

GROVE CITY, OHIO COUNCIL
MINUTES

December 12, 1994

Special Meeting

The special meeting of Council was called to order by President Grossman at 7:00 p.m. in the Council Chamber, City Hall, 4035 Broadway.

Roll was called and the following members were present:

Cheryl Grossman Michael Milovich, Jr. John F. Schreck
Todd Hurley Jeff Warner

1. Mr. Milovich moved to dispense with the reading of the minutes and approve as written; seconded by Mr. Warner.

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| Mr. Milovich | Yes |
| Mr. Hurley | Yes |
| Ms. Grossman | Yes |
| Mr. Schreck | Yes |
| Mr. Warner | Yes |

The Chair recognized Mr. Hurley, Chairman of the Lands & Zoning Committee for discussion and voting of legislative agenda items under said committee.

1. Resolution CR-69-94 (Appeal the Decision of the Board of Zoning Appeals Granting a Variance for Keeping Horses at 2942 Demorest Road) was given its reading and public hearing.

President Grossman explained her reason for filing the complaint, citing neighbor's complaints, noxious odor, noise and safety. It is her understanding that there has been large piles of manure in front of the home emitting a terrible odor. She stated that there is an electric fence up now that is also against the Code. With the church being on the other side, she is particularly concerned with the children who might be attracted to these horses and the harm that could cause.

Mr. Michael Brandt, attorney representing Mr. A. Prince, explained that this was a two (2) item variance - B.Z.A. denied the variance item for a dog kennel and granted the variance item for keeping two draft horses. This property lies directly behind Beulah Park; to one side a church and to the other a residence and across the street are some residences. There is still some vacant ground around this property. When his client purchased this property, he was unaware that he could not keep the dogs because the prior owner had a kennel. It also has a horse barn which has been there for years. There is no horse manure - what was seen is a processed ground cover, used in a lot of areas. He said he feels that the majority of the odor comes from Beulah Park. He stated that Mr. Prince has a carriage business in downtown Columbus and he brings two horses out to this property to be rested up and the same two never stay for more than a week.

He feels that there really is no reason not to allow this. The only complaints that he is aware of came from the two ladies that are present tonight. He indicated that because of the things that were said and the attitude of his client, it has prompted Mr. Prince to contact a real estate agent and list the property for sale. He is not going to stay in Grove City anymore. If the variance is not granted, the horses will be gone soon anyway. He said he hoped that any of the problems that arose with regard to Mr. Prince do not have anything to do with his personal lifestyle.

Mr. Hurley asked if the property was purchased after annexation? Mr. Brandt said yes. Mr. Hurley then asked if he was aware of what the zoning is? Mr. Brandt said the way he understood it was the property was brought in as Residential and Mr. Prince had nothing to do with that. In fact, the prior owner led him to believe that he could do what he had anticipated doing. Mr. Hurley commented with regard to Mr. Brandt's comment to lifestyle, he was not present at the BZA meeting and has no idea what he means. So, he can guarantee it will not affect his decision. Mr. Hurley then expressed a new concern with regard to Mr. Prince selling the property. As he understands it, the variance remains with the property and if Mr. Prince is not staying, the next owner may have the opportunity to board horses. Mr. Brandt said, on his client's behalf, he would be willing to enter into an agreement placing conditions on the variance that 1. no more than two horses will be kept there and 2. when the property is transferred, the variance would be terminated.

Mr. Warner stated that he visited the property and noticed a large pile of what appeared to be manure. It is truly residential in nature and doesn't feel that this variance is in compliance with that zoning. He said he could find no listings that this property was advertised for anything other than residential and feels that regulations for this zoning classification should be followed. Mr. Brandt stated that he doesn't want it to be a business, it's just a place for him to bring two horses, each week, before going back to the blacktop downtown.

President Grossman read a letter from Mr. Joe Endres, Enforcement Officer, dated December 5, 1994 which outlined the notices he has sent Mr. Prince. The first letter sent was on November 8, 1993 regarding the number of dogs on the property. From January, 1994 to approximately April, 1994 everything was fine on Demorest Road. The warm weather brought out the dogs again and the neighbor's complained. She pointed out the fact that this has taken Mr. Prince over a year to address. Mr. Brandt stated that it is irrelevant to what we are here for tonight. President Grossman said he may feel it's irrelevant, but, it further substantiates that not only have council members received complaints, but, also members of the city administration. Mr. Brandt reiterated the fact that the only complaints he is aware of came from the ladies present this evening and he respects their position. If members of the church have complained, he would like to know about them. He said that the main concern that Mr. Lotz, Chief Building & Zoning Official, and Mr. Endres had was the dogs. They are gone. What Mr. Prince asked BZA for and what he got was not unreasonable and doesn't feel there is a basis or reasoning to take it away.

