

## **ZBA Meeting Minutes November 30, 2017**

The 2017 ZBA meeting was held on Thursday, November 30, 2017 beginning at 5:00 pm., Mr. Arcaro asked everyone to please shut off or silence their cell phones. Pledge of allegiance was recited. Ms. Shubitowski called roll, present were Mr. Arcaro, Chairman, Mr. Naylor, Mr. McKenna and Mrs. Sherman, and Mrs. Gates was running a few minutes late. Mr. Arcaro asked if ZBA members reviewed the minutes from the August 10<sup>th</sup> 2017 meeting. Are there any additions or corrections? Mrs. Sherman made motion to approve August 10, 2017 meeting minutes. Mr. Naylor second the motion. Mrs. Shubitowski called roll, all approved. Motion carries.

**Old Business: None**

### **New Business:**

**Case # 19-2017** – Mr. & Mrs. Norman Krause of P.O. Box 40 Crown, PA – are seeking a variance to perform a timbering operation at 515 Middle Rd., Conneaut, OH - Parcel ID #'s – 12-312-00-035-03, 12-312-00-033-00, 12-312-00-032-00 for a total of 16 acres. Located in an R-1 Suburban Residential District.

Mr. Arcaro asked -who is here to speak on their behalf – but before we do that, I would like everyone to stand who will be speaking to be sworn in: Do you swear to tell the truth, the whole truth, so help you god? Audience Members: I Do. Mr. Arcaro asked them all to mention their names: Teresa Pelow, Jeff Pelow, Marvin Miller, Mark Byler, Scott Shelenberger, Ron Ebersol. George Distel, Melanie Shubitowksi. Mr. Arcaro asked Mrs. Shubitowski to give them a run down:

**Ms. Shubitowski:** I received complaints of timbering going on at 515 Middle Rd. and I don't recall the date off hand. I went out, and I did not hear any machinery operating when I was out there or when I drove past. However, there was an empty trailer on the property and a van with a driver sitting in it. I spoke to the driver and asked what was going on? The crew is in the back would you like me to go get them? I said yes I would, so he went back and I went back just a little ways, but it was really muddy and I am not traipsing through this. At that time, Marvin Miller appeared with another employee. I gave him the Stop Work Order and told him he needed to get a timbering permit and there was a performance bond that had to be paid in addition to cover any damage to the roads etc. Nothing could continue until the Zoning Board of Appeals heard the case and granted a permit. He (Mr. Marvin Miller) told me at that time they had been logging in Conneaut for the last 5 years and never got a permit. I said well you have dodged a bullet for at least five of them, but this time you will have to stop. He (Mr. Marvin Miller) said they were not going to stop until December. At that time, I went back into City Hall and I saw Sargent Poore. I gave him a copy of the Stop Work Order and explained the situation to him. The police went out and got involved. It was two (2) weeks later, I received reports they were logging again. I went out and spoke to Marvin and I had reviewed the GIS topographical and everything beforehand, and he (Marvin) said they were just setting up and cutting dead wood that he needed to keep his people employed so they can put food on the table. I said I understand that. If there is no live cutting and nothing hits the road, I don't have a problem with that. You

can tell by the GIS it looks like a small tornado or microburst went through the area. There is a lot of fallen trees and dead wood in that area. It's about a quarter mile back in the property. There were more reports of timbering going on. In fact, there is a pile of milled timber sitting out front, as we speak; at least there was this morning. So, that is where we sit. We finally got the application and performance bond turned in and scheduled this special meeting.

**Patrick Arcaro:** A timeline again Melanie, we sent a stop worker order on October 20<sup>th</sup>

**Melanie Shubitowski:** I think that is about right

**Rick Naylor:** That's the date on it

**Patrick Arcaro:** When did the first reports of timbering come in

**Melanie Shubitowski:** That would be that date

**Patrick Arcaro:** The application and performance bond was paid when

**Melanie Shubitowski:** The seventh of this month

**Patrick Arcaro:** Mr. Byler are you here to speak on behalf of Orwell Hardwood

**Mark Byler:** Yes

**Patrick Arcaro:** Could you please come up

**Patrick Arcaro:** Have you timbered in Conneaut before

**Mark Byler:** No

**Patrick Arcaro:** Weren't aware that you needed a permit

**Mark Byler:** No

**Patrick Arcaro:** Does the board have any questions

**Rick Naylor:** Yes – my only question is after you were given the stop work order, why did you continue to timber

**Mark Byler:** I figured we get it as we go along

**Rick Naylor:** Do you know what a stop worker entails

**Mark Byler:** No

**Rick Naylor:** It means you stop

**Mark Byler:** I was actually supposed to come out five (5) days after that stop work order, I didn't make it out and I could have done better there, come up and got the application and all that

**Rick Naylor:** Well it's not only the application, but then it has to go before Zoning Board of Appeals before you can start again, if you get an o.k.

