



## PLAIN TOWNSHIP BOARD OF ZONING APPEALS

### MEETING MINUTES

September 14, 2021

Chair, Richard Martin called the Plain Township Board of Zoning Appeals Meeting to order at 7:00 p.m. The meeting was held at the Plain Township Fire Department.

#### **ROLL CALL**

Attending the Plain Township Board of Zoning Appeals meeting were Richard Martin, Valerie Jorgensen, Chris Barrett, Sara Rastegar, and Shane Clapham. Zoning Officer Ben Collins and Assistant Zoning Officer Mary Fee were also present.

#### **ADDITIONS OR CORRECTIONS TO AGENDA**

None

#### **APPROVAL OF MEETING MINUTES**

##### **August 10, 2021 Meeting Minutes**

Mrs. Valerie Jorgensen made a motion to approve the meeting minutes of August 10, 2021 as submitted. Mr. Chris Barrett seconded the motion. All in favor. Motion Carried.

#### **RECOGNITION OF VISITORS/ CITIZEN'S COMMENTS**

Kevin Hoffman – Jonathan Barnes Architecture & Design LTD  
Talia Friedman - Jonathan Barnes Architecture & Design LTD  
Mike Roberts – Former Chair of BZA  
David Karikomi – Family member of Valerie Jorgensen

#### **ZONING OFFICER'S REPORT**

Mr. Collins stated that the application for re-zoning a parcel on Johnstown Road adjacent to the storage facility received a positive vote from the Zoning Commission. The Board of Trustees will have a hearing at their next meeting. There was no opposition from the public regarding the re-zoning.

## NEW BUSINESS

**Variance Application 09-14-2021-01** – Variance under Section 206.04.1 to allow the applicant to reduce the require 2.5 acres to 2.48 to allow for a lot split.

Mr. Ben Collins stated that this property was purchased by the owner and at the time, the legal description stated that the property was 5.0 acres. When he went to have the property surveyed for the lot split, he came up short which is not uncommon. New technology is more precise that it was 70+ years ago. The owner is working with Franklin County Planning to ensure that this lot split conforms to subdivision guidelines. Sometimes they do not like irregular shaped lots. Soil tests have been completed and will need to be present for the hearing in order to ensure that the lots are both buildable. Mrs. Mary Fee indicated that all the paperwork is in order.

Mr. Richard Martin made a Motion to accept **Variance Application 09-14-2021-01** – Variance under Section 206.04.1 to allow the applicant to reduce the require 2.5 acres to 2.48 to allow for a lot split and schedule this case for public hearing on October 12, 2021 at 7:00 pm. Mr. Shane Clapham seconded the motion. All in favor. Motion Carried.

## OLD BUSINESS

None

## HEARINGS

Mrs. Valerie Jorgensen excused herself from the board and stepped into the audience as the owner of the property being considered for the variance. Mr. Richard Martin swore in Valerie Jorgensen, David Karikomi, Kevin Hoffman, Tali Friedman and Benjamin Collins.

**Variance Application 08-10-2021-01 – 5851 E. Walnut Street** – informal review of a variance under Section 455.03 to allow the applicant to increase the maximum permitted size of combined square footage of structures used primarily for agritourism.

Mr. Ben Collins presented the staff report on the proposed variance. There are two issues for the BZA to consider tonight. The first is whether or not the proposal qualifies as Agritourism and the second is the Duncan Middlefield Factors for an area variance. This property is located at 5851 Walnut Street with a Westerville zip code. The property is in the northwest quadrant of the township. There are subdivisions to the east and south. There is approximately 700 housing units being developed to the west on Walnut Street. Mr. Collins displayed an aerial image from the Franklin County Auditor showing the current state of the property. He then displayed older aerial views which documented the addition of structures on the property from 2013 to the present. These structures and additions are for both agricultural as well as agritourism uses. Mr. Collins presented a rendering elevation of the proposed addition.

The township zoning resolution text states the definition of an **AGRITOURISM PROVIDER**: *Anyone who owns, operates, provides, or sponsors an agritourism activity, whether or not for a fee, including employees at agritourism activities.*

The township zoning resolution text states the definition of **AGRITOURISM**: *Subject to the provisions of R.C. 519.21, as may be amended and supplemented, an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.*

The township zoning resolution text states the definition of **AGRICULTURAL**: *Includes: farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry. Allows farm dwelling structures and farm labor quarters for labor working on the premises. All requirements of these regulations for building and parking setback, off-street parking, ingress and egress, and accessory structures shall be adhered to in conjunction with the sales of agricultural products.*

Mr. Collins stated that these definitions are the key to considering whether the proposed use qualifies as agritourism.

In 2020, the following Agritourism amendment was added to the Township Zoning Resolution.

