

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
January 20, 2009

I. Opening

- A. Roll Call Mr. Gary Salmon
 Mr. Thomas Bevington
 Mr. Alan Daniel
 Mr. Henry W. Philpot
 Ms. Lee Steenken

II. Old Business

- A. BZA08-21C Thompson Park Investment Group, LLC
 3024 Hamilton Richmond Road
 Hamilton, OH 45013

III. New Business

- A. BZA09-01V Todd Yohey, Superintendent
 3371 Hamilton Cleves Road
 Hamilton, Ohio 45013
- B. BZA09-02C Todd Yohey, Superintendent
 3371 Hamilton Cleves Road
 Hamilton, Ohio 45013

IV. Adjournment

REGULAR MEETING: Tuesday, January 20, 2009, 7:00 p.m.
 Butler County Government Services Building
 Conference Room 1
 315 High Street, 1st Floor
 Hamilton, OH 45011

CALL TO ORDER: Mr. Bevington called the meeting to order.

ROLL CALL: Mr. Thomas Bevington
Mr. Alan Daniel
Mr. Henry W. Philpot
Mr. Gary Salmon
Ms. Lee Steenken

MEMBERS ABSENT: None

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

Ms. Steenken motioned to approve the minutes of the December 16, 2008 meeting. Mr. Salmon seconded. Motion carried.

AYES: Steenken, Salmon, Bevington, Philpot, Daniel

NAYES: None

Mr. Bevington stated the Board would review New Business prior to Old Business.

I. NEW BUSINESS

BZA09-02C

Todd Yohey, Superintendent
3371 Hamilton Cleves Road
Hamilton, Ohio 45013

Mr. Yohey, 3994 Hickory Hollow, Hamilton, Ohio, 45013, said he is here tonight requesting a conditional use for two areas in the former middle school building of Ross Local School District and stated that all of their materials have been submitted and hoped the Board of Zoning Appeals members had a chance to review them.

Mr. Yohey said there are two areas for different uses; the first is the third floor of the property located at 3371 Hamilton Cleves Road (the former middle school) which they would like to use for some model train groups for their layouts so they can work on their trains and layouts. He added that one of the groups also holds their monthly meetings there, where there are less than ten members there, but generally there are one to five people that show up.

Mr. Yohey said Mr. Greg Young, our Assistant Superintendent, is here representing the train groups if there are any questions with regard to the train groups.

Mr. Bevington asked Mr. Young if there was anything that he would like to say to testify to.

Mr. Young replied no.

Mr. Fox said, for the record, we are talking about BZA 09-02C and is not in the same order as the agenda.

Mr. Bevington asked Mr. Yohey if he is the superintendent for the School District.

Mr. Yohey replied yes.

Mr. Bevington asked who will be in charge of when the group with the trains is in there.

Mr. Yohey said each individual train group has elected officers.

Mr. Bevington asked who is responsible at the school if there is a problem.

Mr. Yohey asked Mr. Bevington if he meant on location or on site.

Mr. Bevington replied yes.

Mr. Yohey said, "There is not a custodian present in the evenings but each of those groups has an individual that serves as a custodian... I mean ... that works with the school – and there have been issues, there was an evening that there was a leak and it's important that they contact us and let us know."

Mr. Young said they do that with basket ball too when they rent the gyms out and they do not need anyone there at that facility.

Mr. Bevington asked who would be responsible if there was any damage done to the school.

Mr. Yohey said those groups would be responsible if they caused the damage.

Mr. Bevington asked Mr. Yohey if they had insurance from it.

Mr. Yohey replied yes, the District is named as a rider on their insurance policy.

Mr. Bevington asked Mr. Yohey if they had already furnished that to him.

Mr. Yohey said yes.

Mr. Bevington asked Mr. Yohey if that area is rented to them.

Mr. Yohey said yes.

Mr. Bevington asked are any of those students of the school, or parents of the students.

Mr. Yohey said they are all adults, and added he thinks they are all men.

Mr. Bevington asked Mr. Yohey if they all live around the Township.

Mr. Yohey said not all of them live in the Township but live close.

Mr. Salmon asked Mr. Yohey if they are presently using the facility.

Mr. Yohey said yes.

Mr. Salmon asked for how long.

Mr. Yohey replied several months.

