

Whitehouse

April 6, 2023

Meeting Notice
Village Council Meeting As
A Committee of the Whole
April 11, 2023
6:30 p.m.

The Whitehouse Village Council is encouraging citizens to consider accessing public meetings remotely. You may do so by phone at 1-567-318-0438. You will then be prompted to press the following Meeting ID 635995669#. You may also access the meeting online by going to the Village website at www.whitehouseoh.gov and clicking on the link from the home page, please make sure you mute your microphone.

Notice is hereby given that the Whitehouse Village Council will meet as a Committee of the Whole on Tuesday, April 11, 2023 at 6:30 p.m.

AGENDA

- I. Call to Order
- II. Roll Call
- III. Review and Approval of the March 14, 2023, Committee of the Whole Meeting Minutes
- IV. Citizen Comments on Committee of the Whole Agenda Items
- V. **General**
 - A. At the Request of a Council Member, the Committee is Asked to Review the Village's Position on Allowing Chickens Within Residential and Commercial Zoning Districts
 1. **Supporting Information** – Copy of Most Recent Appeal which Summarizes Previous Arguments For and Against Chickens (Exhibit A)
 - B. Discussion on a Potential DORA
 1. **Supporting Information** – None
- VI. **Public Service**
 - A. The Committee is Asked to a) Review the Language of our Current Refuse Bin Placement Ordinance and b) Hear an Update on Related Zoning Enforcement on the Same
 1. **Supporting Information** – Copy of Refuse Bin Placement Ordinance, Memo from Zoning Clerk, and Copy of Enforcement Letter (Exhibit B)
- VII. Citizen Comments
- VIII. Consider Other Business as Appropriate Under the Village Charter
- IX. Adjourn

6925 Providence Street . PO Box 2476 . Whitehouse, Ohio 43571
Phone 419-877-5383 . Fax 419-877-5635
whitehouseoh.gov

STAFF REPORT
BOARD OF ZONING APPEALS #01-2017
April 5, 2017

Applicant: Daniel and Shirley Shaller

Date Appeal Filed: March 22, 2017

Subject Property: 6338 Finzel Road, Whitehouse, OH

Request: Applicant is requesting a variance in order allow the keeping of chickens at their residence located at 6338 Finzel Road, contrary to Chapters 1255.02 of the Whitehouse Zoning Code and 505.15 of the Codified Ordinances. This residence is located in an R-2 Residential District.

Adjacent Zoning: To the north, south and west: R-2 Residential
To the east: R-2 PUD

Adjacent Uses: To the north: Wabash Cannonball Bike Trail
To the east and west: Single family homes
To the south: Mennonite Cemetery

CONSIDERATIONS:

1. On February 23, 2017, Mrs. Shaller called and inquired about keeping chickens on their property at 6338 Finzel Road. Mrs. Shaller stated they were not aware that livestock was not allowed and had already acquired the chickens and coup. The question was referred to Jacob Barnes, the Zoning Inspector, and Phil Davis, Village Solicitor. Mr. Barnes did speak with Mr. and Mrs. Shaller, who then requested the necessary forms to appear before the Board of Zoning Appeals to request a variance to allow the chickens.
2. Information and forms were sent by email to Mrs. Shaller on February 24, 2017.
3. On March 22, 2017, Applicants filed a Petition to appear before the Board of Zoning Appeals for a Request for a Variance and paid the \$100 filing fee. They were advised of the upcoming April 5, 2017, BZA meeting date.
4. The Whitehouse Zoning Code at *Section 1255.02 Land Use Matrix* (Exhibit "A") sets forth the uses permitted in each zoning district. This section states:
 - 2. Agriculture – Boarding of livestock and domesticated animals** is only permitted in an "A" Agricultural district or in a C-3 Commercial District with a Special Use Permit.

5. The Wesley Farms subdivision is located directly across the street (to the east) from Mr. and Mrs. Shaller. The rear yards of three homes on Jamesbrook about Finzel Road and are located directly across Finzel Road from this property. (Exhibit B)

6. The Blue Grass Farms subdivision is located directly behind, to the west, of the Shaller property. The rear yards of two homes on Saddlebridge Drive about the Shaller property. (Exhibit B)

7. Another residence, a long narrow parcel running next to the Wabash Cannonball Trail at 6405 Cemetery Road, is also located to the east. (Exhibit B)

8. Section 1242.03 (B) of the Zoning Code sets forth the powers and jurisdiction of the BZA as follows: Variiances. ...and provided further that no variance shall be granted unless the Board specifically finds that all of the following conditions exist:

1. The special circumstances or conditions applying to the building or land in question are peculiar to such lot or property and do not apply generally to other land or buildings in the vicinity.