### **SECTION 455 AGRITOURISM**

**455.01** *In the interest of the public health and safety, no agritourism operation shall be granted a zoning permit unless the following conditions have been satisfied:*

1. *The agritourism provider shall provide evidence that the farm on which the agritourism operation is proposed is comprised of ten (10) acres or more in area devoted to agricultural production. If such farm is less than ten (10) acres, evidence shall be provided that such farm produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.*

2. *The agritourism provider shall identify the educational, entertainment, historical, cultural and/or recreational relationship of the agritourism operation to the existing agricultural use of the property and the surrounding agricultural community in general.*

3. *The agritourism provider shall submit a site plan that includes the following:*

a) *All structures including dimensions and height.*

b) *Setbacks from property lines for all structures.*

c) *Off-street parking lots and parking areas.*

d) *Drives, common drives and all points of ingress and egress.*

e) *Any existing or proposed well and/or on-site wastewater disposal system area(s) on the property.*

f) *Location of all public rights-of-way and private street.*

455.02 The size and setback for any structure, whether permanent or temporary, used primarily for agritourism activities shall meet the following requirements:

1. All structures used primarily for agritourism shall be set back no less than fifty (50) feet from any public right-of-way or highway easement.

2. All structures used primarily for agritourism shall be set back from all property lines and any existing residential structure on another parcel in accordance with the following table:

Size of Agritourism Structure	Setbacks
Up to 5,000 square feet	50 feet from property lines and 200 feet from any single-family dwelling
Up to 10,000 square feet	50 feet from property lines and 300 feet from any single-family dwelling
Up to 15,000 square feet	50 feet from property lines and 400 feet from any single-family dwelling
Up to 25,000 square feet	50 feet from property lines and 500 feet from any single-family dwelling

455.03 The maximum permitted size of a structure or combined square footage of structures used primarily for agritourism shall be based on the following formula:

1. The maximum permitted size of an agritourism structure is determined by multiplying the acreage of the lot times six hundred (600). The resulting number shall be expressed in square feet.

$(\# \text{ of acres}) \times (600) = (\text{maximum permitted size of agritourism structure in square feet})$

Example:  $(10.0 \text{ acres}) \times (600) = (6,000 \text{ square feet maximum permitted for } 10.0 \text{ acres})$

2. The maximum permitted size of agritourism structures on a parcel or adjacent parcels operated by the same owner or jointly with other owners shall not exceed 25,000 sq. ft regardless of lot size.

3. The maximum permitted height of an agritourism structure shall not exceed the following:

Size of Agritourism Structure	Maximum Height
Up to 5,000 square feet	22 feet
Up to 10,000 square feet	25 feet
Up to 15,000 square feet	28 feet
Up to 25,000 square feet	<u>30 feet</u>

*455.04 The agritourism provider shall provide off-street parking in accordance with the following:*

*1. Agritourism operations providing educational, entertainment and/or cultural activities in a farm setting and open to the general public, regardless of whether or not an entry fee is charged, shall provide a minimum number of parking spaces as determined by the Zoning Inspector based upon similar uses identified in the offstreet parking regulations in Section 412 correlated to the intensity of the use such as peak attendance periods and the size of the structure and/or land area designated for agritourism activities provided in the application.*

*2. The Zoning Inspector shall not require the parking area to be improved, including any requirements governing drainage, parking area base, parking area paving or other such improvement.*

*455.05 The agritourism provider shall provide ingress and egress via access points on a public road approved by Plain Township, County Engineer or Ohio Department of Transportation, depending on the jurisdiction of the road being accessed. Such ingress and egress shall be designed to accommodate emergency vehicle access to the satisfaction of the Fire Department having jurisdiction over the property upon which the agritourism operation is located. Any ingress or egress shall not be located closer than 200 feet to any intersection of two or more public roads. Any ingress or egress shall not be located closer than 50 feet to any driveway located on any adjacent property.*

Mr. Collins stated that the above text is what is going to guide the BZA and is why the applicant has filed for a variance because their proposed addition will be in excess of the allowed 25,000 square feet. The Ohio Supreme Court set forth seven "factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of his property." These factors are known as the Duncan v. Middlefield factors. *The factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of his property include, but are not limited to: (1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; (2) whether the variance is substantial; (3) whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; (4) whether the variance would adversely affect the delivery of governmental services ( e.g., water, sewer, garbage); (5) whether the property owner purchased the property with knowledge of the zoning restriction; (6) whether the property owner's predicament feasibly can be obviated through some method other than a variance; (7) whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.*

There are two factors for the BZA to decide: 1) Does the proposed addition meet the elements of an Agritourism use; and 2) Does the requested variance satisfy the Duncan v. Middlefield factors?

The applicant bears the burden to demonstrate how the proposed structure meets the definition of agritourism. How does the venue serve the general public? How many events in the proposed

addition will be open to the public, separate from the private events, and how much of the farm revenue will be from agritourism activities that are open to the public?

