouble and if needed we certainly will do that.

Rodger: Are you planning the outside display of products?

Alec: In the summer we may have something set out by the main entrance as you walk in. That would probably be it.

Karen Eddy: I live on Burnt Pond road just around the corner. I just heard about this a couple of days ago and I am extremely upset about this situation. I want to know how to protest it. We have a lot of 5 acre lots in this area and we are all residential. They are not close to a town or RT36 or anything like that. We bought our land out there because we want to be in residential. If this business fails how do we know what will replace it under C-2. And if we allow this, what if everyone with 5 acres wants to put a business in. We are rural and we want to stay rural. That is why we moved out here. I don't know how to do this out to present my objections.

Chas: What you need to do is what you're doing right now.

Karen Eddy: I don't have any questions about the business. If this goes in it can affect our property values. Something like this would be more appropriate in Ostrander.

Andrew Knight: I live directly adjacent to the Andrews. My 5 acre lot is adjacent to theirs and I too am recently aware of this zoning application. I to have concerns. I am the next-door neighbor and as I talk to Mr. Andrews neither one of us has any idea of what the implication would be for me as a property owner in Scioto township. Secondly, I am just as concerned about what was just expressed. I was told for years never purchase a home next to a commercial development. My wife and I have never purchased a home next to commercially zoned property. And now through no action of my own I am facing that possibility. I have lots of questions and I need a lot of answers and I hope the zoning commission will be a part of that. Thank you.

Sandra: Did you know about the earlier zoning meetings that you could have attended? Had you been notified about them?

Andrew Knight: I do not recall hearing about any of them. I did receive a Xerox copy of a letter about the legal notice in the newspaper.

Bill Cox: I'm responsible for that.

Andrew Knight: And that is why I am here tonight. I just spoke with Alex a moment ago we are neighbors that find ourselves at social gatherings. I was ill the night of his bonfire and left early. He just shared with me that he had expressed an interest in doing this at his party. It is just in the last few days that I have become aware of this. I appreciate your listening.

Bill Cox: 1580 Burnt Pond Rd. I am dead set against this commercial C-2 zoning in a residential farm area. I moved up here from Columbus 37 years ago to get away from the noise and the commercialism. Now for some reason the zoning board and Township trustees are all for everything to get commercial. They got that Agape Manor that was adopted and passed in December 2007. That has been a little over three years ago. It

looks like that is on life-support. It was supposed to be built by the rich and famous out of Columbus. I call it the wealthy house of pleasure. This is now zoned commercial. The $10,000 that the trustees spent for a zoning map in Township is worthless. You should've saved the taxpayers $10,000 because you're not paying attention to where the commercial strip is on route 36. It is not on Fontanelle Road, it's not on Slocum Road, it's not all in all of these other little roads. And just like these other people, they moved out here and bought or built a house which will be their biggest purchase they ever made in their lives. I can't think of anything that cost more other than a divorce. But I will tell you people who moved out here do not want commercial businesses off the main drag of route 36. Now if anybody went to the library or the zoning inspector's office you would have found that C-2 commercial zoning (which this will be) includes liquor stores, carry outs, eating and drinking places where liquor can be served inside the building, self-service Laundromats. Antique shops are not even listed. This is just a small group of what can go into this area. If the gentleman that owns the property and his wife would ask for a conditional use, and if they don't have any business for a couple of years it goes back to residential. If they die it don't go past with the land. It dies when they die. If they sell it dies. Then the neighbors have a little bit of protection. But now that he says that he wants C-2 zoning I am flat out against. I've already got the petition papers and it will come up next spring in the primary. If I can get help from these people out here to walk the petition and get the petitions we'll have a petition up on them. We let Agape Manor slide by us, but this is not going to slide by us. I give you folks a copy this was given to me right here in this building now I want to read just part of it. The ultimate question with one parcel in with many ought to be whether the ordinance is reasonable and whether it is in accordance with the comprehensive plan. This is outside the comprehensive plan if we paid $10,000 for it. That is the reason you went through the process of going to the Delaware County regional planning commission and the Scioto Township planning committee. If that is not it will be left to the whims and caprice of the officials, that's you, which often results in the dreaded spot zoning. Spots zoning involves the unlawful departure from a community zoning ordinance. Now everybody up there is farm residential, or I think most of them are. The Ohio Supreme Court defines spot zoning as the singling out of a lot more small area for discriminary or different treatment to that accorded to surrounding land which is similar in character. An allocation of Spot zoning is generally the result of a request of the zoning parcel of land to a more intense land-use classification. To sustain a piecemeal change from the zoning ordinance, the challenger must argue that the rational relationship exists between the proposed zoning ordinance or amendment and the public health, safety, moral, and general welfare. The rezoning of any single parcel, like the rezoning of numerous parcels at the same time is only justified when it is done in the furtherance of the general plan properly adopted for and designed to serve the best interest of the community as a whole. Not for the benefit of a particular individual or group. Now this is what we're doing here tonight. He is trying to get approval for one individual. And like I said at the zoning meeting, it takes a lot of gall to put all of your neighbors' homes in jeopardy. They got some damn nice homes on Fontanelle road. They are probably working their fanny off to pay for them. I hate like the devil to see this slide by. We definitely need another way of getting information to the people. I understand there is only 20 Gazette newspapers delivered to Ostrander. I don't get the Gazette. We need another way to inform these