No other questions.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said this is for BZA09-02C, Todd Yohey, Superintendent for Ross Local School District, and the request is to operate model train clubs within the existing administrative building.

Mr. Fox said the following staff comments:

1. The property is zoned A-1 Agricultural.
2. This use is a condition use requiring Board approval and shall meet the following requirements:
 - A. The use is not in conflict with the comprehensive development plan for Butler County.

- B. this use is located in a district where there are designated conditional uses by these regulations.
 - C. This shall not adversely impact the health and safety of the surrounding areas.
 - D. The use does have direct access to a major arterial or a collector street.
 - E. Parking areas and general site lighting shall be designed and installed to avoid casting direct light or glare onto surrounding properties.
 - F. All associated buildings, pools and playing fields shall be a minimum of one hundred feet from any other lot in an R-District or a recorded residential subdivision.
3. Since this will not change the character of the area the staff will recommend approval.

Ms. Steenken made a motion to approve BZA09-02C subject to all of the conditions stated in the Staff Report. Mr. Philpot seconded the motion. Motion passed.

AYES: Steenken, Philpot, Salmon, Daniel, Bevington

NAYES: None

BZA09-01V

Todd Yohey, Superintendent
3371 Hamilton Cleves Road
Hamilton, Ohio 45013

Mr. Yohey said the second area in the same building (as in BZA-09-02C) is the former shop area of the building and added that Mr. Adam Schwoeppe, a Ross graduate, is here tonight in case the Board of Zoning Appeals has any questions.

Mr. Yohey said Mr. Schwoeppe would like to operate a woodworking shop out of that area with woodworking equipment and the request tonight is for a variance on that area of the building.

Mr. Bevington asked Mr. Yohey if the variance was for a private individual using the school.

Mr. Yohey said that is correct.

Mr. Bevington asked Mr. Yohey if Mr. Schwoeppe is insured.

Mr. Yohey replied yes.

Mr. Daniel asked if it would be for business purposes.

Mr. Yohey replied yes.

Mr. Daniel asked Mr. Yohey if the Township was tax exempt.

Mr. Yohey replied yes.

Mr. Daniel asked Mr. Yohey if the Township would benefit from this business tax wise.

Mr. Yohey said other than having another business in the community, not.

Mr. Philpot asked Mr. Yohey if he anticipated any problems with customers coming in to the school.

Mr. Yohey said the business side of that is outside of the school in the day and Mr. Schwoeppe will be there in the evenings and people contract with him to make furniture is basically what the business is.

Mr. Salmon asked if Mr. Schwoeppe is presently at the school.

Mr. Yohey said Mr. Schwoeppe's equipment is there but he is not operating a business there.

Mr. Philpot asked if the power supply at the school is up to snuff.

Mr. Yohey said it has been evaluated and there has been some additional electric added.

Ms. Steenken said she understood that the time frame will be after-school hours, but asked if there will be customers coming and going from the business.

Mr. Yohey said he did not think much – possibly to pick finished pieces up – those types of things.

IN FAVOR: Mr. Schwoeppe, 3375 Rockyhill Drive, Hamilton, Ohio

Mr. Schwoeppe said to answer the question, “will there be clients coming in,” no, it will all be over the internet and he will be delivering most of the pieces himself, so there will not be a lot of clients coming in.

Mr. Schwoeppe said there may be some concern about the finishing spray used, and stated he does have a spray booth which is Underwriters Laboratories (UL) approved and by OSHA (Occupational Safety & Health Administration) as well.

Mr. Schwoeppe said as far as disposal of the sprays and cans, it all goes in to a can which is also UL approved and stored in a fire-proof cabinet.

Mr. Philpot asked Mr. Schwoeppe if he would be working there in the day time.

Mr. Schwoeppe replied some, but mostly at night as Mr. Yohey said.

Mr. Bevington asked Mr. Schwoeppe if he graduated from Ross.

Mr. Schwoeppe replied yes.

Mr. Schwoeppe gave a little background and explained how he got in to wood working.

Ms. Steenken asked Mr. Schwoeppe what exactly is his specialty – is it furniture.

Mr. Schwoeppe replied yes, furniture and said he will be designing and building custom furniture – no production work.

Mr. Bevington said there are places in Ross that are vacant and asked Mr. Schwoeppe why he did not rent one of those.

