

Board of Zoning Appeals

Munson Township

Minutes of January 17, 2013

Chair Bobbie Nolan called the meeting to order at 6:30pm with Don Alexander, Richard Wright, Lucy Longo, Secretary Paula Friebertshauser and Court Reporter Nayann Pazyniak present. Gabe Kezdi was absent. The Pledge of Allegiance was said.

Richard Wright moved and Lucy Longo seconded to approve the minutes of December 20, 2012 as written. Motion carried.

Trustee Andy Bushman swore in Don Alexander to fill Sophie Horvath's unexpired term through 2015. He then swore in Michael Waclawski and Danielle Pitcock as alternate members.

Richard Wright moved and Lucy Longo seconded to nominate Bobbie Nolan as Chair, motion carried, 4-0. Ms. Nolan abstained. Lucy Longo moved and Don Alexander seconded to nominate Richard Wright as Vice-Chair, motion carried, 4-0. Mr. Wright abstained. Trustee Andy Bushman swore in both Mrs. Nolan and Mr. Wright.

Ms. Nolan explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. They take facts as presented and apply certain standards of law to then make a decision. A court reporter is present so that anyone wishing to speak for or against the case must be sworn in for the record. The record is made up of testimony and evidence presented. If a case goes to court decisions are based on what is presented this evening. Anyone not in agreement with the decision of the Board could take the case to the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

CASE 13-01: Jason Boyd for Alpine Valley/Sycamore Lake Inc., 10620 Mayfield Road, Chesterland, OH – request to apply for a change of ownership under conditional use. Violates SEC. 801 Conditional Zoning Certificates-conditional uses shall be permitted only upon issuance of a conditional zoning certificate by the Board of Zoning Appeals to at least one owner of the property. SEC. 802.12 Change of Ownership-the conditional use as a skiing facility shall be void upon change of ownership or lease unless a new application is made for such a certificate within 15 days after change of ownership or lease.

Zoning Inspector Tim Kearns was sworn in. He read the variance request and violations. For full disclosure, Mrs. Nolan explained that both of her sons had previously been employed for a number of years at Alpine Valley. They have since graduated from college and have no further financial gain, but she offered to recuse herself from voting if anyone wished. The appellant had no problem with Mrs. Nolan acting on the case.

Jason Boyd was sworn in as a representative for Alpine Valley. He works for the parent company, Peak Resorts, who purchased the ski resort in late November. He was present to discuss the transfer of new ownership under a conditional use. Mrs. Nolan asked if the plans are to continue operating as a ski facility, with a bar, and summer banquet operations. She also mentioned there was mountain bike riding there. Mr. Boyd commented that he wasn't aware there was mountain bike riding, and short-term, they would not be considering continuing the banquet business in the off-season. He further offered that long-

term projections include adding snowmaking to the area because the existing capabilities are limited; possibly putting in an additional chairlift because the current flow of the area is challenging; and the rope tow for beginners is too steep and hard for a novice skier. Mr. Boyd explained there are currently two chair lifts, but they are not accessible from the base. Mrs. Nolan asked if they had plans for clearing out the part of the property to the right of the double that still has trees. Mr. Boyd explained there are currently two runs that go through the trees, and they would probably continue one down to the base area. They will also make the tubing area more skiable. There is limited lighting on the trails where usually they look at the brightness factor for the skier. Mr. Alexander asked if they would continue to have tubing. Mr. Boyd responded no, because there is not a good setup for tubing as it goes into the parking lot; and from a safety standpoint that is not good. They will use the area for additional skiing. Mr. Boyd went on to explain there are esthetic things they will be doing to clean up the property in general and make it more inviting. Mrs. Nolan asked if they are going to retain the concession stand and bar. Mr. Boyd replied yes, that the structures and functions will remain the same.

Mrs. Nolan stated for the record that 34 affected property owners were notified in the case.

Chris Toth of Klatka Drive acknowledged Alpine's safety concern for the skiers, but asked if the safety of the people in the parking lot had been considered. According to the Sheriff's Department, she said there were three cars broken into two weeks ago. There is no lighting in the parking lot. Mr. Boyd responded it has been considered and goes with the esthetic portion of their plans. There are a lot of things they are currently looking at in terms of safety, and the parking lot will be treated the same. He asked for some leniency as they have only been there one and one-half months.

Ed Kuzma of Carroll Drive explained there are a number of trails back in the woods that border neighbors on both Carroll and Raymond Drives. He wondered if they would still be able to walk the trails because the previous owners had no problem. Mr. Kuzma also acknowledged he hunts on his property and has had permission previously to retrieve on Alpine's property. He has never hunted or taken a gun or cross bow over the property line. Mr. Boyd's concern would be safety and he had not yet seen the paths. He would be willing to look at the situation and offered to get in touch for further discussion. Mr. Kuzma then asked if there were any plans to expand in that same direction. Mr. Boyd responded that the one run would probably be continued down to the base.