In answer to Mr. Collin's questions to the board and the application, Ms. Talia Friedman read portions of a letter submitted by Valerie Jorgensen in her application as well as verbiage from the Jorgensen Farms Website. Ms. Friedman stated:

*"We are a working organic farm and events venue; we provide farm-fresh cuisine, home-grown floral design, and organic produce to those we are called to serve. As a certified organic farm, Jorgensen is passionate about nurturing the land to provide visitors with a pure understanding of purpose. We are stewards of the land. Everything grown here is utilized locally. In nurturing healthy and active farmland, we can nourish healthy and active people."*

*"Founded in 2002 as a working organic farm, Jorgensen Farms continues to grow in business as a food and natural product yielding enterprise. Food grown at the farm is used by the on-site catering business serving two special events venues at the farm. Each year, Jorgensen Farms produces fresh organic vegetables and herbs; raises free range chickens, and (this fall) turkeys; and produces eggs from laying hens. Additionally, Jorgensen Farms houses beehives to produce honey at the farm. In the past, Jorgensen Farms has sold organic vegetables, meat, and eggs at community farmers markets. In 2022, Jorgensen Farms plans to eliminate off-site sales and prioritize on-site distribution of farm products as well as agricultural production tours."*

*"Additional to the food production operation at Jorgensen Farms is a seasonal floral growing and assembly operation (May through October). A floral design team at the farm plants, raises, harvests, and assemble arrangements in support of the event business. Two cutting gardens cover approximately one-half of an acre at the farm while over ten acres of Jorgensen Farms are harvested for aesthetic wildflowers."*

*"In a concerted effort to support the unique heritage of Ohio and Plain Township, Jorgensen Farms utilizes a restored historic barn for various community and private events. This nod to the agricultural heritage of historic farm structures supports the Jorgensen mission to admit and educate its visitors who wish to experience the past and present of rural farms in Plain Township and Ohio."*

*"The primary business of Jorgensen Farms is to be the premier destination for agricultural history, culture, and activity in Plain Township, the state of Ohio, and beyond. Our focus for the new project is the construction of a garden space of the surrounding ten acres to the new buildings. These gardens will be a representation of Jorgensen Farms' agricultural focus on native edible plants and a perennial agricultural system. The landscaping is not to be merely decorative but also interactive and educational. The system differentiates Jorgensen Farms from the typical row-crop system seen in Ohio and presents an incredible learning opportunity for the local community to learn about native (and largely unknown) plant species and alternative agricultural methods."*

*"The new buildings themselves were designed to not only show what a modern agricultural structure can and should look like but also how it should function. These buildings will increase the ability to better serve all events from farm-to-table dinners, community health and wellness events, fundraisers and parties for agricultural groups, school and educational group activities, and so forth."*

Mr. Martin asked about agritourism based on the farming itself. He used the example of a pumpkin farm where children go and pick their own pumpkin. He also asked about the relationship between the community and the farm. David Karikomi answered Mr. Martin's question with a statement about the importance of planting native food species and why their operation is more "agricultural" than a jack-o-lantern patch. The typical "pumpkin patches" are farms of the past, they must be planted year after year. It kills the microbial organisms within the soil, there is almost no nutritional benefit to humans. We want to create a perennial system using plants and sometimes animals that is self-generating and self improving. The building structures can help enhance the gardens and plantings. This modern farming is different, it sustains the soil for years to come.

Mr. Barrett voiced that he grew up on an organic dairy farm. The farming proposal makes a lot of sense on the agriculture side. His question is how the proposed structure will be incorporated into the educational side or the tourism side of the agritourism definition. Mrs. Jorgensen stated that they have an Open House on October 3<sup>rd</sup> which is open to the public. There is no charge and includes walking tours of the organic production, walking tours of the flower gardens. There is food free of charge. Beginning at the beginning of this year we partnered with Healthy New Albany and offered a yoga class and fresh juices. There was a small fee through New Albany's Heit Center. Mr. Karikomi stated that he wants to grow the educational side and is working on a good curriculum. He has been touring farms to learn as much as he can. He would like to emulate the 'Stone Barns Center for Food & Agriculture' which is located in New York. He wants to inspire people about agriculture.

Mrs. Rastegar asked what type of crops are grown at Jorgensen Farms. Mr. Karikomi responded that during the summer they prioritize various types of peppers, slicing tomatoes as well as cherry, eggplant, and lettuce as many weeks out of the summer as they can. Spring and fall there are carrots, beets, radishes and turnips. Spinach, arugula and mustard greens and grass during the winter because we are using the green house. We have about 800 chickens for meat and 150 hens for eggs which amounts to about 50-60 dozen eggs per week. We just ordered 175 6-week old turkey poults.