Mr. Schwoeppe said he actually has property on Layhigh Road and was not allowed to build a shop out there, so Mr. Young let his parents know about it, and they told him, so he contacted Mr. Young.

Mr. Schwoeppe said the shop area (at the school) already has 220-amp electricity and it all seemed to work out.

Mr. Salmon asked Mr. Schwoeppe if he anticipates ever having to move to another facility or is it too far out in the future.

Mr. Schwoeppe said he would like it to get bigger but does not see that happening very soon.

IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS

Mr. Fox said BZA09-01V, Todd Yohey, Superintendent of Ross Local Schools, 3371 Hamilton Cleves Road, Hamilton, Ohio, 45013, said the request is to operate a woodworking shop from the administrative building.

Mr. Fox said the following staff comments;

1. The property is zoned A-1 Agricultural.
2. The area is residential in character.
3. The applicant is seeking a variance, said applicant shall be required to establish to the Board, proof by a preponderance of the evidence that unnecessary hardship will prevail unless the variance is granted.
4. The spirit and intent of the zoning resolution is not to allow this type of activity from an agricultural area, but since this will not change the character of the area, the staff will recommend approval with the following conditions:
 - a. A special inspection with Certificate of Occupancy is required.

Mr. Fox said this means the Butler County Commercial inspector will go and review it to make sure it meets all of the building codes (there are a lot of building codes for combustion when working with wood), and a Certificate of Occupancy will be issued once all of the codes are met.

Ms. Steenken motioned to approve the request for a variance for BZA09-01V with the condition that a special inspection is performed and a Certificate of Occupancy is issued prior to the beginning of the business as stated in staff comments. Mr. Salmon seconded the motion. Motion passed.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

NAYES: None

II. OLD BUSINESS

BZA08-21C

Thompson Park Investment Group, LLC
3024 Hamilton Richmond Road
Hamilton, Ohio 45013

Applicant Stephen Combs, 2818 George Road, Okeana, Ohio 45053, said back on July 15th we met and the Board granted us permission to run and operate as a park along with, under special conditions, we were granted to have alcohol sales in the upper pavilion area only. Since that time, Thompson Park Investment Group, LLC, which is now the owner of the park, has formed their Board which consists of ten (10) members and ten (10) investors and have had good success early in the year we felt that we need to try to get approved for this to move forward and help our business grow and fulfill requests that they have received by families and ball teams so we are here before this Board to ask for outside sales of alcohol and permission to have beer sales throughout the park.

Mr. Combs said they have met with Hanover Township and expressed what they need with them and have come to an agreement with the Township and in addition to their beer sales they are applying for a full liquor license – and they do not want to deter from that because we still want full alcohol sales (wine, beer and liquor) but do want to keep that restricted in the upper pavilion area but want the outside sales consisting of beer only.

Mr. Combs said Hanover Township asked a lot of questions, said they have no means of selling alcohol during youth ball tournaments and wanted to stress this to the Board of Zoning Appeals – we will not have beer sales during youth ball tournaments – we have not specified the nights but so far it looks like there will be men’s adult softball on Mondays, Wednesdays and Fridays, and probably every other weekend, and hosting special tournaments, and youth ball will be mainly held on Tuesdays and Thursday but would prefer not to get into the restriction of days because we could be off and do not want to limit our youth activities to certain days – but on youth days they will not be promoting or offering outside sales of alcohol and plan on posting signs that state during youth events that no beer will be permitted on the playing field or in the stands to control this.

Mr. Combs said on the weekends they have tournaments already planned for next year – one weekend might be strictly youth ball on the weekends they are not pushing alcohol sales in which we do still want to keep the request that we have all tournaments going on in the lower area so if we have a wedding in the upper pavilion area (which is a separate area) that they can still serve alcohol in that specific area and not carry over to another area in the park.

Mr. Combs said they are also asking for lighting and stated last time they were granted parking lighting and different things to do as long as they submitted plans to the county for approval – and with the interest from ball teams coming in; we might need to light our lower ball field. He added that there are two lower ball fields and one is already lighted and the other is not, and the upper field is not lighted.

Mr. Combs said they also have a miniature golf course which is not lighted and they have learned that these fields were lighted at one time, but the lights, naturally, got taken down because of the condition of the poles and lights.