2. The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant.

3. The condition from which relief or a variance is sought did not result from action by the applicant.

4. The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the health, safety, convenience or general welfare of the inhabitants of the Village.

Respectfully submitted

Barbara Knisely
Community Development Coordinator

VILLAGE OF WHITEHOUSE
BOARD OF ZONING APPEALS MINUTES
April 5, 2017

Board members present: William Kidd, Leroy Ryerson, Mike Walters, and Robert Werner. Absent: Thomas Spears. Also present: Daniel, Shirley and Savannah Schaller and Barbara Knisely, Community Development Coordinator.

The Board of Zoning Appeals (BZA) meeting was called to order by Robert Werner at 7:32 p.m.

The first order of business was to elect officers for the 2017 calendar year. Leroy Ryerson nominated Robert Werner as Chair and Mike Walters as Vice Chair. William Kidd seconded the nomination. 4-0

William Kidd nominated Leroy Ryerson as Secretary and Mike Walters seconded the nomination. 4-0

Motion by Leroy Ryerson, seconded by Mike Walters to approve the October 5, 2016, Minutes as written. 4 ayes

Chair Werner stated he acknowledges and wants the record to show that Mr. and Mrs. Schaller's name was misspelled on the Agenda and Staff Report. The correct spelling is Schaller, not Shaller. He confirmed that the applicants, Mr. and Mrs. Schaller live at 6338 Finzel Road, Whitehouse, Ohio.

Chair Werner swore in Daniel, Shirley and Savannah Schaller who were about to give testimony concerning the request for a variance to allow the keeping of chickens at their residence at 6338 Finzel Road.

Mr. Schaller stated prior to buying the chickens and coup, he researched the Whitehouse Codified Ordinances and found Section 505.15 Keeping of Animals. He based his decision on that as to whether or not chickens were allowed in the Village. As the chicks grew, he called the Village offices to inquire about a fence permit to contain the chickens in the yard and was, at that time, told they were not allowed. He was later contacted by Mr. Jacob Barnes, the Zoning Inspector, who confirmed that information and explained the process to request a variance through the Board of Zoning Appeals.

Mr. Werner confirmed that livestock is allowed in an "A" district, according to the Zoning Code.

Mr. Schaller stated that the chickens and eggs are not for profit, but only for their personal use. He added that they grow fresh vegetables and fruits and want to eat their own eggs.

Mr. Ryerson confirmed that livestock is only allowed in an "A" district or a "C-3" district with a special use permit, but not in an "R-2" district, such as this section of Finzel Road.

Mr. Schaller stated their residence is located on 2.2 acres of land and he can't even measure the distance to the nearest neighboring residence. Mrs. Schaller added that Section 505.15 says livestock has to be located at least 100' from a neighboring residence – they have no neighbors, just a cemetery, Blue Creek, the Wabash Cannonball Bike Trail, and Finzel Road. Mr. Schaller shared pictures of the property with the BZA members. Mrs. Schaller said they have a unique home on 2.2 acres in the middle of all the newer developments.

Mr. Ryerson stated that the purpose of the Zoning Code is to limit what happens in residential areas, such as sanitation issues, flies, and rodents. Mr. Schaller stated the chickens will be free range in a moveable fenced area. They must protect them from raccoons and a busy Finzel Road. Mr. Ryerson added that the waste will draw flies.

Mr. Schaller stated that the family has less food waste because the chickens eat it. He said they generally have no smell, and won't be running around the entire property. He also added that his property was not zoned R-2 when he moved there, but was changed later.

Mr. Walters asked if there were other residential parcels in Whitehouse that are 2+ acres? He also asked Mr. Schaller to describe "moveable fencing." Mr. Schaller stated they are using his daughters old playhouse as a coup now and would like to be able to move the fence around the rear yard, but never place it in the front yard.

Mrs. Schaller stated her daughter, Savannah, is interested in animals and will be taking agricultural classes when she reaches the 8th grade. She's interested in FFA and 4-H and it can't get any better than having your own chickens to care for. She stated they will use the chicken waste as fertilizer in the garden and that the entire family loves eggs.

Mr. Walters asked how many chickens the Schaller were proposing. Mr. Schaller stated they have 22 now, but only want to keep 13. They would not keep any roosters and already have a home for the extra ones.