people. Most of these people wouldn't be here tonight if I didn't take the time Monday and Tuesday to drop off a piece of paper on their mailbox. Now I could have covered the whole dang Township. That might be what I do the next time some silly little deal comes up to your appointed zoning commission that is just a yes man for this Township. That's all I got to say on the matter thank you.

Chas: Next

Shane Dawson: 9571 Fontenelle Rd. just down the way from Alex and Julie. My concerns that I see with the application for rezoning are similar to what was mentioned before. That rather than a conditional use it would be a change to the zoning. As I look at the Township's comprehensive plan, sub area three for Blues Creek talks about what the Township wants for that particular district. In looking at it identifies 11 acres at the north east corner of Ostrander Rd. and Rt36 as the area for commercial development. There is no mention of commercial development taking place on Fontanelle road or really any other area of district three for that matter. In the application for the zoning change, and it looks very thorough, and as businesses go I'm sure it would be very low impact and I'm sure Alex to Julie don't want it to be a high impact business since they live right behind it. That is part of the problem with this being a zoning change it would be permanent it would last beyond the time that they may reside there. In looking at the application that talks about this being within the parameters of a comprehensive zoning plan. That is your charge to decide whether or not this does fall within the plan. It raises the question with me on how something on Fontanelle Road would fall within the description of where we are looking for commercial development within District 3. Even as I look at the description for C-2 neighborhood commercial I do not see whether or not it meets the description for neighborhood commercial. In13.01 it talks about the regulation of future areas and rehabilitation of existing facilities which will provide the atmosphere and opportunities to develop small neighborhood shopping areas which are pleasant, safe, convenient to the neighborhood yet not designed to serve the public at large public at large. In fact this seems to be just the opposite of that unless those of us in the vicinity are going to need a lot of the antiques or muffins. Then it is specifically designed for the public at large. When I think of neighborhood business I think at Midway Market where everyone runs if you need some bread or milk or a cup of coffee. This is more of a destination sort of business where people would travel to from outside the neighborhood. If that's the case does this really fall under the definition of neighborhood commercial? If it doesn't really fit within the overall zoning scheme for this district with in Scioto township, it really doesn't meet the definition for a neighborhood enterprise. That is where my longer-term concern is. Not just what Alec and Julie would have to do with it, but what would somebody else do with it in 20 years? With that in mind I think the trustees must look at this in the long term as what is best and appropriate for that portion of our Township. Maybe a conditional use would be a more appropriate avenue to pursue.

Bill Cox: at the zoning commission meeting a month ago Mr. Andrews said he wanted the C-2 and not the conditional use as regional planning had said. That is why I am more dead set against this than I was a month ago. If he wants to continue fighting for the C-2,

actually in antique shop on a back road is going to be a hard sell. It would be a tough sell on Route 36.

