

**MINUTES OF THE
CITY OF PATASKALA BOARD OF ZONING APPEALS**

Monday, October 14, 2019

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio, on Monday, October 14, 2019.

Present were:

Rob Platte, Chairman

Alan Howe, Vice Chairman

Bruce Ashcraft

Brandon Galik

TJ Rhodeback

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning and Zoning Director

Lisa Paxton, Planning and Zoning Clerk

Brian Zets, Law Director

Mr. Platte opened the hearing at 6:30 p.m., followed by the Pledge of Allegiance.

Roll call was made. Present were: Bruce Ashcraft, Brandon Galik, Alan Howe, Rob Platte and TJ Rhodeback.

Variance Application VA-19-002 to remain tabled.

Next on the Agenda, Conditional Use Application CU-19-002, 12425 East Broad Street, Bullet Ranch.

Mr. Fulton gave an overview of the Staff Report, noting the Applicant's request for a Conditional Use to allow for an outdoor trap shooting range, pursuant to Section 1249.04 of the Pataskala Code. The Applicant received a conditional use for an indoor firing range in 2012, and the outdoor area would be used as an archery range. The property is located within a discharge zone and discharge of firearms are permitted in accordance with the provisions of Section 505.11(d) of the Pataskala Code. It was noted that Section 505.11(d) allows for hunting and "the discharge of firearms otherwise permitted"; however, the other permissible ways firearms may be discharged is not defined and is ambiguous. Mr. Fulton noted it could also be argued that an outdoor trap shooting range could qualify under the phrase "the discharge of firearms otherwise permitted". The Decibel Comparison Chart was noted along with Section 509.08 of the Pataskala Code, "Unreasonably Loud Noise". Section 1287.05 of the Pataskala Code regarding noise was also noted. Sections 1533.83 through 1533.85 of the Ohio Revised Code outlines definitions and laws governing shooting ranges in the State of Ohio. Ohio Administrative Code Section 1501:1-29-03 and Section 1501:31-29-03(B) were noted. Unacceptable noise levels were reviewed. Sections 1533.05 and 1533.85(B)(C) of the Ohio Revised Code were noted.

Steven Garavuso, 12425 Broad Street, was placed under oath.

Mr. Garavuso stated the outdoor range was converted October 1, 2017; discussions were had with the City at that time and it was determined they were in a discharge zone and no additional permits were needed.

Mr. Garavuso stated he filed this application, per the City's recommendation, and has complied by every rule and regulation.

Mr. Fulton stated trying to remember if it were he or the previous City Planner that spoke with Mr. Garavuso regarding the discharge zones.

Mr. Platte indicated the discharge zone not specifying use of property as residential or commercial.

Mr. Fulton answered in the affirmative.

Mr. Platte notated ambiguity in the code.

Richard Levacy, 41 Charles Road, was placed under oath.

Mr. Levacy indicated that freedoms are being taken away, and this is a way of taking away guns that are used for enjoyment. Mr. Levacy stated neighbor's chickens, dogs and motorcycles are louder than the Bullet Ranch. Mr. Levacy stated he is fighting for his rights.

A discussion was had regarding Mr. Levacy's location on Charles Road.

Dorothy Hicks, 262 Charles Road, was placed under oath.

Ms. Hicks stated having no problems with guns but has issues with the noise. Ms. Hicks noted concerns regarding not being able to enjoy going outside, concerns with real estate value and the affect it could have on homes being shown on weekends. Ms. Hicks read from the National Rifle Association guidelines regarding noise, environmental impacts and conflicts. Ms. Hicks stated zoning, nuisance and state laws have been broken. Ms. Hicks stated she respects, supports and appreciates the right to bear arms, and practicing the sport within the confines of an indoor range.

Mr. Platte asked Ms. Hicks if she has anything to submit regarding the real estate concerns.

Ms. Hicks stated she did not.

Ms. Rhodeback asked if she attends church locally.

Ms. Hicks stated in Columbus.

Natasha Benjamin, speaking for Kristy Hess, 12240 Mill Street Avenue, was placed under oath.

A discussion was had regarding allowing Ms. Benjamin to speak on behalf of Ms. Hess.

Ms. Benjamin read from Ms. Hess' email that was sent to the Zoning Inspector. The email noted requesting to file a formal noise complaint. Concerns were stated regarding the family's quality of life being affected and concerns with her pets being terrified of the gunfire and not going outside.

Leatrice Guttentag, 280 Charles Road, was placed under oath.

