

Board of Zoning Appeals
Falkenberg – Conditional Zoning Permit Request
September 26, 2012
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Ch. Manley reconvened the meeting at 7:40 p.m.

Roll Found: Manley, Fox, Hoop, Zeleznak, Mainzer and Calabro(Alternate) present. Also present were Trustee Schulte, Zoning Commission Ch. Kamps, Zoning Inspector Schaefer, Ms. Dawn Nelson, Mr. Nicholas Fabrick, Mr. and Mrs. Amal and Simon Zarife, Ms. Janet Meslovich, Ms. Valerie Radden, Mr. John Oberholtzer, Mr. Bob Falkenberg, Mr. and Mrs. Richard and Linda Kassouf, Mr. and Mrs. Kevin and Sue Breese, Mr. Gary Johnson, Mr. Ron Joyce, Ms. Cheryl Kish, Mr. Don Levandoski, Mr. and Mrs. Wayne and Linda Fussi, Mr. Jim Gardini, Mr. Conrad Falkenberg and Mr. Terry Walrath.

Ch. Manley stated that the hearing tonight is for an application submitted by Mr. Conrad J. Falkenberg for approval of a conditional zoning permit to use property for storage of landscaping material.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and reviewed all information and inspected the properties at 2720 Crestview Drive, Hinckley Township (Parcel #01703A01012) and W. 130th Street, Hinckley Township (Parcel #01703A06001) for the Conditional Zoning Permit request for a Landscape Nursery.

Response: Manley – yes and yes, Fox – yes and yes, Hoop – yes and yes, Zeleznak – yes and yes, Mainzer – yes and yes.

Ch. Manley stated that the Hinckley Township Board of Zoning Appeals acts within the regulation of Section 519 of The Ohio Revised Code and exercises its power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations, that all hearings are open to the public, that all persons wishing to testify must do so from the podium, be sworn in, and must identify themselves giving their address. Evidence and testimony must be pertinent to the hearing at hand and that it is within his discretion to limit personal comments. He stated he will not permit personal attacks and opinions. Disruptive persons will lose their right to remain at the hearing.

Recording Secretary Gienger read the legal ad.

Recording Secretary Gienger noted that no phone calls or visits were made regarding this hearing and there was one written notification received from Zoning Commission Chairman Kamps dated September 10, 2012.

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Mr. Conrad Falkenberg, Trust of 165 W. 130th Street, Hinckley Township was sworn in accordingly.

Ch. Manley asked Mr. Falkenberg if there was any additional information he would like to submit at this time. Mr. Falkenberg stated he has been at his current location for 40 years and that his business is to sell landscape material. He noted that 4 years ago there was property available adjacent to his property and he was in need to expand so they bought an additional 3.5 acres. At that time they petitioned the BZA to use the property. They were granted use of the property and complied with all the requirements of the request. Mr. Falkenberg stated as of late, the competition has become more competitive causing financial hardship, and they found people who wanted to get rid of their old dirt, so if it was clean they would take the dirt and then screen it to filter it and then resell it. He is asking that they be allowed to continue to use this property as such. Mr. Falkenberg stated that his screening machine sits at least 100' from both W. 130th and Crestview Roads. He stated they do have some buffer zones that they would be glad to expand as necessary to block the view of the operation from the surrounding neighborhood.

Mr. Falkenberg noted that some questions were discussed at the Zoning Commission meeting and he would like to address them. The first question was regarding noise. He stated that per the specifications of the screening machine, it is no louder than any other piece of farm equipment. He said there was a question of the height of the machine. He noted they only use it 2-3 hours per week and they do not operate on rainy days or in the winter and lower the machine when not in use. He stated he could provide a 12'-15' privacy mound around the machine if necessary. Mr. Falkenberg stated he was also asked if he is manufacturing a product. He stated he is just sorting fines from dirt and then mixing in some material to refine the dirt and then resell it. Mr. Falkenberg stated he would like to build on the property at some point and retire, but until that time would like to continue to use the property as they are today until that time.

Ch. Manley asked Mr. Falkenberg if he had copies of the specifications of the noise levels on hand. Mr. Falkenberg stated he does not have it in his possession but could get it if required.

