



City of Cleveland

Office of the Council

Anthony Brancatelli

Councilman, Ward 12

Committees: Community & Economic Development, Chair • Finance • Legislation • Public Parks, Property & Recreation

TO: Ms. Jan Huber
Board of Zoning Appeals
FROM: Councilman Brancatelli
DATE: May 9, 2011
RE: 10-194, 10-259, 10-260
Motion for Reconsideration

Please be advised that I do not support a Motion for Reconsideration or a Motion for Rehearing for calendar items 10-194, 10-259, 10-260 in the matter of the Bradley Road Landfill appeal for Surface Mining and firmly support the Boards Ratification of the hearing.

At the April 18th hearing all representatives from the City chose not to support the appeal or variances needed to allow Surface Mining at this location, including the law department, zoning administrator and the Planning Department representatives. The residents spoke formally against such use and the Board of Zoning Appeals rightfully denied all three calendar items.

The Motion filed for reconsideration is missing a significant element, an executed Letter of Intent. As presented it has the Operators signature, the Director of Planning signature but the line for the Councilman signature on this document is blank. I do not plan on signing this document, thus it is not valid and not be considered as new evidence. Further at the hearing the City representatives had ample notice to attend and speak on the Letter of Intent but chose not to have any representation there to speak on this document. I purposely spoke up at the hearing asking for anyone to step forward and speak on this and no one from the City did.

Also as noted in the Motion for Reconsideration it speaks to Consent Decrees, Final Judgment Entries, and Settlement Agreements. None of these are relevant to the perceived right to do strip mining and the Appeal and Variance requests. They are very specific to operating a C&D Landfill, if and only if they take care of all EPA violations, cure hillside stabilization and the myriad of other issues the residents brought up at the hearing but nothing before these are dealt with in the manner set forth.

Finally, if we wish to submit new documentation to deal with past issues then I would like to submit the Board of Zoning Appeals original calendar item 89-200 which denied the Landfill in its entirety which means it should not be operating there today.

Thank you for your consideration.

CLEVELAND BOARD OF ZONING APPEALS

CALENDAR NO. 89-200
4300 BRADLEY ROAD

RESOLUTION

OCTOBER 23, 1989

WHEREAS, Bradley Road Inc. c/o Lou Frangos, owner, appealed from the decision of the Commissioner of Buildings for permission to use as a landfill a 310' x 300' land locked parcel (with access from Bradley Road by easement) located in a Multi-Family and General Industry District, at 4300 Bradley Road; contrary to the use limitations of Sections 337.08 and 345.04 of the Codified Ordinances.

WHEREAS, this property is located on the southwest side of the street, approximately 1800' east of Jennings Road.

WHEREAS, after public notice and written notice mailed to forty-seven directly affected property owners, a public hearing was held Monday, October 16, 1989.

WHEREAS, after due consideration of the testimony submitted at the said hearing, the Board finds that the appeal should be refused for the following reasons:

1. The evidence establishes that from 1929 to 1983 the property was located in a One-Family District and that in 1983 the zoning was changed to its present General Industry District; that all access would be from Bradley Road through the Industry District and no access would be through the Residence District from Jennings Road; that upon completion of the fill, the grade of the land would be at an approximate level with a condominium development directly adjacent to the west.
2. No exceptional local condition exists in this vicinity to justify the Board in making the exception requested.
3. Granting the appeal would be detrimental to the general welfare of the neighbors and to the value of their properties and would be contrary to the intent and purpose of the zoning ordinance.
4. In being refused this appeal the owner will not suffer an unreasonable hardship since he is not denied any use of property not also denied other owners in that district similarly situated; now therefore,

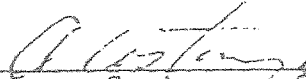
BE IT RESOLVED that the decision of the Commissioner of Buildings heretofore rendered in the within matter be and the same is hereby sustained and the appeal is refused.

Yeas: Chatman, Jablonski, Petkovsek, Schwonek Nays: None

Not Participating: Cade

Approved and adopted by the Board of Zoning Appeals October 23, 1989.

AC:jlr



Anthony Costanzo, Secretary
BOARD OF ZONING APPEALS