**Patrick Arcaro:** How long were you timbering before the stop work order

**Mark Byler:** About 2 weeks

**Dolly Sherman:** Someone must have told you if you have timbered here for five (5) years

**Melanie Shubitowski:** Actually, it was Marvin when I spoke to him

**Patrick Arcaro:** We will get a chance to hear his testimony

Patrick Arcaro: You timbered here for two (2) weeks, so the point when you got the stop work order, how much of the sixteen (16) acres were you timbering. Were you timbering the whole sixteen (16) acres

**Mark Byler:** Yes

Patrick Arcaro: How far into it were you

**Mark Byler:** hesitation

**Patrick Arcaro:** Guestimate

**Mark Byler:** I'd say an acre and a half. Maybe right around there

**Patrick Arcaro:** Has the timbering still gone one since

**Melanie Shubitowski:** I have never heard any machinery operating when I have gone by

**Patrick Arcaro:** Have you continued to timber

**Mark Byler:** No

**Patrick Arcaro:** Do you guys have any other questions for Mr. Byler.

**Rick Naylor:** No

**Patrick Arcaro:** O.K. you can sit down for a minute. Called on Ron Ebersole

**Ron Ebersole:** I don't have any statement unless there is, uh, how can I say it, unless there is other information needed later. I live on the other side of the street and now I'm interested in my neighbor next-door the last time I was here to see you. Right now, I have no comment

**Patrick Arcaro:** Called on George Distell

**George Distel:** Yes, thank you. I am George Distel 585 Middle Rd. I live to the North of the Krause property, I have about 2 acres, just under, so we are adjacent that is why I got the notice to be here. A couple of suggestions, just so everyone knows I used to sit on the board a year ago or two, so I know what the requirements are that you need a permit or what you need to get a permit, things of that nature. I have always felt those were a little weak. But the boards got to do what the boards got to do based on the laws that they have. Future suggestions, if you are ever redoing the Zoning Codes, in a past life I worked for the turnpike and I found out that the best deterrent to noise off of a super highway like 90 and the turnpike are trees. We had so many complaints, I was the director of the turnpike and we put noise walls and everything else and guess what in the end it was just Mother Nature with the tree. So I would think in the future if you could take into consideration somewhere in the codes that timbering is not allowed within a certain distance, and I don't know what that exact distance should be. Personal concerns that I have is I live in a very low area and the drainage ditches are right at the corner of my property and Norms property and goes across under. When those trees are gone, where is that water going to go that used to get sucked up. Is it just gonna wash down thru there. I am concerned and I want to go on record that I am concerned that I may incur some flooding as a result of this. Thirdly, that maybe you can take into consideration when you are redoing the Zoning Ordinances, is to put certain setbacks requirements for adjacent properties. So they can timber within and I don't know what the right thing is by eight (8), ten (10) feet. You can probably look at things in other Cities to see what they have done. I'm sure that they have certain setbacks but just those considerations. I don't think it is any secret that I do believe a man has property owner rights and I am not against him getting that permit. I believe that is his right. I believe under your code you have to do what you have to do, but just in the future if you do those Zoning Ordinances over, please take that into consideration. Thank you for hearing me.

**Patrick Arcaro:** George can you verify any of the times that they...

**George Distell:** No, I'm not going to get into that, and I think your Zoning Inspector probably accurately stated it

**Patrick Arcaro:** I can't read that (looking at sign in sheet)

**Melanie Shubitowski:** Let the record state the Dawn Gates arrived at 5:12 p.m.

**Rick Naylor:** assisting Patrick – is that Marvin and your last name is

**Marvin:** Miller

**Patrick Arcaro:** You are with Hardwoods – is there anything else you would like to add

**Marvin Miller:** I don't really know what to say, just see what you guys come up with. I realize you guys came out and told us to stop and I should have stopped. Like I said I was out here doing timber for five (5) years, never got a logging permit, I didn't necessarily mean I was in Conneaut, I was doing timbering for five (5) years and never had to get a permit. That's what I meant, if we misunderstood wrong, but that is what I meant. So, that's it.