Mr. Kidd stated that he appreciates everything that has been said, but the Code states you cannot have livestock in an R-2 district. He doesn't know when the Schaller property was rezoned to an R-2 district, as Mr. Schaller stated, and understands that the Schallers thought they were abiding by the rules. However, the BZA needs to be cautious about granting a variance to allow livestock.

Mr. Werner added that if the BZA grants them a variance, they would have to grant variances for other residents who want to have livestock on their property, and suddenly it would be difficult to determine what is acceptable. Rules are in place for a reason.

Mr. Schaller stated the BZA could set down rules and work something out with him... to allow it because of the size of his property and the distance he could place the coup from the lot lines.

Mr. Kidd added that he would be abstaining from the vote since he is a distant relative of Mr. Schaller.

Leroy Ryerson moved to deny the request for a variance to allow the keeping of chickens at 6338 Finzel Road. Bob Werner seconded the motion.

Discussion followed as to the unique size of this property and should exceptions be allowed.

Chair Werner called for a vote to deny the request for a variance as previously moved and seconded. 3 ayes (Kidd abstaining)

Mr. Schaller stated that they would likely appeal the decision to Village Council. Mrs. Schaller asked if they could get the \$100 filing fee returned and added that they've already spent a lot of money on the chickens.

Mr. Schaller added that he does not think chickens fit the definition of livestock and wonders what that is. Board members added that other communities are having the same issues and know that Maumee and Swanton recently denied requests to allow chickens and that Perrysburg is studying the matter.

The Board then discussed changing the start time of the monthly Board of Zoning Appeals meeting from 7:30 pm to 6:00 pm. Ms. Knisely will discuss this matter with the Administrator to see if that is acceptable.

With no further business to come before the Board, William Kidd moved to adjourn, Leroy Ryerson seconded the motion. Motion passed 4-0 and the meeting was adjourned at 8:00 pm.

Respectfully submitted,

Barbara Knisely
Community Development Coordinator

April 10, 2017

Daniel and Shirley Schaller
6338 Finzel Road
Whitehouse Oh 43571

Dear Mr. and Mrs. Schaller:

Enclosed please find the complete executed copy of the Final Determination of the Village of Whitehouse Board of Zoning Appeals as to Appeal No. 01-2017.

As you are aware, the Board of Zoning Appeals, on April 5, 2017, voted to deny your request for a variance to allow the keeping of chickens on your property at 6338 Finzel Road.

Any appeal in this matter, must be filed in accordance with Whitehouse Zoning Code Section 1242.06(D), within 10 days from receipt of this letter.

Respectfully,

Jordan D. Daugherty
Administrator

ORDINANCE NO. 8 - 2022

**AN ORDINANCE ENACTING WHITEHOUSE MUNICIPAL
CODE SECTION 955.03, RESIDENTIAL WASTE
COLLECTION REGULATIONS**

WHEREAS, the Council for the Village of Whitehouse believes it would be in the best interest of the residents of the Village to enact regulations relating to the storage and collection of residential waste within the Village; and

WHEREAS, after obtaining citizen comments and considering the matter, Council wishes to place the regulations within the Codified Ordinances of the Village of Whitehouse.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WHITEHOUSE, LUCAS COUNTY, OHIO, THREE-FOURTHS (3/4) OF ALL MEMBERS ELECTED THERETO CONCURRING, THAT:

Section 1. Whitehouse Municipal Code Section 955.03, entitled Residential Waste Collection Regulations, is hereby enacted to state as follows:

955.03 RESIDENTIALWASTE COLLECTION REGULATIONS.

- (a) The regulations governing the collection of waste materials from householders is hereby adopted as of the effective date of this section and continuing until further modified, changed, amended or repealed as provided by law.
- (b) To enable the Village to provide clean, efficient, safe waste collection the following guidelines and regulations must be observed:
- (1) Container Requirements. The collection of refuse, recyclables and yard waste will be by contractor supplied 95 or 35 gallon wheeled carts. Trash and food waste should be contained in trash bags and not loose in the approved container (necessary to eliminate blowing papers and to minimize wild animal attractiveness).
 - (2) All approved containers may be placed at the designated collection point no sooner than 5:00 p.m. the day prior to collection. All approved containers and material shall be placed outside of any fence or other barrier along the curb or the property line, pavement or alleyway accessible to the contractor with the lids opening toward the street with a minimum of three (3) feet between each container and other objects.
 - (3) All approved containers are to be removed from streets and alleyways by 11:59 p.m. on the day of collection.
 - (4) All approved containers shall be kept or placed behind the front building line and to not be visible from street view. They shall not be kept or placed upon the street, alley, sidewalk or other public places.