Mr. Combs said they are asking to be granted permission to place lights on the upper ball field, the lower ball field and at the miniature golf course – and we have discussed several things with the Township and have come to an agreement with them before we do anything with the lights – just like the zoning, we had to have permission from them, and agreed with the Township that we would give them our drawings so that we would not cast light on the neighbors and there would be approval of the light system that we want to put in there.

Mr. Combs said their meetings were with Mr. Henry, (Hanover Township Administrator) and the Hanover Township Trustees and they also agreed to several other conditions.

Ms. Steenken asked Mr. Combs if these are the two issues tonight: the outside beer sales and the lighting of those specific areas.

Mr. Combs said yes and he added that he expressed to Mr. Henry that they are not sure if the lighting will happen this year, but they would like to get the design going and if the funds are available it might happen in the fall or earlier, or perhaps next year... but he is hoping things go well and to get some of the lights in the fall.

Mr. Philpot asked Mr. Combs how he proposes to stop the migration of alcohol to restricted areas – how to police or enforce it.

Mr. Combs said we will have our people working in the park at all times and during softball and parks things, if there are youth games going on, the pavilion area is pretty much restricted in its own area – even though the park is always open to the public, but the pavilion area is closed off and labeled “for private parties only” and that is a reception area and is kind of away from the ball fields and a park representative would be around to make sure that none of the containers would go outside that area.

Mr. Combs said on the weekends that they could possibly have youth events scheduled from 9 o’clock to 11 o’clock, youth games would be over from 4 o’clock on so scheduling wise they would keep everything separate.

Mr. Daniel asked Mr. Combs how many people would work in the park on a given day.

Mr. Combs said at least six – and on a weekends he says more, kind of on a need-basis of what is going on at the park – if there is a reception going on in the upper lodge area there will be several people up there to maintain that area but if there is nothing going on over at that area – then the area will be primarily closed.

Mr. Combs said on big events we would still have Sheriff Patrols or have our own security in there.

Mr. Salmon asked how many people they will have working when the pavilion is rented out.

Mr. Combs said if it is just a wedding or something, just a few of them and they will make sure there is no under-age drinking. Right now they are not selling but they still have to go by our guidelines.

Mr. Salmon asked if a complete liquor license will include carry-out sales.

Mr. Combs said no, it does not and that question was asked by Hanover Township and we do not want to get in to carry-out – we just want to serve the park with alcohol – and wine and alcohol would be only in the upper area and it would be stated in our liquor license too – just for wedding receptions and would not take place down at the ball fields.

Mr. Philpot asked Mr. Combs if then, he is saying it will be for private groups.

Mr. Combs said yeah – if it's a wedding or a reception (inaudible).

Mr. Philpot asked Mr. Combs if they will not sell it to the public per se – it will be for private use only.

Mr. Combs said for the full alcohol license, yeah – the full alcohol sales – beer, liquor, wine and all of that would be to cater that whatever party was going on in that pavilion area... the beer sales would primarily be down at the concessions.

Mr. Philpot said that when he said “public” he is saying that people enter the park – the general public and not those that have come in to rent the pavilion for special events – that is what he is talking about, “special events”.

Mr. Combs said they only plan on doing it for special events, otherwise that area is not going to be open.

Mr. Daniel asked Mr. Combs if they would have a lighting specialist come in.

Mr. Combs said they will work with a couple of them and have (inaudible) draw it up and see – and added that he is familiar with the lighting and has put lights up at other ball fields and is familiar with how they cast and direct light and they will have it designed by an architect and have the specs done by an architect. We gave that to Mr. Henry and to the Township to get their approval on it and they were satisfied with what we was proposing on that too.

Mr. Combs said the lower ball field is not going to be a problem – the one of more concern is the one up by the road and he did not think it would create glare and thought the miniature golf course is more of a concern for causing glare but it does sit in a hole and the golf course would be a real low-level light.

Mr. Daniel asked about the concerns of neighbors from the past meetings with the lighting.

Mr. Combs said they want to add a couple of lights over on the other side of the pavilion area but as discussed with them, none of the lights we put in will be aiming directly towards our park and away from any houses.

Mr. Philpot said the curve coming in there was very dangerous.

Mr. Combs agreed.

Mr. Philpot said so lighting for the miniature golf course will have to be (inaudible).