**Dolly Sherman:** You have not timbered in Conneaut before

**Marvin Miller:** As far as in Conneaut, no not my mill. I know a lot of my friends did and they never had, I just didn't, we just didn't know

**Patrick Arcaro:** Called Theresa Pelow

**Theresa Pelow:** I have no comment

**Patrick Arcaro:** Called Jeff Pelow – (shook his head no) Patrick: no comment

**Patrick Arcaro:** Called Scott Shelenberger

**Scott Shelenberger:** Hi, my name is Scott Shelenberger. I live at 478 Dorman Rd. apparently my property is somewhere backed up to him or whatever. I just never, could somebody describe or give me a dictionary definition of a variance. What is it; I don't understand what this is. I mean obviously there not going to cut down trees on my property I hope. Somebody has to tell them where the line is.

**Patrick Arcaro:** They are not seeking a variance; they are seeking a conditional use permit to timber.

**Scott Shelenberger:** My letter says variance. I hear variance and I am asking why are these people coming on my land.

**Patrick Arcaro:** That was a mistake in the letter that went out apparently because they are not seeking a variance; they are seeking a conditional use permit to timber

**Scott Shelenberger:** O.K. – very good. Thank you very much

**Patrick Arcaro:** I would like to just note for the record that Mrs. Gates did attend the meeting. What time did you come in - sorry

**Dawn Gates:** 5:12

**Patrick Arcaro:** 5:12 on the record. Thanks

**Rich McKenna:** Are you planning on clear cutting or are you leaving trees to hold the ground as concerns to the neighbors and will it be cleaned up properly and undergrowth or are you just clear cutting everything

**Patrick Arcaro:** If both of you guys could just come up here and stand so, we can get it on the record

**Mark Byler:** Any millable timber

**Patrick Arcaro:** What's the diameter you guys are timbering

**Mark Byler:** Usually it is ten (10) inches on stump. There are trees you can't take even if they are ten (10) inches on the stump, they might be crooked... Inaudible

**Rich McKenna:** You are planning on leaving all that there

**Mark Byler:** Yes

**Rich McKenna:** All the smaller brush you are not clearing everything out of there

**Mark Byler:** No

**Rich McKenna:** There should not be too much erosion if it is only the large trees

**Mark Byler:** Right – inaudible

**Dolly Sherman:** Is there (inaudible) to the property lines

**Mark Byler:** yes

**Rich McKenna:** So you will have to, it is not our jobs to find the property lines for you. If you cut on someone else's property, you could get in trouble. It would be up to you and the owner to figure out where those property lines are and respect the other people's property.

**Rick Naylor:** Do you know what percentage of the trees on the acreage you going to take down – approximately

**Mark Byler:** Percentage per acre

**Rick Naylor:** For the whole piece – 1 in 4, 2 in 5,

**Mark Byler:** The one eight (8) acre property there is not that many; there is a lot of smaller stuff on that one. The other eight (8) acres anything ten (10) inches on the stump.

**Rick Naylor:** Is the parcel to the North the big or little one

**Mark Byler:** It is the smaller stuff

**Rick Naylor:** So those would help protect the neighbors

**Marvin Miller:** Oh yeah, that one there will not be hit as hard

**Rick Naylor:** Will the timbering have any effect to the neighbor in the back

**Mark Byler:** Shouldn't

**Marvin Miller:** its woods all the way up to there

**Melanie Shubitowski:** I printed out a topographical – could you just verify what kind of slope that is in the back

**Dolly Sherman:** (Looking at the topographical map with Mr. Byler & Mr. Miller) – So you started, you only an acre so far in two (2) or three (3) weeks

**Mark Byler:** We only did the back section

**Dolly Sherman:** (Looking at the topographical map): You started here back here.

**Mark Byler:** It would be in the West part

**Dolly Sherman:** Was the property surveyed

**Mark Byler:** Yes, it was marked

**Marvin Miller:** The lines are all marked

**Mark Byler:** Normal procedure- we know where all the boundary lines are before we start cutting

**Patrick Arcaro:** How are you getting the timber out of there are you taking East to Middle Rd- and how are you getting it there - horses

**Mark Byler** – Yes, horses.

**Patrick Arcaro:** Melanie – do we have pictures of the road – before and after

**Melanie Shubitowski** – Yes and handed them to Patrick.

**Rich McKenna:** Asked what was going to happen with the left over bark cuts and so forth. They are cutting it on site what is going to happen to the four (4) sides they take off. They said they sell it for firewood. My concern was having it all just lay there

