

BEFORE THE CLEARCREEK TOWNSHIP BOARD OF ZONING APPEALS WARREN
COUNTY, OHIO

IN RE: Donnie Hensley

* Application No.: 17-BZA-012
* DECISION

On the 10th day of October 2017 an application submitted by Donnie Hensley for variances from Sections 5.10, 5.55 and 5.57(B) of the Clearcreek Township Zoning Resolution.

The address of the property is 3575 Crestview Dr. The property is 9.573 acres in size. The property is identified by parcel id 09-33-176-011 and account number 0210919. The parcel is located in Section 33, Town 4 and Range 4 in Clearcreek Township. The property is zoned Open Space Rural Residence Zone "OSR-1".

The request is to allow the access easement to the property to function as road frontage so a single family dwelling can be constructed.

Notice of the public hearing was made as provided by law and this matter was advertised to be heard by the Board on November 14, 2017. A quorum was present.

On December 12, 2017, the Board moved to approve its minutes of the meeting held on November 14, 2017 and hereby submits its Decision upon said application.

Applicant's application shall be treated as a Variance Hearing and governed by the Unnecessary Hardship Standards.

By a vote of 4 to 0, it is the Decision of the Board moved to APPROVE the request with the following reasons:

1. *Response to standard "The hardship must remove all profitable use from the land. It is not a sufficient hardship if the land would be more valuable with the variance, or less valuable without the variance. Instead, there must be evidence that the property is unsuitable to any of the permitted uses as zoned"* — The Board finds the property has historically been used for agriculture. Dwelling isn't possible without a variance. The paper street that was platted 55 years ago has led to limitation of use for the property. In order for horse boarding to be a good business, supervision is needed for the site.

2. *Response to standard "The hardship must result from circumstances affecting a particular and unique piece of land and not from a general condition throughout the neighborhood"* — The Board finds the site meets criteria.

3. *Response to standard "A variance must not alter the essential character of the neighborhood"* — The Board finds the variance would not alter the character of the neighborhood.

4. *Response to standard "It is not enough to show that the effects of a variance would be*

FILED
DEC 12 2017
CLEARCREEK TOWNSHIP
ZONING DEPT.

harmless. Real, unnecessary hardship must still be established by the applicant" — The Board finds that the applicant wants to build a house and live on the property.

5. *Response to standard "Any hardship must result from the requirements of the zoning resolution and not from the applicant's own actions"* — The Board finds this isn't applicable to the decision.

6. *Response to standard "Whether the property owner purchased or acquired the property with the knowledge of the zoning restriction"* — The Board finds that the applicant assumed since the property was surrounded by houses and had a residential zoning classification that a home could be built on the property. Property owner has certain rights for use of property.

7. *Response to standard "A variance must not be contrary to the public interest, even if a hardship can be established"* — The Board finds the variance to not be contrary to the public interest.

8. *"Other factors that the applicant considers important to the judgment of the case"* — The Board establishes a minimum of a 100' setback from the western boundary and a minimum of 100' setback from the eastern boundary for residential structures. The minimum northern setback shall be 20' and the minimum southern setback shall be 20'.

As defined in Section 2506.01 of the Ohio Revised Code, this Decision constitutes a final order of the Board for appeal purposes. The applicant and other interested parties with standing to challenge this final order have the right to file a Notice of Appeal with the Warren County Common Pleas Court within thirty days of the date of filing of the Decision as stamped hereon. The Secretary shall send a copy of this Decision to the Applicant and/or Applicant's legal counsel by certified mail, return receipt requested.

APPROVED:



Thomas St. Denis, Chairperson
Board of Zoning Appeals

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DEC 12 2017

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