Ms. Guttentag provided handouts to the Board. Ms. Guttentag noted attending Agricultural Committee meetings and receiving documentation from the Lima Township merger that states businesses cannot sell their

discharge rights. Letters and petitions were noted. Ms. Guttentag gave an overview of herself, stated being on the 80th floor on 9/11. Ms. Guttentag noted working at home has been ideal until shooting at the outdoor range; noting noise can be heard inside her home with the doors and windows closed. It was stated that her PTSD gets triggered by loud noises; a doctor's note was also included. A nuisance complaint was referenced along with an affidavit regarding shooting from raised platforms. A document dated October 16, 2012, Page 2, was read indicating there would not be an impact by the use; however, it was stated there is an impact. The National Rifle Association 2012 handbook was read from. Property value and EPA issues were noted. State and local regulations were noted. Ms. Guttentag stated excessive noise has been created that breaks City nuisance laws and State laws. Ms. Guttentag indicated the Bullet Ranch is a commercial enterprise and cannot use the discharge zone. Ms. Guttentag stated the Bullet Ranch's lack of planning should not impact the residence around the Bullet Ranch.

Charles Peyton, 264 Charles Road, was placed under oath.

Mr. Peayton stated he is an avid hunter and agrees with Mr. Levacy. Mr. Peayton stated he hears shooting but it's not excessive; no louder than dogs, chickens in neighborhood. Mr. Peayton noted airplanes that fly over his home are is louder. It was noted the Lions Club has a turkey shoot every Sunday. Mr. Peayton indicated he's been asked to shoot deer in the area and doesn't understand the conflict.

Rebecca McCoy, 284 Charles Road, was placed under oath.

Ms. McCoy stated she is not here about the noise, but about property values. Ms. McCoy stated she is planning on selling in the near future and does not care about the noise, as she is hard of hearing, but cares about property values.

Mr. Platte asked if she had anything to submit regarding property values.

Ms. McCoy stated she did not.

Steve Benninger, 3690 Styler Road, Gahanna, was placed under oath.

Mr. Benninger noted he is a pastor and owns the adjacent property that is currently occupied by Harley Davidson. Mr. Benninger stated if the use is granted it would adversely affect the Church's interests. The Church's intent is to convert the existing building into a Sunday worship facility and ministry activities during the week. Mr. Benninger noted his concerns regarding Sunday morning gunfire. Youth activities, classes, ministries and outreach being held during the week would be negatively impacted and is not in favor of the use being granted.

Mr. Platte inquired as to when the Church purchased the property.

Mr. Benninger noted purchasing the property December 2017.

Joel Lively, 12274 Mill Street Avenue, was placed under oath.

Mr. Lively stated his home is the closest and faces the Bullet Ranch. Mr. Lively stated the comments made regarding his neighbor's dogs are incorrectincurrent. Mr. Lively stated his children and dogs are not affected by the noise, and there is more noise from airplanes, trains, fire trucks and traffic on Broad Street. Mr. Lively believes this is an attack on the right to shoot. Mr. Lively stated he could shoot in his area as it is in a discharge zone.

Ms. Rhodeback asked if he owned the property, or if he has hunting rights.

Mr. Lively stated he leases the property, but wouldn't hunt, due to traffic, but stated he has the right to hunt.

Rebecca Singleton, 13143 Broad Street, was placed under oath.

Ms. Singleton stated speaking with a realtor regarding eight disclosures that are to be told to potential buyers, and No. 2 is nuisance that could be from a shooting range. Ms. Singleton stated wanting to make sure there is good real estate and keeping it that way.

Mr. Platte asked if there is a similar requirement to disclose being in a discharge zone.

Ms. Singleton stated that was not mentioned.

Mr. Platte asked Ms. Singleton if she had anything to submit to the Board.

Ms. Singleton indicated she did not.

Reginald Wheeler, 2934 Creekwood Estates Drive, Blacklick, was placed under oath.

Mr. Wheeler stated he is a licensed relator and noise levels and shooting ranges would be disclosed; he would not be doing his due diligence if he didn't disclose those issues to clients. Mr. Wheeler noted property values are a toss-up. It was indicated shooting ranges could bring property values down. Gun ranges can pose a problem and would hate to tell his client there is a gun range in the area, but some people want a gun range; if that's what they want, that is a positive for them. But as far as property value, it would hurt, as far as bringing property value up.

Mr. Platte asked if discharge zones would also be disclosed.

Mr. Wheeler stated if it is known. If they don't know about it, it doesn't have to be disclosed.

Mr. Platte asked if due diligence would be required for a shooting range.

Mr. Wheeler noted not being required; but if you know about it, clients must be told.

Jerry Carver, 12425 Broad Street, was placed under oath.