Ch. Manley asked Mr. Falkenberg how long he has been using this parcel in this manner. Mr. Falkenberg stated he has been clearing the property of the top soil since obtaining the property.

Ch. Manley asked Mr. Falkenberg when he started receiving the off-site soil for processing. Mr. Falkenberg stated about a year. Ch. Manley asked if March 2011 is acceptable for when he started. Mr. Falkenberg stated that yes that sounds appropriate.

Being no further questions Mr. Falkenberg was seated.

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Zoning Commission Chairman Jim Kamps was sworn in accordingly.

Chairman Kamps paraphrased the Zoning Commission Letter stating that per the zoning requirements Section 7.2C requires the Zoning Commission Board meet for conditional use permit applications. He stated they met with Mr. Falkenberg and discussed the facts as Mr. Falkenberg indicated. The Board found that the two lots were being used and not conditionally zoned for the use that has been occurring. He noted a motion was offered to make a recommendation for approval to this conditional use request. However there was no second to the motion, therefore the motion died on the floor and therefore the ZC Board does not have a recommendation at this time.

Being no questions, Chairman Kamps was seated.

Zoning Inspector Bill Schaefer was sworn in accordingly.

Ch. Manley asked ZI Schaefer if Mr. Falkenberg has been cited for the violation if he has been using this property as of March 2011. ZI Schaefer stated he was not cited as he did not become aware that they were using the property to receive dirt until about 3-4 months ago. He stated that when Mr. Falkenberg first used the property, he was stripping the top soil off of the property which is allowed and it wasn't until about 3-4 months ago that he started noticing an excessive amount of material on the property. At that time he visited Mr. Falkenberg and found out about his usage which ZI Schaefer told him his is no longer in compliance with his previous conditional use permit. He didn't cite him then as Mr. Falkenberg immediately applied for a conditional use request and the BZA was in recess for the summer.

Ch. Manley asked if ZI Schaefer's position is that he doesn't have conditional approval to process the off-site soil or if he doesn't have conditional approval to use that land for anything. ZI Schaefer stated it is that he doesn't have permission to use the land because he never came in for a conditional for that property, only the property behind Honda Specialists and to the north of Honda Specialist.

Ch. Manley stated that ZI Schaefer turned down Mr. Falkenberg for dirt storage and screening. ZI Schaefer stated that he told Mr. Falkenberg that he either needed to remove the material off the property or apply for a Conditional Use Permit, which he applied for the permit.

Being no further questions Zoning Inspector Schaefer was seated.

Mr. Robert Falkenberg was sworn in accordingly.

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Mr. Falkenberg stated that he would like to add a couple more things. He stated that they are always closed on Sunday's and holidays and they only use the screening machine in the late morning/early afternoon and will limit the use to between 9am-4pm. He stated they would like to accommodate everyone in the neighborhood but would like to continue using the machine at its current location to help them stay in business.

Being no questions Mr. Falkenberg was seated.

Mr. Richard Kassouf of 4092 Tudor Avenue, Brunswick, Ohio was sworn in accordingly.

Mr. Kassouf stated he is representing the Board of Realtors and is visiting townships and cities and trying to help promote local businesses in Medina County. He is familiar with the operation of the Falkenbergs business and feels they run a good operation and would like to encourage them to be allowed to continue their business and use their property as they need.

Being no questions Mr. Kassouf was seated.

Mr. Donald Levandoski of 185 W. 130th Street, Hinckley, Ohio was sworn in accordingly.

Mr. Levandoski stated he lives to the south of the property and has been there since the mid 1960's, and feels if anyone would or should have an issue with the Falkenberg's operations, it would be him. But he stated he has never had an issue nor has had to file a complaint with the Falkenbergs and feels they run a very good operation.

Being no questions Mr. Levandoski was seated.

Mr. Jim Gardini of 144 Brookside Boulevard, Hinckley, Ohio was sworn in accordingly.

Mr. Gardini stated he would like to register a complaint with the Falkenberg's facility. He was nearly in an accident due to the delivery trucks at the W. 130th Street delivery location. Ch. Manley stated that this complaint is not relevant to the hearing of the evening and he should see the trustees to file the complaint.