Sandra: Mr. Cox what did regional planning say about it? I did not catch that. Did they say that it should be . . .

Bill Cox: I tried to get a copy of those minutes, but she still doesn't have them typed up.

Mr. Andrews Did they say it was okay to go with C-2?

Alec Andrews: Yes

Bill Cox: Okay then correct me on that. I have lost half of my hearing and I have to be careful on something like that. We have the conditional use. We have a zoning chairman and a zoning board that will approve anything. They want to play and industrial on Burnt Pond Road 15 years ago. We barely got that defeated by two to one margin with the trustees. And that was planned industrial. I don't know what's going on with you people if you appoint these people, I shook my head a month ago when every one of them approved this. In a farming residential area. If this man would get hit by a truck two months from now and this is approved and his wife if she decides to move out and who's going to move in what is going to happen? What are we going to have a beer joint in there? You can have a liquor store in there it says so. I think you guys are way off in left field. Thank you.

Tom Brown: Just a comment.

Sandra: Can we let everyone speak first before we have Tom speak?

Chas: Yeah, that's all right.

Tom Brown: That's all right.

Doug Eddy: I live on Burnt Pond Road just around the corner from the property in question and I just want to register my objection to the zoning change. Again, I have nothing personal against these folks. My wife and I before we bought the land and built our house in this area we searched for over a year for what we thought was the perfect piece of land. Part of it was the deed restrictions and the zoning. That is why be built our house. This land and house represents the largest single investment I've ever made in my life and I don't want it to go to risk and if you approve this that is exactly which are going to be doing. The C-2, I don't know if everyone here has actually read it, obviously this man has (Bill Cox). It allows for a whole lot more than just an antiques shop and a café. There is doctors' offices, I don't have a problem with that, but there's hardware stores grocery stores, carry outs, like he said a bar. I don't want to risk it. That is all I've got to say. Thank you.

Chas: Would anybody else like to speak on the matter?

Chris Baker: I live at 1737 Burnt Pond Rd. I live a ways from you folks. First of all, I would like to commend you were trying to start a business. I have just done that two times in the last year. I think the way it sits now it should probably be conditional as to what is before everybody right now. As it stands now I would also have to object. That is all I have to say, other than maybe we can find a better way to notify everybody in the area. I'm sure there's a better way to do that. That's it.

Chas: Anybody else.

Leyan Knight: I am a neighbor of the Andrews. One of my greatest concerns, besides the property value, is the safety with all of the traffic coming through on Fontanelle road. We are a neighborhood and people jog on the streets, walk their dogs on the streets, and ride our bikes on the streets. With more traffic and larger trucks I think it will be a concern and a danger. We have had some accidents at Ostrander Road and 36 and this is been addressed. And we've had a couple of accidents on Fontanelle Road and I believe one death as well. I'm just concerned about the extra traffic as well.

Chas: Anybody else? Tom?

Tom Brown: Without being pro or con to the application, procedurally I'd like to say a couple of things to the Board. The trustees may not be aware of, I don't think per our resolution the activity on this parcel is a candidate for conditional use for a BZA action. The resolution clearly lists eight conditionally permitted uses in the FR-1 district. This retail establishment is not one of them. I can read them to you.

Chas: Read them.

Tom Brown: Home occupations; conversion of existing residential structures to permit occupancy by more than one family; private airstrip; private or public school; kindergarten or childcare facilities; church; convalescent home; playgrounds and picnic areas; public or private golf courses, country clubs, hunt clubs or sportsman's club's; cemeteries; barrow pits; dog kennels or catteries; sanitary landfills or solid waste transfer stations; group homes or residential care facilities. The applicants' activities are none of those eight. Which means the BZA could not consider it for conditional use in the FR-1 district. Secondly, as far as the notification Ohio revised code is very clear on zoning changes and request that the notification is the adjacent properties. In this application the only adjacent parcel is Preservation Parks'. It is the only parcel that touches the applicant for zoning change.

Sandra: What about the Knights does their property touch it?

