

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

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MINUTES OF SPECIAL COUNCIL MEETING HELD: JULY 9, 2002

Acting Mayor Avery called the meeting to order at 7:30 p.m. with the pledge to the flag.

Clerk/Treasurer Cremean called the roll for attendance: Mr. Avery, Mr. Bittner, Mr. Goodman, Mr. Ferguson, Mr. Perry and Mrs. Slotnick. Also present was Mrs. Smith, Village Solicitor.

Acting Mayor Avery called for nominations for Acting President of Council. Mr. Bittner moved to nominate Mrs. Slotnick, seconded by Mr. Ferguson. Mr. Bittner moved to close nominations, seconded by Mr. Ferguson. Roll call vote: Mr. Avery, Mr. Bittner, Mr. Goodman, Mr. Ferguson, Mr. Perry and Mrs. Slotnick all yeas (6). Motion passed.

Zoning Board of Appeals' minutes of meetings of May 28, 2002, and June 3, 2002, read into the record.

Meeting turned over to the Village Solicitor.

For the record, Mrs. Smith advised that this meeting was a special session of Council held for the purpose of hearing an appeal from the Zoning Board of Appeals' decision to grant a variance for Application 16-02.

Mrs. Smith inquired of the Clerk/Treasurer whether notice of the special session of Council was published in the newspaper pursuant to the Village Ordinance requiring notice of publication for the special meeting. The Clerk/Treasurer advised that notice of the special meeting had been placed in the July 3, 2002, edition of the *News Herald*.

Mrs. Smith further inquired of the Clerk/Treasurer whether letters were sent to the parties involved. The Clerk/Treasurer advised that letters were sent to Mr. Timothy Kinsel, 414 Wilson Street, Genoa, Ohio 43430, and Mr. Paul Swinkey, 15028 Timber Lane, Monroe, Michigan 48161, both dated July 3, 2002.

Mrs. Smith further noted for the record that the Zoning Board of Appeals made their decision on June 3, 2002; that notice of intent to appeal that decision was given to the Village on June 5, 2002; that a notice of appeal was filed with the Clerk/Treasurer on June 18, 2002; and that the Village is required by Ordinance to hear the appeal in a special session of Council within 30 days after receipt of the appeal which would bring this July 9th meeting within that time frame.

Mrs. Smith inquired of the Clerk/Treasurer whether he had received any request for a continuance of the July 9th hearing. The Clerk/Treasurer advised he had not.

Mrs. Smith advised that the way the meeting would be handled was to open the floor to those requesting the appeal, or someone on their behalf, to make any remarks, and then an opportunity would be given to the person requesting the variance to make a statement. Mrs. Smith advised that the statements were not sworn testimony, but were meant to give the Village an understanding of the intentions of the parties. After the opening statements, the floor would be opened to anyone wishing to testify, who would

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be sworn in and testify under oath. Next the opportunity will be given to the Village Solicitor and Council members to question any witness. The Village Zoning Inspector will then be called to testify. Finally, Council will deliberate and render their decision, which will be put into writing.

Mrs. Smith then called for anyone present who would like to make a statement to Council on behalf of the individuals bringing the appeal. Mrs. Smith then asked the record to reflect that no one stepped forward to give testimony.

Mrs. Smith then called for anyone present who would like to make a statement to Council on behalf of the individual seeking the variance.

Paul Swinkey stepped forward as owner of the property at 416 Wilson Street, the subject property of the variance, and presented his position in support of the variance.

Mrs. Smith then called for anyone wishing to give testimony in connection with the appeal of the variance.

Dennis Slotnick stepped forward as Chair Person of the Zoning Board of Appeals, at which time Mrs. Smith advised Mr. Slotnick that it would be inappropriate for him to testify at this hearing since he had participated in rendering the decision which is the subject of the appeal of the variance.

Mrs. Smith indicated for the record that no one further came forward to give testimony.

Mrs. Smith then called Mr. George Adams, Zoning Inspector, to testify. Mr. Adams was sworn in and gave his testimony regarding his involvement in connection with Application 16-02 and the subsequent appeal of the granting of the variance. Mr. Adams then answered questions of Council.

Mrs. Smith then invited testimony by the property owner who requested the variance.

Paul M. Swinkey came forward and was sworn in. Mr. Swinkey answered questions regarding his request for the variance and his plans for the lot at 416 Wilson Street, Genoa, Ohio.

Mrs. Smith inquired whether anyone else wished to testify before Council, to which no one responded.

Mrs. Smith then advised Council that it was necessary to deliberate the matter and issue findings in writing. Mrs. Smith reiterated to Council that the issue before them was whether or not the Zoning Board of Appeals erred in granting the variance in question on June 3, 2002.

Council proceeded to deliberate the matter.

Mr. Avery stated that upon hearing all facts presented at the meeting, he moved to uphold the variance granted by the Zoning Board of Appeals, second by Mr. Bittner. Roll call vote: Mr. Avery, Yes; Mr. Bittner, Yes; Mr. Goodeman, Yes; Mr. Ferguson, No; Mr. Perry, Yes; and Mrs. Slotnick, Yeas (5) No (1). Motion passed.

For a more detailed description of any of the items contained herein, please refer to the audiotape of this meeting on file in the Clerk/Treasurer's Office.

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Mr. Avery moved, second by Mr. Perry to adjourn. Roll call vote: Mr. Avery, Mr. Bittner, Mr. Goodman, Mr. Ferguson, Mr. Perry and Mrs. Slotnick all yeas (6). Motion passed and Council meeting was adjourned at 8:43 p.m.


CLERK/TREASURER


MAYOR

RECORD OF PROCEEDINGS

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Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held _____ 20 _____

DECISION
of
GENOA VILLAGE COUNCIL

Date of Meeting July 9, 2002

We, the Council of the Village of Genoa, met in a special open session on July 9, 2002 to hear an appeal of the Zoning Board of Appeals decision to grant Application 16-02 approving a variance on the property located at 416 Wilson Street, Genoa, Ohio.

After listening to the testimony of George Adams, Zoning Administrator, and the applicant, Paul Swinkey, and after reviewing the applicable sections of the Village of Genoa's Codified Ordinances, specifically including Code Section 1137.03, we find that the Zoning Board of Appeals acted within its discretion in granting application 16-02 and do hereby uphold (by a 5 to 1 vote) the decision of the Zoning Board of Appeals to grant such application. Our decision is based, in part, upon the findings outlined by Councilman Avery during the Council discussion period of the hearing. The findings include:

1. All building set backs have been met by the Applicant;
2. Village has previously allowed modular homes to be built on lots and turned on such lots;
3. Testimony has been received that the proposed home will be of greater value than several homes on Wilson Street.

Douglas Avery *Douglas Avery* *yes*
Douglas Avery

Elizabeth Slotnick *Elizabeth Slotnick* *- yes*
Elizabeth Slotnick

Darryl Bittner *Darryl Bittner* *yes*
Darryl Bittner

Luther Goodeman *Luther Goodeman* *ya*
Luther Goodeman

Thomas Perry *Thomas Perry* *YES*
Thomas Perry

Donald Ferguson *Donald Ferguson* *no*
Donald Ferguson

