

# Board of Zoning Appeals Meeting Minutes

Greenfield Township, Fairfield County, Ohio

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## Keefe Zoning Violation Appeal Hearing, December 12, 2023

Chairman Dave Bichard called the meeting to order at 6:00 PM

Roll Call Present: Josh Arter – Y, Elizabeth McNeese – Y, Jeff Williamsen – Y,  
Dave Bichard – Y

Witnesses sworn in: Tom Erlenwein, Danielle Keefer, and Josh Cook.

Josh Arter read violation notice:

Owner: Tony & Danielle Keefer

Property Address: 1600 & 1632 Ginder Rd

Lancaster, Ohio 43130

Tax Parcel ID#: 0130038430 & 0130038470

Current Classification: R1

Appeal the decision by the zoning inspector finding the owners in violation of the Greenfield township zoning code. The zoning office has determined the owners are in violation of the Section 415.02 of the Greenfield Township Zoning Resolution (Home Occupations).

Appellants Response: Appellants are not engaging in a home occupation or limited home occupation accessory use as alleged in the Notice of Violation.

Zoning Inspector Tom Erlenwein gave narrative testimony in support of the allegation that the Keefers were operating a business on R1 zoned property and that they had not applied for a Limited Home Occupation variance nor an Expanded Home Occupation variance. Inspector Erlenwein presented evidence of photos, with date stamps, of activity on the Keefer property and gave his opinion of what was occurring on the property. Inspector Erlenwein testified that he lived two properties away and that his observations were based on his personal experience.

Julie Donnan, attorney from Brosius, Johnson and Griggs law firm, represented the Township and Inspector Erlenwein. Attorney Donnan asked clarifying questions of Inspector Erlenwein about the evidence.

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Thaddeus Boggs, attorney from Frost, Brown and Todd, represented Appellant Danielle Keefer. Attorney Boggs cross examined Tom Erlenwein with questions about his testimony and evidence, which did show deficiencies in Inspector Erlenwein's testimony.

Inspector Erlenwein did not call any other witnesses in support of his case.

Appellant Danielle Keefer testified and responded to the evidence presented by Tom Erlenwein. Danielle Keefer responded to questions from her counsel regarding her business and how it operates.

Appellant Keefer also disputed the pictures presented by Inspector Erlenwein. Appellant Keefer reviewed every picture individually against her personal calendar and testified regarding the specific activities that were allegedly depicted. Appellant Keefer testified that all of the activities depicted in the pictures submitted were personal activity and not activity related to her family's businesses.

Attorney Donnan cross examined Danielle Keefer. Some questions regarding how the Keefer business operates were not answered by Danielle Keefer and instead referred them to her accountant, who was not present at the hearing.

Board members questioned Danielle Keefer about her testimony and the activities that occur on the property.

Josh Cook, a neighbor with adjacent property, testified in support of Appellant Keefer. Josh Cook said that he has not observed activity on the Keefer property that appears to be business operations, nor does he have any complaints about it.

Attorney Donnan cross examined Josh Cook on his testimony.

Appellant Keefer called no further witnesses.

The parties then requested to provide closing arguments.

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Attorney Donnan argued in support of Inspector Erlenwein's citation. Attorney Donnan stated the burden of proof is the responsibility of Danielle Keefer. Attorney Donnan argued that the Appellant had not met that burden.

Attorney Boggs argued in support of Appellant Keefer. In those remarks, Attorney Boggs pointed to Kraus v. Riggerbach Case # 2018-OH-2008 from 5<sup>th</sup> District Court of Appeals, paragraph 18 *"Storing business related vehicles on property does not constitute business use of the property or a home occupation."*

Zoning Board members recessed at 9:13 PM to deliberate. Amy Brown Thompson and Steven Darnell, assistant prosecuting attorneys from the Fairfield County Prosecutor's Office, assisted the Board members with any questions they had regarding the hearing and the proceedings.

Hearing reconvened at 9:29 PM.

Elizabeth McNeese made a motion to grant the appeal. Josh Arter second.

Roll Call: Josh Arter – Y, Elizabeth McNeese – Y, Jeff Williamsen – Y, Dave Bichard – Y

Josh Arter made a motion to adjourn. Jeff Williamsen second.

Roll Call: Josh Arter – Y, Elizabeth McNeese – Y, Jeff Williamsen – Y, Dave Bichard – Y

Meeting adjourned at 9:30 PM

Minutes submitted by: Jeff Williamsen

Approved: January 2<sup>nd</sup>, 2024 by Josh Arter, Elizabeth McNeese, Jeff Williamsen, Dave Bichard

(Hearing recording and evidentiary documents are available via a public records request.)