Elaine Richmond of Allen Drive commented that they see the lights in the distance and those are fine now, but she wondered if the lights would get any closer and brighter. Mr. Boyd explained they would add down lighting in the parking lot and pointed out the area. She then asked about the lights on top of the hill. He said they would add just a few lights for the extension of the trail, but other than that there would be no significant changes. Zoning Inspector Kearns had discussed lighting with Alpine Valley and advised them of the lighting requirements.

Dale Cubranich, resident of Sherman Road, commented that his property joins the southerly border of Alpine. His concern is the future and the potential for logging and/or fracking. Zoning Inspector Kearns interjected that he is to be notified of any gas and oil wells going in. He further explained that the property operates under a conditional use as a ski facility and they are required to come back every five years.

Janice Roge of Mayfield Road asked if Alpine planned on closing the chair lift that is currently running. Her property backs up to the area and they are always finding garbage on their property. Mr. Boyd responded they want to be a good neighbor and will work towards cleaning it up.

Richard Wright moved and Don Alexander seconded that the variance requested in Case 13-01 by Jason Boyd, representing Alpine Valley, be approved as requested and stated; and that the Conditional Use be approved as requested. Discussion following the motion included: as observed there are quite a few people present; and the seriousness of the neighbors is evident to establish a good working relationship; the hardship of the change of ownership is intentional so the Board can understand the changes; there is concern that the property be maintained and run in a manner so that the property cannot be used in another manner; the hardship is not self-induced, but a requirement - public health, safety, and morals supports the environment; adjoining properties will not be harmed; and there will be continual improvements.

Mr. Boyd commented they do operate elsewhere under conditional use. Tim Boyd, President of Peak Resorts, was sworn in. He explained it was his observation that the five year renewal is unique and was not disclosed under the change of ownership requirement. It is the first he had heard of it and felt it would devalue the property. They have always operated under a conditional use and that goes with the property. Mrs. Nolan commented that she does not know of a case that has ever been denied under the renewal, and did not know why the Zoning Commission instituted the regulation. Tim Boyd explained they operate a lot of ski areas and go through zoning, but to come back every five years people would have a chance to take a shot at them. Mrs. Nolan commented that in coming back every five years it gives property owners a chance to voice any problems. Mr. Wright added that the key words are "conditional use"; if there is not a problem, and they continue to operate as a ski resort and making improvements, there is longevity. Inspector Kearns offered the opinion that Alpine Valley has been in business since the 1950's; and like golf courses, are under conditional uses; and when they come back no one is going to chastise them. If anything needs to be brought to the ski facility's attention it would be during an open hearing, and as long as the use is not changed, it provides the opportunity to see and hear about any improvements or changes – he felt it was advantageous. Mr. Wright added that it is the zoning and as long as they operate within the use there is no problem. Jason Boyd said that it was never brought up in any of the meetings with the zoning inspector. Mrs. Nolan asked if it would make an impact. Tim Boyd responded that he thought they would go back to the buyers as this was not disclosed and becomes a legal issue.

Bill Waltermire of 12377 Carroll Drive commented he can understand both sides and doesn't blame the new owner for his concerns.

Mrs. Nolan explained there was a motion on the floor and the Board could either table it or if the appellant desired, it could be continued. She advised Mr. Boyd there is a continuance fee because it would be his choice. The other option is for the Board to vote on the motion and he would have the conditional use and could talk to his lawyers - he would then have the permit and would not have to come back. Tim Boyd requested the case be tabled and agreed to the continuance.

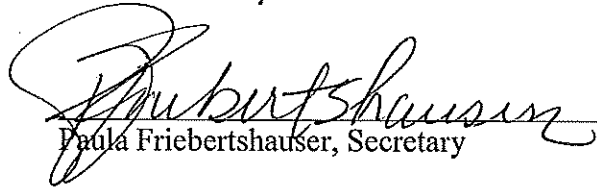
Mrs. Nolan moved and Ms. Longo seconded that because of the well-founded uncertainty of Mr. Boyd the motion will be tabled to allow Mr. Boyd and Alpine Valley a continuance until guidance is received from the attorney up to six months with a fee of \$100. Upon the roll call all members voted yes, 5-0, motion carried.

Mrs. Nolan thanked the affected property owners for coming. It was discussed that Sycamore is still listed as the owner. Mrs. Nolan mentioned the passing of George Schaffer who had previously managed the operation, but did not know if his death had anything to do with this new venture. Mr. Kuzma

commented that he was concerned they could build cabins. Mrs. Nolan advised him they would have to come back in front of the Board.

The meeting was adjourned at 7:38pm.


Bobbie Nolan, Chair


Paula Friebertshauser, Secretary