Mr. Clark, Director of Law, asked when his client purchased the property? Mr. Brandt wasn't sure and Mr. Milovich noted that the Minutes of the November 28, 1994 Meeting of the Board of Zoning Appeals indicate that the property was purchased in 1993. Mr. Clark asked if, at the time of purchase, it was zoned for residential purposes? Mr. Brandt said he did not know. He did not represent Mr. Prince during the purchase. Mr. Clark asked if it was zoned for residential purposes now? Mr. Brandt said he didn't know. Mr. Clark cited under the Appeals and Powers of the BZA there are six (6) different affirmative findings that the Board must find to grant a variances and wished to discuss a few with him. Mr. Brandt said he didn't feel that was relevant since we were not in front of the BZA. The BZA made a decision based upon the information in front of it. Only they can determine if that criteria was met and we must have. He doesn't feel that it is the matter for this Council to consider. Mr. Clark said in reference to it, he will read the first finding - The variance granted must not be contrary to public interest or adversely affect the health or safety of persons residing or working in the vicinity of the proposed development and be injurious to private property or public improvements in the vicinity. He said it would seem, based upon the testimony we have heard from President Grossman and complaints from neighbors, that probably could not have been an affirmative finding. No. 2 is - granting the requested variance will not confer on the applicant any special privilege that is denied by the Zoning Code or Sign Code to other lands or structures in the same zoning district. That being a residential zoning, Mr. Clark said he did not know of anybody, located in the City of Grove City that has horses in their back yard. So, it would seem to him that this would certainly be a special privilege given to his client. He said he feels Council has the ability to use these. Mr. Hurley concurred - stating that they have to base their decision on something and he personally will not base his decision on whether he likes the situation or not. He will base it on criteria set forth in the Code. Mr. Clark said this appeal is different that an appeal in Common Pleas. We certainly have the opportunity to gather facts and make determinations and if Mr. Brandt has anything to offer, we welcome him to address the issues and set forth the reasons why the variance should be granted - other than BZA said it was o.k. Mr. Brandt said his reasons were set forth in BZA. He has a problem with this appeal procedure and he rested with what he had given.

Ms. Francis Foreman, 2950 Demorest Road, voiced her concerns over the BZA decision of granting this variance without setting a limit on the number of horses allowed on the premises. Recently, there were four (4) there. She is also concerned about the compost and how much of that would be allowed to accumulate, as well as controlled. There is absolutely feces in the exercise area. She is very disturbed over the odor, it being a nuisance and the safety factor with the electric fence. She asked that Council not uphold BZA's decision. She indicated that the previous owner did have a kennel license, but, it was in the county. The barn was built around the 1970's and is only aware of one horse ever appearing there for a very short period of time. She has lived there for 31 years and it's very upsetting for her to have this situation there.

Mr. Hurley explained that the way this resolution is worded, a yes vote would rescind the BZA decision and a no vote would uphold it.

There being no additional questions or comments, Mr. Hurley moved it be approved; seconded by President Grossman.

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| Mr. Hurley | Yes |
| Ms. Grossman | Yes |
| Mr. Schreck | Yes |
| Mr. Warner | Yes |
| Mr. Milovich | Yes |

The Chair recognized Mr. Milovich, Chairman of Finance, for discussion and voting of legislative agenda items under said committee.

1. Ordinance C-90-94 (Appropriate \$420,000.00 from the General Fund for the Current Expense of project construction) was given its first reading. Second reading and public hearing will be held on December 19, 1994.
2. Ordinance C-91-94 (Establish the Grant Avenue Improvement Fund and appropriate \$200,000 for the Current Expense of project construction) was given its first reading. Second reading and public hearing will be held on December 19, 1994.

At this time, President Grossman announced that Council would retire to the Caucus Room for informal discussion regarding the Proposed Appropriation Budget for 1995 and any interested party was welcome to join them.

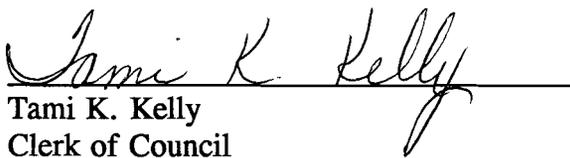
3. Mr. Milovich opened the floor for discussion of the 1995 Annual Budget.

Council and Administration reviewed the Capital Projects within the Summary, the Projected Cash Position, the Estimated Revenue Budget, and finally the Detailed Expenditures for the various Departments.

President Grossman entertained a motion to adjourn.

1. Mr. Warner made a motion to adjourn; seconded by Mr. Schreck. Motion carried.

Council adjourned at 10:40 p.m.


Tami K. Kelly
Clerk of Council


Cheryl L. Grossman
President of Council