Being no questions Mr. Gardini was seated.

Mr. Robert Falkenberg retook the stand.

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Mr. Falkenberg stated that they have cleaned up the brush around the area and are always looking to try and improve their operation.

Being no questions Mr. Robert Falkenberg was seated.

Mr. Conrad Falkenberg retook the stand.

Ch. Manley stated that what Mr. Falkenberg is asking for is to maintain their operation of the two acre parcel in question and to receive off-site soil and process and store it on that parcel. Mr. Falkenberg stated that is correct.

Mr. Zeleznak asked Mr. Falkenberg if the mounds at W. 130th Street and Crestview Roads are permanent. Mr. Falkenberg stated that yes they are permanent.

Mr. Zeleznak stated they saw a landscape truck parked on the property and asked Mr. Falkenberg if that stays there permanently. Mr. Falkenberg stated he allows a friend to park his truck there in the summer and if it was an issue, he would have him remove it.

Mr. Zeleznak asked Mr. Falkenberg if once he has completed processing their own soil if bringing in dirt from other properties will be enough to maintain that operation. Mr. Falkenberg stated he hopes it will and stated they also have some other properties they can process soil from. He also stated that eventually they would like to build on the property.

Ms. Fox asked Mr. Falkenberg if he had any objection to planting grass. Mr. Falkenberg stated he had no objection to doing so.

Being no further questions, Mr. Falkenberg was seated.

Zoning Inspector Schaefer retook the stand.

Ch. Manley asked ZI Schaefer if he feels Mr. Falkenberg will be in compliance with Section 18 of the Zoning Regulations. ZI Schaefer stated that if Mr. Falkenberg provides the proper screening, he will be in compliance. Ch. Manley asked if this should be checked in advance of approving this conditional use permit. ZI Schaefer stated that any time he measures items on the site and finds they are not in compliance, he notes them and Mr. Falkenberg fixes the issue within days of the notification.

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Ch. Manley asked ZI Schaefer if mounds would be acceptable for screening as the regulations state it should be within a fence or enclosure. ZI Schaefer stated that he feels the intent of the regulation is to have proper screening and the mounds would be acceptable. Ch. Manley stated then he should extend the mounds to 8', correct? ZI Schaefer stated that is correct.

Ch. Manley asked that under supplemental regulations for landscape material, there is a line that states: the area for storage be of living landscape material, being trees, shrubs, etc. Is dirt considered living? ZI Shaefer stated that he would not consider dirt to be living. Ch. Manley asked if he would still be in compliance then for storing dirt. ZI Schaefer stated that they could have the same argument about storage of rocks also, but that is a material that is used/purchased for landscaping.

Being no further questions, ZI Schaefer was seated.

Ch. Manley made a motion for the conditional use permit.

Ch. Manley stated this is a motion for approval of a conditional use permit AP-0163 for Mr. Conrad Falkenberg, Trust for both properties noted, 2720 Crestview Drive, Hinckley, Ohio, Permanent Parcel # 01703A01012 and W. 130th Street, Hinckley, Ohio Permanent Parcel #01703A06001 to bring off-site soil for processing, storage and sale of said material. Requirement will be to maintain an 8' barrier around the perimeter to be planted with grass and trees (trees if you so choose), and the screening machine/equipment shall only be operated between the hours of 9am-4pm Monday through Friday.

Ms. Fox seconded the motion.

Vote:

Manley – Yes

Fox – Yes

Hoop – Yes

Zelesnak – Yes

Mainzer – Yes

Passed by a vote of 5 to 0

Ch. Manley stated that any person adversely affected by a decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the ground the decision was unreasonable or unlawful and will have 30 days from the date of this meeting and the

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minutes of this appeal will be journalized on the second Wednesday of October. A copy of the signed documents will be given to the applicant at the end of this hearing.

Meeting was adjourned at 8:17 p.m.

Todd Gienger, Recording Secretary

Minutes Approved: _____, 2012

David Manley, Chairman

Dottie Fox, Member

Jeff Hoop, Member

Dave Zeleznak, Member

Julie Mainzer, Member

Josephine Calabro, Alternate Member