Mr. Combs said it sits down in a pretty good hole so he thinks if the lighting stays low (right around the ten-foot level) that is below the road level so it should not create no problem.

Mr. Combs said some of the plans they have for the future – and building new fences and dugouts ... it takes a lot of money to run the park and it will help us with some of the burden of that, but then again we're still a family park and wanting to sell it to youth it just something else that we can offer to those who want it.

Mr. Daniel asked Mr. Combs what their plan is for when they stop serving alcohol.

Mr. Combs said they agreed with the Township to sign off on whatever proposal it is on their stipulation ... so whatever it is... fifteen minutes... thirty minutes... before closing time, he could not recall exactly what time that was... and we did not have a problem with that and wanted to be a good neighbor.

Mr. Daniel asked if beer would be sold when the men are playing straight through the game.

Mr. Combs said until closing time but we agreed with the Township as to whatever they decide on to – if we decide to shut down the park and it closes at twelve, we would stop serving at 11:30 or 11:00.

Mr. Philpot asked what will happen with extra innings and the game goes deeper in to the night.

Mr. Combs said we agreed with whatever the Township decided.

Mr. Philpot said what about the lights in a tournament.

Mr. Combs said most of the tournaments would be played on the weekends and everybody knows when we are done, we are done and we have rules to follow – and our last games should be scheduled to be done by 10:30 or 11:00 but that gives us time if we're running behind to make up for that.

Mr. Salmon asked if this would be for draft beer only – no bottled beer.

Mr. Combs said they have not really looked at (inaudible)... they are more focused on draft beer.

(End of Tape #1)

Tape #2 is defective and inaudible and 45 minutes of tape can not be transcribed.

During the audio taping of the meeting, tape#2 was inserted in to the audio recording machine we regularly do, but not until the attempt to transcribe Tape #2, did we learn that Tape #2 is defective. Below is an account of what, to the best of my recollection, transpired.

The majority of the people from the community who spoke in opposition did not mind the lights being installed on all the fields; however, they did not think the board should allow sales of alcohol throughout the entire park. There was also concern voiced over noise potential coming from the park.

After approximately 45 minutes, another tape (Tape #3) was inserted and its contents are summarized below.

(Beginning of Tape 3 starts here)

Mr. Fox asked Mr. Bevington if he would like for him to go ahead and read it.

Mr. Bevington said please.

Mr. Fox said, in reference to the staff report, this staff report was written before we had our very first meeting that was tabled and when Mr. Henry came to me today (because they had their meeting last week and we were off on Monday) he gave me these conditions from the Hanover Township and said he would proceed with the staff report and might make some change to what the Board of Zoning Appeals sees in the original report.

STAFF REPORT

Mr. Fox said case BZA08-21C, Thompson Park Investment Group, LLC, 3024 Hamilton Richmond Road, Hamilton, Ohio, 45013, the request is to install lighting on the upper and lower ball fields and the miniature golf course, also request a revision to the original conditions to permit alcohol sales throughout the park.

Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.

2. This use is a condition use requiring Board approval and shall meet the following requirements:
 - a. The use is not in conflict with the comprehensive development plan for Butler County.
 - b. This use is located in a district where there are designated conditional uses by these regulations.
 - c. This shall not adversely impact the health and safety of the surrounding areas.
 - d. The use does have direct access to a major arterial or a collector street.
 - e. Where more than ten (10) parking spaces are required, there shall be a hard surface parking area provided.
 - f. A landscape buffer may be provided at the side and rear boundaries of the site at a height appropriate to the intensity of use. The front boundary may be required to be buffered in some way if the County deems necessary.
 - g. Parking areas and general site lighting shall be designed and installed to avoid casting direct light or glare onto surrounding properties.
 - h. All associated buildings, pools and playing fields shall be a minimum of one hundred (100) feet from any other lot in an R-District or a recorded residential subdivision.
3. The staff recommends approval to allow lighting on the upper ball fields and miniature golf area.
4. The staff recommends approval of the lights on the lower ball field.
5. The staff recommends approval of the alcohol use throughout the park.
6. All lighting will require an electrical permit if approved.
7. Lighting plan must be designed by a registered engineer or architect and be submitted to the Butler County Building & Zoning Department for approval.
8. Draft beer sales only, sales by owners of the park to patrons of the park only, beer sales closed 45 minutes prior to park closing, beer sales must be in support of sanctioned park events, consumption on premises only no take-away sales.