Tom: The only one that touches his is Preservation Parks and only by road right-of-way. That was the only notification for the zoning change. The notification requirements for the BZA action tomorrow are slightly different and they are property owners better 200 feet from the exterior of the property line. So it is slightly different. The zoning change requirements were met those mailings are on file with the secretary of the zoning

commission. There was even some discussion about expanding that notification and the zoning commission was advised that they did not have the authority to arbitrarily extend the notification to anyone outside the Ohio revised code because they didn't have the authority to spend tax dollars outside the authority the Ohio Revised Code had given them. The notification requirements were met and those were the two procedural things I wanted to go over with you.

Sandra: Back in 1995 my husband and I had applied for a conditional use. We went up and down the road and talked to all of our neighbors before we even went to the zoning board. Now I know we have to go according to the letter of the law on things. But we just thought that was the right thing to do.

Tom: I don't mean to be argumentative but did you have a conditional use that is in one of those eight categories?

Sandra: Yes. That's what's bothering me, that the people were not notified. I understand what you're saying as far as procedurally.

Unidentified person: Excuse me may I say something?

Sandra: Yes

Unidentified person: I understand what you're saying there is a difference between what is legal and what is right and we are not a large community here. And that's what she is saying not only what is legal but what is right as far as letting people know.

Rodger: The zoning commission can't go outside of what's legal as the zoning arm of the Township they have to fall Ohio revised code if they do more than that it's expanding Township funds illegally so when somebody could come back and sue the Township because of it.

Unidentified person: So does that mean that since Alec is on the zoning committee that he can't notify neighbors?

Rodger: No the zoning commission itself is asked to follow the Ohio Revised Code that says any adjacent property owner directly adjacent of the parcel in question can be notified. Outside of that you cannot expend Township funds to notify any neighbors outlying that. If you were to come in for a zoning change the Andrews would get a notice and your next-door neighbor but if you were to pull out of parcel of your existing parcel you wouldn't have to notify anybody other than what's directly adjacent.

Alec Andrews: May I respond to some of the comments to the made?

Rodger: Yes

Alec Andrews: I would like to address a couple of points with my neighbors, hopefully we are still friends, I recognize that our communications wasn't so good and for that I want to apologize. But I do want to address some of the merits of the some of the things that have been said. Traffic is a major concern, but we don't see the antique store creating a lot of traffic. We see more traffic now with the Park on Saturday and Sunday. You can watch the cars going in and out of there like bees out of a hive. And I've got to believe that that's a concern for you guys because you directly across from it. I remember when the house was built by the previous owners. The Park wasn't even there then. There wasn't a driveway there. Did they put that driveway in after you?

Andrew Knight: It was planned for another location actually and it ended up across from my driveway.

Alec Andrews: It was planned for more across from our property but with the flooding issues they had to move it farther up. I know you guys have watched that road get created, the landscaping, that huge sign that is right across the street. I understand your concerns about seeing more.

Andrew Knight: I don't know I have expressed those.

Alec Andrews: I can understand that you would have those.

Andrew Knight: Oh, if I had them you would understand.

Alex Andrews: We don't intend to generate that much traffic or have as big of a sign. The traffic is certainly a concern with the Park. Traffic was also an issue when Agape came up. Significantly, because it was closer to the intersection of Ostrander Road and Fontanelle Rd. Significantly because that is a bad intersection, what came out of those discussions at the approval level is that traffic is not a basis to decide one way or the other about a zoning change. The park, Blues Creek Preserve is almost a quasi commercial use, but it is exempt from zoning because of its park nature. So it has a sign that is as big as this whiteboard and I don't believe the zoning commission was ever asked to grant that signage or the BZA was asked to grant that signage. Unfortunately, over the Park, our Township officials have little control. Currently, traffic wise, I think our biggest traffic user in the Township is the pumpkin farm. During the months of September and October, when they see the most customers, there out on Rt 36 I've even seen officers directing traffic in and out of the pumpkin farm. It is not the best situation in the world. Really I don't think we're going to have that much traffic and if we do I'd be very surprised. Impact on the neighborhood, I have expressed and it is our intention to preserve our property the way it is now. The only change will be a sign about 15 feet from the road. I am not a real estate appraiser, we talked about this, I'm not seeing a huge effect on property values, but I also live next door and have a home next to this property and I wouldn't do this if I thought there would be a negative effect on the value of my house. Tax base, as I said earlier residential property is a problem for a community they do not pay for themselves from a tax standpoint. If we have a family of four that generates $3500 or $4500 of taxes a year and have two children in school the