Section 2. It is found and determined that all formal actions of Council concerning or relating to the passage of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees, that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the Village of Whitehouse and the State of Ohio.

WHEREFORE, this Ordinance shall take effect and be in full force at the earliest possible time allowed by law.

FINAL VOTE ON THE MEASURE: Yeas: 6 Nays: 0

First Reading: SEPT 20, 2022

Second Reading: OCT 4, 2022

Third Reading: OCT 18, 2022

EFFECTIVE DATE OF THIS ORDINANCE: OCT 18, 2022.

Donald Atkinson
Mayor

ATTEST:

[Signature]


Duly Appointed Clerk of Council

[Signature]

Solicitor

CERTIFICATE

I, SUSAN M. MILLER, Clerk of Council of the Village of Whitehouse, Lucas County, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 8-2022, duly passed by the Council of the Village of Whitehouse at a regular meeting held in the Council Chambers of the Village of Whitehouse on the 18 day of October, 2022.



Susan M. Miller, Clerk of Council
Of the Village of Whitehouse,
Lucas County, Ohio

MEMORANDUM

FOR: Mayor Donald Atkinson and Members of Whitehouse Village Council
FROM: Jennifer Herman, Zoning Clerk
SUBJECT: Refuse and recycle bin ordinance enforcement
DATE: March 1, 2023

With Village Council passing the legislation regarding the storage of residents' refuse and recycle bins, Tiffany Bachman and myself have been going out every Tuesday in search of violators. We began on Tuesday, November 22, 2022, with Tiffany in her personal vehicle and I in mine. We split the Village in half, took photos and wrote down addresses of those we felt were in violation of the new ordinance. It took both of us an hour to drive our half of the Village, and I was personally chased down and stopped by a resident asking if and why I was taking photos of his house. I explained who I was and what I was doing and he drove off. After some discussion, it was decided that the two of us would go together from now on. Letters and/or phone calls were made to residents informing them of the violation.

In January we started driving the Village owned Trailblazer when we would go out. It needed some repairs, otherwise we would have used it before then. It took us a few weeks to perfect and work out a system that seemed the most time efficient. We agreed to split the Village into four sections, focusing on one section per week. One of us drives, while the other writes the address down. We then take those addresses back to the office and look up the homeowners and phone numbers, if we have them. Phone calls are made to those with numbers and a letter is typed up and sent to those in violation. The focus right now, is for those that still have them out at the street or have them stored in the front line of the house.

As of today's date, we have sent 149 violation letters to Village residents. Seven residents have received a second violation letter, meaning they haven't resolved the situation and continue to be in violation. Most residents correct the situation without any incident. We have gotten a few phone calls regarding the letters. A couple of them have been upset and angry when they have called and don't want to hear the explanation. A few have asked how they should correct the issue and were very cordial and then there are some in between. The next issue is going to be the penalty phase of the ordinance. As mentioned, we have seven residents that have gotten their second violation letter and the next step will be to assess the penalty. A discussion on that topic will need to be had.

Respectfully submitted,

Jennifer Herman
Zoning Clerk



March 7, 2023

Name
Address
Whitehouse, OH 43571

Re: Violation of **Municipal Code Section 955.03, Residential Waste Collection Regulations,**
Whitehouse Zoning Code

Dear Mr. ,

We, at the Village of Whitehouse, understand that many residents are not familiar with the Zoning Code adopted by Village Council on October 18, 2022, and are often unaware that they are in violation. Tiffany Bachman, Planning Administrator and Jennifer Herman, Zoning Clerk, have been tasked with working with residents to bring violations into compliance.

Chapter 955.03 (b)(3,4) states:

(3) All approved containers are to be removed from the streets and alleyways by 11:59 p.m. on the day of collection.

(4) All approved containers shall be kept or placed behind the front building line and to not be visible from the street view. They shall not be kept or placed upon the street, alley, sidewalk or other public places.

Whitehouse Council passed this legislation in October of last year, as stated above. This letter serves as your first warning for being in violation. Council also passed on October 18, Chapter 955.99 Penalty, that states:

Whoever violates any provision of these regulations shall be fined not more than twenty-five dollars (\$25.00) per day, with a maximum fine of one hundred (\$100.00) in any seven day period.

We welcome the opportunity to speak to you concerning this matter, and please feel free to call if you have questions or do not understand how to correct the violations. We look forward to your prompt cooperation and thank you in advance for helping to keep our Village a beautiful place to live.

Sincerely,

Tiffany Bachman
Planning Administrator

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Phone 419-877-5383 Fax 419-877-5635
tbachman@whitehouseoh.gov**