Mr. Daniel said, strictly as a comment, he would like to see an agreement previous to his voting as he finds it disturbing that the neighbor's concern about noise level was not addressed tonight (inaudible) and he would like to see an agreement that the rules report to this board so that he knows what he is voting on now and be a responsible Board member – if you can get together, come back and make a presentation to what is presented then he would feel more comfortable yes or no because right now he does not feel very comfortable with what just happened.

Mr. Fox asked Mr. Daniel if he got a copy of what the Township suggested.

Mr. Daniel said yes but he also read (inaudible) ... it says, one paragraph here, we don't vote before the Board of Zoning Appeals ... through your deliberation that can be included we strongly request a development be part of any approval you may bring... (inaudible).

Mr. Bevington said to Mr. Combs that it is up to him you could wait and try to get back to the Township and try to define this more or you can continue and we could have a motion and a second and we will make a vote.

Mr. Fox asked Mr. Bevington what he meant by “define better” – anything better than what Mr. Henry just outlined in reference to number 1, 2, 3, A and B? Isn’t that what we are here about tonight?

Mr. Combs spoke and said he is not sure – what exact... and asked if he could read the exact wording of Mr. Henry’s conditions – and said he thinks he knows what was discussed.

Mr. Fox said he just wanted to make sure it is clear to the Board of Zoning Appeals that if they come back with a list of requirements that have to do with other issues that are not lighting and alcohol sales they would have to be relative to alcohol and lighting.

Mr. Salmon said he thinks he would like to see that prior to our voting, but we can only put conditions on them with reference to the alcohol sales and lighting.

Mr. Fox said to Mr. Salmon, in the letter that the Township wrote, 1,2, 3, A and B.... he said he is not sure what this Board is actually looking for and needs to know what direction that the Board is looking for, the Township and this investment group to come up with that is not already spelled out in the Township’s letter – because he wants to make sure it is associated with this variance and understands that if they do not come back with something (an agreement), with both signed off on it, this Board may not even approve this and asked if that is what he is saying.

Mr. Philpot asked what kind of agreement can they have if they already have one conditional use – and what kind of agreement are we looking at – what kind of conditions? If it does not go with this conditional use.

Ms. Steenken said specifically they are asking us two things, concerning alcohol and lighting.

Mr. Philpot said but his question is, with Mr. Henry and the Hanover Township, what authorities they have and what kind of decisions are they making....

Ms. Steenken said it is her opinion that what ever agreement the Township and the investors come to is their agreement and not our agreement. It is not our agreement and the only thing they are asking us for is our vote on the use of alcohol and lighting.

Mr. Philpot said then the question is: then why did he come.

Ms. Steenken said to indicate that they are in support of their activities in general and are in the process of coming to some sort of agreement, but that agreement is not before this Board.

Mr. Philpot said he completely understands that, but is trying to figure out what their agreement has to do then with this conditional use then.

Mr. Fox said, in his opinion, nothing.

Mr. Bevington asked Mr. Fox if the Board of Zoning Appeals could break it down and take two votes, one on the lighting and one on the alcohol sales.

Mr. Fox replied absolutely.

Mr. Combs said he hopes the Board will grant this and whatever conditional uses you see put on there – and he thinks that is where we come in agreement on was, to shut down half hour early on beer sales or 45 minutes early, no just beer or no outside sales – we have come to an agreement on, that and the other stuff we are working on, a lot of it has to do with stuff you are already agreed on – like alcohol sales, you have already granted us that – just not throughout the park and we do not want to break the laws – any conditions that you see fit to put on this, like the Township mentioned in their letter, he believed a half hour early, or strictly in this area, or like we promised and told them, not during youth activities – we are great with that and know that we when we come back here every year for reviews, we do not want to blow no opportunity and we want to be a good neighbor.

Mr. Bevington stated the Board would take a vote on the lighting (of the upper and lower ball fields and miniature golf course) to start with.

Ms. Steenken made a motion to approve the request for the lighting on the stated areas according to the staff recommendations. Mr. Philpot seconded the motion. Motion passed.

AYES: Steenken, Philpot, Salmon, Daniel, Bevington

NAYES: None

Mr. Bevington said the applicant is asking for a revision of the alcohol and have it permitted throughout the park, so he entertained a motion and if anyone wants to put stipulations on the type of alcohol, where they can do it and make a motion for or against.