per student cost is about $8000. Those funds are not paid by the real estate taxes that we all pay. If it wasn't for industrial and commercial properties we would not be able to spend that much on our students. Buckeye Valley currently has a 1% income tax because the residential land cannot foot the whole bill for educating our children. Commercial is a necessary component of any community for a tax base to maintain our schools and services. Want to address Shane's comment about the comprehensive plan. Plans, goals, and objectives include retaining historic and agricultural structures where feasible and to encourage commercial and light industrial development in planned districts to broaden the jobs and the tax base and to prevent property tax rates from being increased as a response to Township residential growth. Just the thing I've been talking about. The Felkner Anderson house is noted in our comprehensive plan. I know that because I've read the plan and I was on the planning committee. Is the only historic structure that we really know too much about we are happy to make that available to the public and make it open. Permitted use, this is the type of thing that's exactly within in the permitted use of C-2. Conditional use, as Mr. Brown as pointed out does not give us an option here in FR-1. The available conditional uses in FR-1 do not include the type of use we are talking about. We certainly looked at that, we were hoping that was an option, it just doesn't fit; it's a square peg and a round hole. The same is true for planned commercial which is available. But because we are not talking about new construction, or new development, we're not talking about a shopping center or that kind of thing. If you look at the planned commercial district this use does not fall squarely within it. It does fall squarely within the C-2. Some townships in Delaware County have a eliminated their light commercial and industrial districts in have gone completely to planned districts, so they can get more control over the individual changes in the zoning that people are applying for. It is one school of thought, that says that is way too restrictive, too much of a burden on the Township officials that try and micromanage those plans and not enough flexibility for the residents when they want to change use. The jury is still out on that one. But at the moment we have these districts and they are there to be used and the purpose of them is as we have discussed already. The point I'd like everyone to keep in mind is that we are not changing the property; we are only changing the use of the main and historic structure on the property. This is going to be, in the words I have mentioned, low impact use that is not going to place any increased burden on the neighborhood or the Township services and it should provide a benefit to the community. And with that I will now sit down.

Rodger: Could you expound on what can happen with the property as it is listed on the national registry. The house itself, what can and you cannot do.

Alec: I cannot recite for you, Mr. Finks all of the things I can tell you that if you apply for historic tax credits for example if you want to do renovations on the property and you want to be able to take a tax deduction on your federal or state return you have an enormous process to go through. You have to apply for those tax credits, you have to be awarded those tax credits and then you have to meet the federal guidelines for preservation. That is quite an arduous task. There is a whole industry devoted to helping property owners do just. That that is not within our plan, but we are certainly mindful of retaining the historic aspects of the home, the architecture, the ambiance if you will, or

whatever. We have not made significant changes to the home in the 18 years we have owned it.

Rodger: I guess, what I'm asking for, is can you, you know, the interior the house. Obviously the exterior has to be maintained in some shape or fashion without approval from the national Registry. Is the interior covered as well?

Alec: Actually my understanding is that although it is on the National Registry that does not mean that you have to do anything particular to it. So you could presumably lose your listing if you went and altered it such that you destroy the historical architecture and the points of interest that got it on the list in the first place. It is our intention to maintain all of that, to keep it listed and to develop that historical part.

Sandra: So if this was changed to commercial, there is nothing saying that it will stay a national historic landmark that could go away.

Alec: No, my understanding is that it doesn't change the "listability" of that property.

Sandra: No I mean if something happened to the structure itself.

Alec: If there is a fire or a flood or a huge windstorm that takes the house down, you can't rebuild a 150-year-old home with the same bricks. That would have an effect but just having a commercial antique store and café there will not affect the listing. There are a lot of commercial properties on the National Historic Registry. Thank you very much.

Andy Zarins: I don't think I'm callous as far as people's concerns, I think everyone has a legitimate concern, here however I think the problems I see brought up as far as a small business going along the road is very minute compared to the problems I have and I think you're well aware of the Lake Hill hunting club now they have built a second rifle shooting range and what I wanted to say is you have not done anything as far as your zoning to allow 400 to 500 shots rifle shots to be shot a day.

Rodger: This is a public hearing on the Andrews' property.

Andy Zairns: Okay that's what I'm saying, this is my point, I want to bring it up later in more detail but my point is the things we are talking about here are very minute as far as causing any kind of disturbance.

Chas: Bill

Bill Cox: Chas according to my information there are 1308 townships in the state of Ohio, we have 3924 trustees, we have an Ohio Township trustee Association do we not?

Chas: Yes

Bill Cox: Okay, this problem did not start just yesterday on notification. Now Mr. Brown his talk in Ohio revised code that gives him an out. You advertise it one time in the local newspaper and then that's it. You are not doing your civic duty. not one of you three are doing your civic duty if you don't notify the Township Trustees Association and tell them we have one hell of a problem here on notification and get after. . . there are 4000 of you guys and gals, why can't you get after the state legislature to do some changes. 20 years ago most people had a newspaper, now with the Internet, e-mail, everything else nobody gets the paper. So what happens? All these fellas, all these people, they fall through the cracks. If I wouldn't gone out Monday and Tuesday and advertised it, they wouldn't be here tonight. You would've given them a complete snow job. So in my opinion, you are not doing your duty and all three of you, the three of you should resign. That's all I've got to say.

Chas: It's your choice Bill whether you get the paper or not.

Bill Cox: It's upsetting.

Chas: It's nobody else's choice but your own if you don't get the paper. Right? Right? Am I right or wrong? Whose choice is it if you get the paper?

Bill Cox: They are a lot. . .

Chas: No, answer my question. Whose choice is if you get the paper not?

Bill Cox: There are people who are just living on Social Security and can't afford $119 a year or the Gazette or 330 some dollars for the Dispatch. Some of them are working two or three jobs and thankful to take other jobs, they don't have time to read it. I think there ought to be a better way, I don't know the answer. But I think out of 4000 township trustees you can put your legislature into doing something. And to notify just one neighbor next door to a commercial zoning, I think that's disgraceful, it is common sense.

Chas: I don't know if notification is the issue here.

Bill Cox: Okay.

Chas: Board, we need to make a decision we need to move on. State your comments. I can go first if you like.

Rodger: Go ahead. Do you want to do the motion first and then discuss? Or do discussion first?

Chas: I think we need to do discussion first.

Rodger: Go ahead then.

Chas: My opinion, I love the idea. Is the location correct? I don't think so. The conditional use, if zoning and the trustees would consider changing the conditional use on this, with language, then I would be alright with it. I understand the Township's concerns and I wouldn't want an alcohol serving facility to be put in their place either. I don't think that's right. I think Mr. Andrews is sincere with his intentions and with conditional I think that can be met. Otherwise I'd say no.

Rodger: I think the idea is great. I personally would like to see something like that. Location, not ideal, but you deal with what you have. Spot zoning, I'm going to dismiss that in my mind right off the get-go. Our zoning as it is written does not allow for conditional use in the FR-1 district. The only other option was the neighborhood commercial. Should that be the way it is? Maybe not. The only way to get to a point would be to ask for a change in the zoning which takes 6 to 9 months. I would like to see it as a conditional use, not giving you any answer on how I'm going to vote yet, I'm still wrestling with that idea. But a conditional use in my opinion would probably be a better fit. Unfortunately that is not the option in this case. Everyone's concerns are valid. There's too much latitude in the commercial. What I was looking for on the historic national Registry there was you can't change the interior of the house and the exterior without a lot of federal paperwork, you know government bureaucracy. And to maintain a structure on the National Registry, I guess I initially confused that with a National Landmark versus the National Registry. I would hope that it wouldn't get changed. I know of several old houses in the Township around the 1850 era. Not to say that they won't get changed and updated. Is an antique shop going to be a major problem? Probably not. Is it going to create a lot of traffic? Probably not. Could it? I don't think so. Do I like the idea of the neighborhood commercial? Not specifically. Unfortunately, but unfortunately that's the only other option they have. Those are my comments.