Mr. Carver stated being a partner of the Bullet Ranch. Mr. Carver indicated asking Ms. Guttentag to keep a logbook any time a gunshot was heard from the Bullet Ranch and meet tonight in order to put everything forward. Mr. Carver stated he has his own paperwork and logbook. It was noted seventeen minutes a day, on average, four days a week for the last three months for outside shooting, and that it's not constant gunfire. An overview five stand clay shooting was noted. Mr. Carver stated not impacting the environment nor the neighbors. Mr. Carver stated wanting to be good neighbors. Mr. Carver indicated meeting members from the church and promising not to shoot outside during services and not to open the five stand until 2:00 p.m., and it would be shut down by 6:00 p.m., closing an hour before dark in the winter. Mr. Carver noted he and Mr. Garavuso are instructors. It was further stated the range is a shotgun range and not a rifle range.

Mr. Platte asked for a clarification regarding shotgun and rifle.

Mr. Carver indicated what was being read earlier was in regards to a rifle range. He noted a noise meter registered 98 on his property line to the church and Charles Street did not register. It was stated planes were 68 decibels, motorcycles were 70-something and the train was the loudest. Mr. Carver stated he has documented and kept register receipts of every five stand round that has been done since being introduced to Ms. Guttentag. It was noted an average of 17 minutes for 25 days. Mr. Carver stated the average a five stand is used on any day, out of four days a week, is twice a day, with a total of 34 minutes.

Mr. Platte asked, for clarification, the NRA references applies to rifle ranges and not shotgun ranges.

Mr. Carver indicated in the affirmative. Mr. Carver further stated there is a subsection in the book for shotgun ranges, but it is completely different than a rifle range, and as an NRA instructor and counselor, and he can testify they are two completely different ranges.

Ms. Rhodeback inquired as to the percentage of time someone is utilizing the facility.

Mr. Carver stated there are two members that are regular users that use the shotgun range every Friday Morning at 11:00 a.m. to 11:35 a.m. and on Sundays from 2:00 p.m. to about 2:45 p.m., not just shooting outside but inside as well.

Ms. Rhodeback asked the percentage of the business being used for the five stand.

Mr. Carver indicated less than 1 percent.

Ms. Rhodeback asked how long sessions last.

Mr. Carver indicated 17 minutes. An overview of the five stand was noted. It was stated the outdoor range is weather related.

Ms. Rhodeback inquired as to holidays.

Mr. Carver stated they are closed on holidays. Mr. Carver believes they may be hearing the roofing nailers from the new construction. Mr. Carver indicated he has stood on Charles Road to get a reading, and didn't get a reading on the shotgun; however, the auto nailers sound just like a gunshot, showing up at 68 to 72 on the noise meter. Mr. Carver stated the noise is not coming from the Bullet Ranch but the new housing development.

Ms. Guttentag stated she met Mr. Carver after a Council meeting. Ms. Guttentag stated Mr. Carver asked why she thought the noise was coming from them, and she stated on multiple occasion, every time she hears it, she drives to the parking lot to confirm. Ms. Guttentag noted the discussion that was had with Mr. Carver regarding logging the noise. Ms. Guttentag noted the Bullet Ranch was closed on Labor Day, but there were shots the whole weekend up to the holiday. Ms. Guttentag stated being unable to have a memorial service for her father on her property because of the noise.

Ms. Rhodeback asked if she is looking for a compromise.

Ms. Guttentag stated wanting quiet and it is affecting too much of their lives and housing values.

Mr. Levacy stated property values and taxes keep climbing and are not going down.

Mr. Peyton asked if the Bullet Ranch is in a discharge area and if guns can be used outside.

Mr. Fulton stated that it is arguably debatable, and as stated, the way the Code is written, it is ambiguous. Was the code intended for outdoor hunting in appropriate locations, or would outdoor trap shooting be one of the "discharge of firearms otherwise permitted", as "otherwise permitted" is not defined.

Mr. Peyton noted different items that could deter a person from purchasing a house.

Mr. Lively stated the Bullet Ranch has been willing to work with the neighbors.

Mr. Platte asked, for clarification, the Use was converted October 1, 2017 from an archery range to five stand.

Mr. Garavuso answered in the affirmative, and after having numerous discussions with the City.

Mr. Platte stated that there was discussion from someone with the City that said a Conditional Use was not needed, but agreed, out of the abundance of caution, to submit the application and go through the process.

Mr. Garavuso answered in the affirmative. Mr. Garavuso also stated he initially objected as he was previously told he didn't need a Conditional Use because he was in a discharge zone. Conversations with Mr. Fulton, with the Law Director concurring, as well as the City Administrator, they all were in agreement that it wasn't needed because they are in a discharge zone, and there is no definition for it nor is it defined in the Code. Mr. Garavuso stated he has done everything by the book.

Mr. Platte asked for a clarification regarding the current hours of operation and desired hours of operation, as the Board can consider hours of operation.

Mr. Garavuso noted hours being Monday through Thursday, 10:00 a.m. to 9:00 p.m., outdoor range an hour before dusk. Friday through Sunday, open 9:00 a.m. and closing at 7:00 p.m., depending on the time of year, close at dusk, summer open until 9:30, and may have shooters at 6:00 on a Saturday. Mr. Garavuso stated less than 5% of the day, maybe four days a week that it is being used. Everything goes through the register and no handwritten logs. Mr. Garavuso noted a discussion he had with Ms. Guttentag, to sit down and talk about it, and he indicated she stated she was going to shut him down, and that was when the discussion ended. Mr. Garavuso stated trying to be the best neighbor, support the City and City events and has done everything the City has asked from day one.

A further discussion was had regarding hours of operation.

Mr. Platte stated he would like a clear understanding of the law and recommends the Board confer with Legal Counsel.

Mr. Ashcraft made a motion for a recess to confer with legal Counsel. Seconded by Ms. Rhodeback. Mr. Galik, Mr. Ashcraft, Mr. Howe, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Recess taken at 7:50 p.m.

Mr. Howe made a motion to return from recess. Mr. Galik seconded the motion. Ms. Rhodeback, Mr. Platte, Mr. Howe, Mr. Ashcraft and Mr. Galik voted yes. The motion was approved.

Back on the Record at 8:26 p.m.

Mr. Platte inquired as to the City Comprehensive Plan.

Mr. Fulton stated, at this time, he did not know what the existing Comprehensive Plan is recommending, and the new plan should not be considered until it is formally adopted by Council.

Mr. Platte asked for a clarification that the range shuts down an hour prior to sunset.

Mr. Garavuso answered in the affirmative.

Mr. Platte noted the time varying through the year.

Mr. Garavuso stated even if it's light at 9:00 o'clock, they will close the traps at 8:00.

Mr. Platte noted an hour before dark, but no later than 8:00 o'clock is the takedown time.

Mr. Garavuso answered in the affirmative.

Mr. Platte noted the start time of the outdoor range currently is Monday through Thursday, 10:00 to 9:00, Friday through Sunday, 9:00 to 7:00.

Mr. Garavuso answered in the affirmative.

Mr. Platte asked if the Board were to grant the Conditional Use, to limited Sunday operations for the outdoor range from 2:00 to 6:00.

Mr. Garavuso stated not being opposed to the Sunday hours.

A discussion was had regarding closing procedures.

A discussion was had regarding items the Board may consider.

Findings of Facts were reviewed and discussed.

Mr. Platte made a motion to approve a conditional use, pursuant to Section 1249.04(16) of the Pataskala Code, for application CU-19-002, with the following conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within one (1) year of the date of approval.
2. The use of the outdoor shooting range shall not begin earlier than 9:00 a.m. Monday through Saturday, and shall not extend later than one hour prior to sunset, or 8:00 p.m., whichever is earlier, for the days of Monday through Saturday. The hours of operation of the outdoor shooting range on Sundays shall be 2:00 p.m. to 6:00 p.m.
3. The outdoor range shall be used for trap shooting only.
4. The Applicant shall comply with all applicable state and federal laws.

Seconded by Mr. Ashcraft. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback, Mr. Platte and Mr. Galik voted yes. The motion was approved.

Next on the Agenda, Findings of Fact.**Conditional Use Application CU-19-002**

<u>Yes</u>	<u>No</u>	
✓		1. Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.
✓		2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.
✓		3. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
✓		4. Will not be hazardous or disturbing to existing or future neighboring uses.
✓		5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment
✓		6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
✓		7. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare,
✓		8. Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.
✓		9. Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.

Mr. Rhodeback made a motion to approve the Findings of Facts for Conditional Use Application CU-19-002. Seconded by Mr. Ashcraft. Mr. Galik, Mr. Platte, Ms. Rhodeback, Mr. Ashcraft and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, approval of the September 9, 2019 meeting minutes.

Mr. Ashcraft made a motion to approve the minutes from the September 9, 2019 regular meeting minutes. Seconded by Mr. Galik. Ms. Rhodeback, Mr. Platte, Mr. Howe, Mr. Ashcraft and Mr. Galik voted yes. The motion was approved.

Next on the Agenda, Excuse of Absence for Rob Platte from the September 9, 2019 meeting.

Ms. Rhodeback made a motion to approve the absence of Mr. Platte from the September 9, 2019 meeting. Seconded by Mr. Howe. Mr. Ashcraft, Mr. Howe, Mr. Galik and Ms. Rhodeback voted yes. Mr. Platte abstained. The motion was approved.

Next on the Agenda, Other Business.

No other business was given.

Mr. Howe made a motion to adjourn the meeting. Seconded by Mr. Galik. Mr. Platte, Mr. Galik, Ms. Rhodeback, Mr. Howe and Mr. Ashcraft voted yes. The meeting was adjourned at 8:57 p.m.

Minutes of the September 9, 2019 meeting were approved on

_____, 2019.