Mr. Hoffman stated that this is not specifically a wedding facility. There are other programs that the facility will be used for. The addition being proposed is not a 3<sup>rd</sup> wedding venue. It is a large space for gathering and presentations. It could be used for a wedding ceremony, but that is not its only use. The new facility and the existing old barn with its renovation, brings agritourism and the history of Plain Township together. This is another opportunity for education and a community space. The structures will not be used separately as venues. They will be used together simultaneously to support a single event.

Mr. Hoffman voiced that we believe that Jorgensen Farms, by definition of the Ohio Revised Code, falls under the guidelines and definition of agritourism. Our focus tonight is to convey to you that we believe that the organization of Jorgensen Farms has been set up with agritourism in mind. We hope you appreciate in what ways the farm has addressed the definition of agritourism in Ohio Revised Code.

Mrs. Jorgensen stated that in order to purchase the additional 35 acres adjacent to her farm, she needed a loan and the bank stated that she needed to come up with a business plan that would support income to make the payments for the loan since farming alone would not support the loan.

Mr. Clapham asked what the combine square footage is of the buildings. Ms. Friedman answered that the buildings currently used for agritourism are right at 25,000 SF. Mr. Collins stated that the requested variance is a 28% from the 25,000 SF threshold. The 25,000 SF does not include the structures that have only an agricultural use.

Mr. Collins stated that the Duncan Middlefield questions have not all been answered. The applicant needs to connect the agricultural activities with the agritourism activities and how the use of the proposed structure can be connected. In my mind, as the zoning officer, if you cannot demonstrate that this structure is for agritourism, then you are not eligible for the variance under the agritourism language.

Mr. Hoffman reminded the board that the structure is a multi-functional type of space. This is not just for weddings. The facility will serve a multitude of functions. The proposed facility will be a part of the overall farm and is not its own venue. Mr. Karikomi stated that the vision for this building is part of a future business model. Weddings are the profitable part of the business model, but the structures will also be used for education and community events that do not bring in income. The weddings help support these non-profitable agricultural activities.

Mr. Barrett asked if there is a set percentage of the income that must come from the agricultural portion of the business. Mr. Collins state that there is a decent amount of case law in Ohio that has thresholds about how much agricultural activity must be on site for structures to be incidental to that agricultural activity. Agritourism case law in Ohio is very limited. There are no real thresholds. We are looking at can you tie the agricultural activity to the agritourism use. I would have approached this application differently if I were the applicant. Items that are grown on site, animals, vegetables, produce, herbs & spices, and flowers, are used with the weddings. I would stress that this is a wedding venue and all of these items produced on the farm are used to caterer the event. Mr. Hoffman stated that he agrees with Mr. Collins in that wedding are a large part of the business and will continue to be scheduled for Jorgensen Farms. We want the presentation to reflect that this is much more than just a wedding venue. Our intent is to show that this has much greater opportunity for this community than a wedding venue.

Mrs. Jorgensen asked where the formula and numbers came from Mr. Collins stated that the limits on the sizes of agritourism structures came about through a year's worth research of current structures within the township, other agritourism structures and zoning language throughout the state of Ohio. Benchmarks for maximum per operator went from 10,000 SF to 50,000 SF. Within Plain Township, when we first started looking at this, there was no one in Plain Township was above 15,000 square feet, including the applicant. It did take a year and a half to put the final resolution together. Mr. Hoffman commented that the justification of variance letter submitted with the application does not mean that they feel entitled to 60,000 SF of agritourism structures. The intent of the Agritourism language was discussed. The 25,000 square feet language was encouraged by Mr. Hoffman to be changed to include "25,000 SF in total or 25,000 in the aggregate". This change in the terminology would remove all doubt as to what the intent is for the zoning resolution. Mr. Hoffman stressed that they are not asking for 60,000 SF, but that it was used in the letter as an example of how we read the current agritourism zoning resolution and what the maximum amount of square footage could be.



Upon the conclusion of the hearing and following the presentation of the facts and testimony, Shane Clapham made a Motion to Approve the Variance Application 08-10-2021-01, to increase the size of structures used primarily for agritourism at 5851 E. Walnut Street in excess of the permitted square footage.

Chris Barrett seconded the motion; a roll call vote was taken:

Richard Martin	Yes
Chris Barrett	Yes
Sara Rastegar	Yes
Shane Clapham	Yes

The motion to approve the application as stated above has Passed.

**BOARD MEMBER COMMENTS**

None

**PUBLIC COMMENTS**

None

**ADJOURNMENT**

Mr. Richard Martin adjourned the meeting.

The regularly scheduled public meeting of the Plain Township Board of Zoning Appeals was adjourned.

**\*\*AS APPROVED\*\***

  
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 Ben Collins  
 Zoning Board of Appeals Secretary