Sandra: Being raised in the country, being raised in Delaware County, I have strong feelings toward you should be able to do what you want on your property. But I see zoning as a necessary evil. I think the lack of notification is a problem. Thing is Township government is a statutory government, that means we can only do what's in the Ohio Revised Code. If it says we can do it we can do it, if it says we can't do it we can't do it. With something like this, I think the Ohio revised code should be addressed. I really do because I don't want things like this to happen in the future. I love the idea of an antique shop. I love the idea of commercial, we need commercial desperately. I don't mind an antique shop in an old house. I think that's great. Changing it to commercial, we could be opening a whole can of worms about what would happen one down the line. What could be put on there. I have a problem with the way we are approaching it with the commercial. I wish there was a different way we could do it. You know more about the zoning and could you think of any other way or something we could do through our zoning that we can make this happen without it being commercial?

Alec: In theory you could amend the provisions for conditional uses under FR-1 to permit something like this, but as you say, you're talking about a 6 to 9 month process to try and get that change through .

Sandra: Are you on a timeline on this where you want to get it started?

Alec: Yes yes, it's currently vacant we need to get it into use.

Sandra: I understand. That is all I have to say.

Rodger: Okay are we done?

Chas: Yes

Rodger: Based on what I've been told in the past, all motions have to be in a positive. At this point I make a motion to approve the rezoning request for 9716 Fontanelle Rd. for Alec and Julie Andrews.

Sandra: I'll second.

Susan: I'll have a vote.

Chas: No

Sandra: No, I want to find a different way, I really do. I'm sorry.

Rodger: Yes

Susan: Two no's and one yes, it goes down.

Chas: I'm with Sandra. If we can find a different way to conditionalize it, I don't have a problem.

Rodger: I'd love to see something like that.

Chas: I think the residents spoke.

Sandra: There's got to be a way to make it happen.

Rodger: I think it can happen.

Julie Andrews: There are so many things you have to jump through hoops for. And in addition to trying to get change, unless there is some way the zoning committee can approve it

Rodger: It can be initiated as a conditional use within the FR-1 district. You know as an amendment to the zoning resolution. But that, like I said, that takes time.

Julie Andrews: Should we at least get that started now with you there since two of you have...

Rodger: We can make a formal request of the zoning commission to add similar occupations under the conditional use portion of FR-1.

Tom Brown: The trustees can request, I think it would be speedier if the trustees actually suggest some language or some parameters. I think that if the Board is serious about wanting to expand the zoning resolution and think there is a need, they need to communicate that to the zoning commission. Maybe more specifically than just try to make the Andrews' application fit. I think it really needs to be addressed how to make, whether it is this retail or I think the trustees need to communicate that to the zoning commission.

Sandra: So who wants to work with Ed Roberts on it?

Rodger: We would have to put that in a formal request. Do you have something on that?

Alec: No but I wanted to mention something to Tom since he is sort of the one member sitting up there. I want to point out a resolution. I don't want the board to make a procedural gaffe.

Tom Brown: I would say in a reprinting of the resolution which is not. . .

Chas: Tom we need you on the record if you are going to. . .

Tom Brown: The Ohio Revised Code has changed and I think that our resolution has been amended to meet the Ohio Revised Code.

Rodger: I think I know what you are talking about. The Ohio legislature recently changed a unanimous vote to a majority vote to overturn the recommendation of the zoning commission. That's just been in the last six months I know it was proposed last year but it was in the last six months that it was actually enacted.

Unidentified person: I don't think we've changed that.

Rodger: It is not changed in the zoning resolution yet.

Tom Brown: I think because the Ohio Revised Code has changed that it is in effect.

Chas: We are going to close the public meeting now and move right on into our regular meeting.

8:15 pm