Mr. Daniel asked Mr. Combs how many concession areas they have.

Mr. Combs said they have one current, but they will have a portable (inaudible) concessions (inaudible) ... we might pull to the top if its nothing but men's leagues going on there might be over at the pavilion area – that is our line of thinking... we just want to have beer sales - we are not trying to open up a bar or nothing else.

Mr. Combs said he trusts the Board will make the right decision – last time I was here, Mr. Bevington and Mr. Fox felt it was good for us to get on board with Hanover Township and we agreed and have had good success at our last meetings and we are willing to negotiate whatever with Hanover Township, and if you put a stipulation on that, then we are going to abide by what you are telling us to do and we have no intention of changing our direction.

Mr. Daniel commented on a complaint about the noise.

Mr. Combs said he wanted to apologize to the Board of Zoning Appeals if he confused the Board with the wording on their presentation to the Board – and when we suggested that you consider this agreement it was a good suggestion about being a good neighbor that you talked about in that it offers us an opportunity to reexamine some of those areas that have already met your approval but it gives us a chance to further define and alleviate some of the areas of conflict – and that is our objective... and we know that some time you can encourage that through your actions .. your approval or advancing on these issues as it comes back from you and he thinks if the Board indicates that this comes back for review, one of the things you will take a look at is what has happened with the park's relationship with the area and that is why in that wording we were suggesting if so desired to put that in as a back ground reference that that is something that you know would take place in the park in the future and we understand completely there are only the two issues before you, because it is true that Mr. Fox indicated that it is our intent to go beyond these two issues in this agreement and go back and capture some of the points that we did not have the opportunity to make prior to your view and at least the initial understanding is that we have got a general consensus that we are both perceiving that direction, we do not have a specific wording thing down, but again, our intention is to try and address all party's concerns and make this viable operation but also understand that it is our intention to try and (inaudible) the issues that have been raised in terms of noise and the scope and we realize that we are not asking the Board to go back and redo that – but wanted the Board to know their intent through this agreement to try and do that with the cooperation of parties involved, so as far as the alcohol is concerned, it is kind of a long process that it will go through if indeed the expansion is approved – and if it is not approved, he thinks they will still have to go through that permit process for which the Board has already authorized concerning ... (inaudible) that process as it makes back around to the Township and we do have the interests of any of those things ourselves, since the issues of concern ... (inaudible).

Mr. Bevington thanked Mr. Combs.

Ms. Steenken made a motion to approve the request for beer sales in designated concession areas and it be limited to draft beer only, there will be no take-away sales, that it will be sales by the owners of the park to patrons of the park only, that there will be no alcohol sold during scheduled youth programs or games, and that all sales should be stopped forty-five (45) minutes prior to the scheduled end of that particular event.

Mr. Bevington said to Ms. Steenken that on the original one they had – the hard liquor, the whiskey and wine could be inside the pavilion – and asked if that would still be permitted.

Ms. Steenken said that has been granted and other than the pavilion just beer sales only.

Mr. Salmon asked for clarification regarding the forty-five (45) minutes – it could be the end of each base ball game, it could be the event of closing the park and said it can be viewed from different ways and would they have to quit 45 minutes before every game and if they had another game after that one, then... and is stating this just for clarification purposes.

Ms. Steenken said perhaps it should be stated as, “forty-five minutes before the closing of the park”.

Mr. Salmon stated that a condition should be added that the applicant must have all appropriate permits required.

Ms. Steenken agreed to add the condition Mr. Salmon stated, and asked Mr. Fox if staff had any additional suggestions.

Mr. Fox replied no and said he felt she had covered everything.

Mr. Salmon seconded the motion. Motion approved by majority.

AYES: Steenken, Salmon, Bevington

NAYES: Philpot, Daniel

ADJOURNMENT:

A motion was made by Mr. Salmon, seconded by Mr. Philpot to adjourn. All in favor, motion carried.

These Minutes represent a summary of the proceedings and do not purport to be the entire record. A complete transcription of these proceedings was taken from an audio tape by James M. Fox under supervision of the Secretary and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting such same and must be prepaid.

Hamilton, Ohio
January 20, 2009

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf