

PUBLIC HEARING
BOARD OF ZONING APPEALS
March 10, 2016

The Austintown Township Board of Appeals held a Public Hearing on Thursday, March 10, 2016, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of the following case:

APPEAL CASE 2016-03-A-Fidram.

The following Board members were in attendance:

Mr. Robert Satterlee – Chairman
Mr. Michael Beaudis – Vice-Chairman
Mr. William Glaros
Mr. Joe Koch
Mr. James Mahoney

Chairman Satterlee opened the public hearing at 7:00 P.M. The following testimony was given under oath or affirmation. Court Reporter in attendance, complete transcript taken of the hearing.

APPEAL CASE 2016-03-A

Pastor David Fidram, 4452 New Road, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a Conditional Use Permit from the terms Article I-Definitions: “Quasi Public Buildings or Uses”, Article VI-Residence R-1 Districts, Section 602-Conditionally Permitted Uses, and Article XVI-Conditional Uses, Section 1600, Paragraph No. 1. Quasi-Public Buildings, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, to allow for the occupancy of the proposed Al Shaddais House of Worship Church at the property located at 4452 New Road. Said property is zoned as a Residence R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant’s letter of request dated February 9, 2016 into the case record, referenced a copy of a State of Ohio Certificate for Al Shaddai’s House of Worship Church, a two line hand written description of the parking lot and interior room where the sanctuary is proposed, two hand drawn interior floor drawings, a list of property owners who do not object to the request, 24 color photographs of the interior and exterior of the property, a letter of violation issued January 29, 2016 advising a conditional use is required for a church use and to cease the church activity until a conditional use permit is secured, a stop work order issued on the parking lot, a January 7, 2016 letter from the applicant, four pictures of the exterior parking lot taken by Assistant Zoning Inspector Eric Harris Sr., a copy of the Zoning Inspectors calendar depicting an August 5, 2015 meeting at 10:00 A.M. advising the applicant of the

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conditional use requirements for a church, the case mailing list, and three plat maps prepared by the zoning office.

Mr. Koch stated the mailing list for case 2016-03-A will be incorporated into the case record.

Pastor David Fidram, 4452 New Road, Austintown, Ohio, 44515, stated he talked to Darren a number of times and operated the community outreach ministry. They started off at the bowling alley, had events at Austintown Park and always got permits for whatever they did. He called the State of Ohio and wanted to change the name of the church and was told there were no laws on the books saying you are not allowed to have a church in your house. He told Darren that but was told it doesn't matter what the state says only what zoning says. He would not have bought the house just to buy a house. His church only has 20 people and rent in Austintown is 10 to 12 dollars per square foot or \$1,500.00 to \$2,200.00 dollars a month for rent plus utilities. The house was bought so the people could come together and worship. If he can't have the ministry he doesn't need the house. Mr. Satterlee asked where he lives. Pastor Fidram stated he has lived in an apartment for a number of years. His house mortgage payment is less than what commercial rent would be and that's the reason he bought the house.

Mr. Satterlee inquired about the parking lot. Mr. Fidram stated it was financed and approved by the mortgage company and stated how could he know that wasn't the right thing to do.

Mr. Beaudis asked why he purchased the house when he was notified by Darren on August 5th of last year that a conditional use permit would be needed to operate a church within a house. Mr. Fidram stated he called the State of Ohio and was told he would not need it and he figured the state knew what it was doing. Mr. Beaudis advised he has to follow local zoning laws. Mr. Fidram stated the State did not inform him of that and he was told there was nothing on the books saying he can't operate.

Mr. Satterlee asked if there would be food service. Mr. Fidram stated all they want to do is come together and worship. If funds pick up maybe they will get a gift card or gas card for someone in need but they do not have room to feed people or have a food pantry or nursery.

Mr. Satterlee observed there are 20 worshippers now and what would happen if the congregation grew. Mr. Fidram stated if the congregation grew and the funds came in he would obtain a commercial building. Right now he cannot afford a commercial building. Mr. Satterlee observed that right now there is a house on New Road with a parking lot in the front yard. He advised the parking lot has changed the characteristic of the neighborhood. Mr. Fidram stated he applied for a loan and it was approved and wouldn't they know this. Mr. Satterlee emphasized in his opinion the parking lot changes the characteristics of the neighborhood.

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Mr. Koch inquired as to the regulations regarding paving over front lawns. Zoning Inspector Crivelli stated there are no requirements within residential neighborhoods for extending driveways within front yards as long as it is for a residential use and storm water management is not required. The stop work order was issued because the proposed use of the property was going to be a church in addition to Mr. Fidram statement to Eric that the parking lot is also for extended family.

Mr. Koch asked what the difference is between one man's football party versus another man's church gathering. Zoning Inspector Crivelli advised it is the "use" and you can extend your driveway for a residential use and Mr. Fidram advised Eric the lot was for his church. Mr. Koch inquired as to what would happen if he had not stated it was for a church. Zoning Inspector Crivelli advised if there was no church use and no assembly of people there would be no violation.

Mr. Satterlee asked if he would have a clothing donation drop off box. Mr. Fidram answered in the negative and stated people can drop off clothing at the Goodwill store down the street.

Mr. Satterlee inquired about the number of church services per week. Mr. Fidram stated services would be on Saturday's and Sunday's from 11:00 A.M. to 1.30 P.M. He has approximately 20 worshippers.

In response to a series of questions from Mr. Satterlee, Mr. Fidram stated there will be no after school programs, no daycare for adults or children, no food pantry, no soup kitchen, no clothing giveaways, no donation drop off boxes, no bingo or other fund raising activities held on the property. Mr. Fidram stated they do not believe in playing bingo.

Mr. Koch inquired about a church use requiring a zone change. Zoning Inspector Crivelli advised a church use is a conditionally permitted use in any zoning district and more specifically churches proposed in residential districts or new church construction will have to make application to appear before the Board of Appeals. He emphasized that no zone change is required for a church use. He stated the only time he has discussed a zone change with a church is when a church wants to lease its property for commercial purposes, for example, to generate rent to offset costs.

Mr. Satterlee inquired about outdoor events. Mr. Fidram stated outdoor events would be held at Austintown Park.

Mr. Satterlee inquired about counseling. Mr. Fidram stated the type of counseling he does is for drinking or drug problems. The counseling is biblical and one on one. He is not a licensed councilor but stated he will do biblical counseling at the property.

Mr. Satterlee inquired about the parking area. Mr. Fidram stated it is at a standstill. If he has money in the future he may blacktop it. He has a sign that will be placed on the porch with the name of the ministry on it. He stated he submitted a picture of the sign

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with his application and did not anticipate larger signs. The picture was marked as Exhibit “A”.

Mr. Koch stated he is a little too far down the road and has changed the character of the neighborhood. He suggested if the parking lot were in the back it would be more palatable. Mr. Fidram stated the septic system is in the back and they would be running over laterals.

Mr. Koch stated he needed to do some due diligence and not to purchase the property until he had the approvals needed. Mr. Koch stated if this were proposed in his neighborhood he would object to it as he is changing the neighborhood. Mr. Fidram stated no one in the neighborhood has objected and asked if anyone else has objected. Mr. Satterlee stated the five members of the Board of Appeals is the governing body regarding the decision.

Mr. Koch stated if this was proposed down the street closer to Wedgewood it would be more acceptable. The parking lot and weekend activity and cars in the front lawn are a problem. He stated he should have found a spot closer to commercial properties. Mr. Fidram stated he does not have the money for that and if he called it bible study no one would be complaining. Mr. Koch stated no one is against a church per se but the parking lot has a commercial look that starts to transition and may begin a series of other events that leads to blight such as a neighbor saying if he can do that I will do the same for an auto repair business. Mr. Fidram stated there is a car lot one house down across the street. Mr. Satterlee stated that is a different zoning district but Mr. Koch’s point is clear that his lot is extending that look one more lot.

Mr. Mahoney inquired about attendance numbers. Mr. Fidram stated the numbers are dropping as people are not going to church. The most he has had is 20 parishioners, sometimes 12, and as low as four. Mr. Koch emphasized he not too concerned with the numbers that show up as much as what he has done with the front yard. Mr. Fidram stated he comes from a family of nine and each sibling has at least two kids so he needs that parking lot for family events. Mr. Koch commended him for telling the truth that the lot is for a church use.

Zoning Inspector Crivelli asked that if the request is approved to also require a permit from building and fire inspections as a stipulation for approval.

No one else in attendance to speak for the request.

No one else in attendance to speak against the request.

The Board adjourned into executive session at 7:34 P.M.

The Board reconvened from executive session at 7:39 P.M.

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2016-03-A-Fidram: Motion by Mr. Satterlee to approve the conditional use permit with the stipulation operational permits must be secured from the office of fire and safety inspections and building inspections.

Seconded by Mr. Mahoney.

Roll Call Vote: Mr. Glaros - No; Mr. Satterlee – No; Mr. Mahoney - Yes; Mr. Beaudis - No; and Mr. Koch - No.

Zoning Inspector Crivelli advised the request was denied by a 4-1 vote and he has 30 days to appeal the decisions in Mahoning County Common Pleas Court. If the church use continues beyond 30 days without an appeal being filed in Mahoning County Common Pleas Court and enforcement action will begin to shut the church down.

Mr. Fidram stated he will appeal and he has the right to worship in his house. He has the freedom to worship in his house.

There being nothing further to come before the Board, the hearing was adjourned at 7:43 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

Darren L. Crivelli, Zoning Inspector, Austintown Township

APPROVED: _____
Joe Koch – Chairman

DATE: _____