**Patrick Arcaro:** Although you do leave some stuff there for decomposing

**Mark Byler:** yes the brush

**Patrick Arcaro:** That's a good thing

**Rich McKenna:** I'm talking about the sides they cut off- the slabs and piles of wood

**Patrick Arcaro:** Gotcha

**Dolly Sherman:** So when you come out of Middle you're going south or are you going to route 20 north

**Mark Byler:** We go over to seven (7) – we go south to underridge and west to seven (7)

**Patrick Arcaro:** You are cutting on the West end and working your way East- is that what you are doing.

**Mark Byler:** Right, Right

**Dolly Sherman:** Asked Mr. Distell if he knew where the culvert is – would they be going over that culvert

**Mr. Distell:** Came up to the boards table

**Dolly Sherman:** They are going to be going over it – I couldn't remember – they will be dragging over it

**Mark Byler:** The mill is behind the ditch

**Mr. Distell:** The culvert is in the northeast corner of the property – there are two (2) culverts that drains all up under there

**Patrick Arcaro:** It looks like you guys are missing that because you are going south on Middle

**Rick Naylor:** Are you going to load it onto trucks

**Mark Byler:** Yes

**Rick Naylor:** What kind of equipment are you going to use to do that

**Mark Byler:** 455G Dozer

**Dolly Sherman:** How long have you been logging – you said like five (5) years. Even if it's not in the City of Conneaut, I'm sure you have to get permits in other...

**Mark Byler:** We never did – I never even knew about it. The only time we've had to bond roads before, but never a permit like this here

**Dolly Sherman:** I guess you should check with the City even for a bond for the roads.

**Mark Byler:** We definitely make sure now on after

**Patrick Arcaro:** Mrs. Gates do you have any questions

**Dawn Gates:** No

**Patrick Arcaro:** O.K. you can sit down. Does the board need to recess to deliberate or – looking at ZBA members – everyone's good – o.k.

**Patrick Arcaro:** Is there any other testimony for the record

**Patrick Arcaro:** I will entertain a motion ..... no one wants to make a motion

**Rick Naylor:** In case # 19-2017 Mr. & Mrs. Norman Krause of P.O. Box 40, Crown PA seeking a variance – correction seeking a condition use permit to timber at 515 Middle Rd. Conneaut, OH – Parcel ID #'s: 12-312-00-035-03, 12-312-00-033-00, 12-312-00-032-00 that the condition use permit be granted for logging.

**Patrick Arcaro:** Are there any conditions with that motion

**Rick Naylor:** Yes – Hours of operation should be 8 am- 5 p.m. and they maintain the roads, as they exist. You will have heavy equipment going across there and that is what your bond is for – so keep that in mind

**Rich McKenna:** second (2<sup>nd</sup>) the motion

**Patrick Arcaro:** Any further discussion

**Melanie Shubitowski** called roll: Mr. Naylor – Yes, Mr. McKenna – Yes,  
**Mrs. Sherman** – No, Mrs. Gates – No, Mr. Arcaro – Yes

**Patrick Arcaro** – Motion Carries – you can pick up the permit tomorrow and make sure you follow those conditions. I will suggest if you are going to come into Conneaut to timber some more that you start here first and follow the proper procedures.

**Patrick Arcaro:** Is there any other business coming before the board – No  
I will entertain a motion to adjourn into executive session

**Dawn Gates:** Made Motion

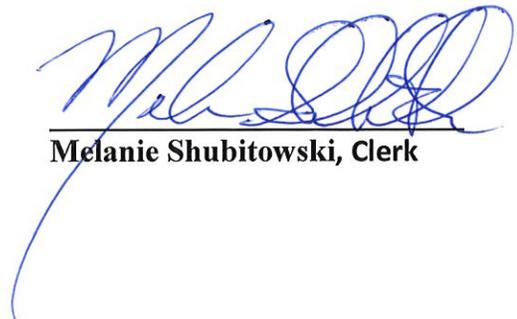
**Rick Naylor:** second (2<sup>nd</sup>) the motion

**Melanie Shubitowski** called roll: Mr. Naylor – yes, Mr. McKenna- yes, Mrs. Sherman- yes, Mrs. Gates – yes, Mr. Arcaro- yes

**Patrick Arcaro** – Regular meeting adjourned at 5:26 p.m. to executive session

**Mr. Naylor** made motion to adjourn the meeting and **Mrs. Sherman** second the motion.  
Meeting adjourned @ 6:49 p.m.

  
**Mr. Patrick Arcaro, Chairman**

  
**Melanie Shubitowski, Clerk**