

**BOARD OF ZONING APPEALS  
MINUTES OF MEETING HELD JANUARY 23, 2012.**

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The Board of Zoning Appeals met in regular session on January 23, 2012 at 6:00 p.m. in the Municipal Building Council Chambers.

**MEMBERS PRESENT:**

The following members were present: Jonathan Greene, Mark Heistand, Pete Hutchinson, Jeff Jones and Scott Johnson.

**MEMBERS ABSENT:**

None.

**ALSO PRESENT:**

Also present were Anna Sizemore, Municipal Manager; Brian Wafzig, Council Member; Kelli Novak, Zoning Officer and several visitors.

Mr. Heistand welcomed Mr. Greene to the Board.

He announced that the Public Hearing for Miami Overlook has been cancelled for tonight.

**APPROVAL OF MINUTES:**

The Board reviewed the January 17, 2012 meeting minutes.

Mr. Johnson moved to approve the January 17, 2012 minutes as presented.

ROLL CALL: Mr. Greene, yes; Mr. Hutchinson, yes; Mr. Johnson, yes; Mr. Jones, yes; Mr. Heistand, yes. 5-yes, 0-no. MOTION CARRIED

**PUBLIC HEARINGS:**

Mr. Heistand stated the Board would open the Public Hearing on Conditional Use Application #11-02, made by Angela Kinder to allow a cake/cupcake business on the property located at 383 Lindell Drive.

**Applicants Presentation:**

Angela Kinder, 383 Lindell Drive, stated that she would like to have a cake/cupcake business in her home. These items would be custom orders and prepared in her residential kitchen. She does meet the Ohio requirement for a Cottage Food Production Operations. She does not have intentions of having a sign at her home for advertisement. Each order is placed in advance and each person will have a specific time to pick-up their order. She does have a driveway for the customers to park in. Most of the pick-ups are

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on Friday's and Saturday's during the hours of 9:00 a.m. to 8:00 p.m. On a typical week she may have zero to three orders. She will not be causing any interference with the neighbors while she is baking.

Mr. Jones questioned exactly how many visitors Ms. Kinder would be expecting during the week. Ms. Kinder replied that she would not expect no more than three visitors a week total. Mr. Jones stated that the Board put restrictions on another Conditional Use on how many visitors the business would be allowed to have. He has concerns about how many visitors will be visiting the home during the week. He went on by saying that the State allows Ms. Kinder to have her address on the product itself. He would not want the address to be advertised on the internet, in the Yellow Pages or any other advertising. This would prevent unscheduled visitors at the home. Ms. Kinder stated that she does have a website and would be willing to take the address off of the site. She does not want any unscheduled visitors at her home either.

Mr. Hutchinson questioned if Ms. Kinder plans for the business to increase in size. Ms. Kinder replied that she would like to see the business grow but if it got too big for her home she would like to move to a commercial property in Germantown.

Mr. Heistand stated that he thought it was great that Ms. Kinder is starting a home based business. Even though Ms. Kinder has indicated that she does not want to have a sign on her property, the Code does allow it; with certain restrictions.

**Staff Summary:**

Mrs. Novak stated that the proposed use would comply with a home occupation according to the City. Ms. Kinder states that she will be in compliance with the State of Ohio Cottage Food Production Operations. Ms. Kinder will be using her residential fixtures; commercial equipment will not be installed for this business. Ms. Kinder has indicated that she will not install any signage on the property. Her clients will be parking in the driveway of the home and only zero to three customers would be picking up items during the week and would be coming during the hours of 9:00 a.m. to 8:00 p.m. The staff does not have any issues with the proposed conditional use. Mrs. Novak received a call from a neighbor with concerns of signage and large delivery trucks. After reading Ms. Kinder's application and plan to the resident he was okay with the business as long as there would not be any large signage and any large delivery trucks coming into the neighborhood.

The Public Hearing opened at 6:09 p.m.

**Proponents Recognized:**

Julie Byerly, 51 Scott Court, stated that she is here to support Angela and her business. She travels in front of Angela's house everyday and there has never been a traffic jam of any sort. She does not have an issue with the business and supports Angela. She has

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spoke with several of the neighbors and they support Angela too. She hopes the Board approves Angela's application.

**Opponents Recognized:**

None.

**Final Statement of Staff:**

None.

**Close Public Hearing:**

Mr. Heistand closed the Public Hearing at 6:16 p.m.

**Deliberation and Decision:**

Mr. Jones stated that he had concern if the business would grow that she would move to a commercial property. He would like to see some of the same restrictions for this business that were included in the Conditional Use from last year.

Mr. Heistand read the restrictions that were included in last year's hearing.

The Board discussed the restrictions from last year. They then agreed to modify the restrictions to apply to Ms. Kinder's business.

Mr. Jones moved to approve Conditional Use Application #11-02 for a cake/cupcake business located at 383 Lindell Drive with the Board's restrictions to include:

1. No one other than the applicant, Angela Kinder and family, shall be employed in the cake business.
2. The use shall be limited to the dwelling.
3. No more than one (1) customer, every two (2) hours during the hours of 9:00 a.m. to 8:00 p.m., seven (7) days a week.
4. Storage of equipment and inventory shall be in compliance with applicable Municipal Ordinances, including building and fire codes, with no outside storage of material, supplies, or equipment, including waste.
5. The applicant must dispose of any waste in a legal and sanitary manner.
6. The applicant must comply with all other County, State and Federal regulations that pertain to the cake business.
7. Any advertisement, including internet and Yellow Pages, may not include the address 383 Lindell Drive. The only permitted advertising is the labeling on the product itself as the State of Ohio allows.

ROLL CALL: Mr. Greene, yes; Mr. Hutchinson, yes; Mr. Johnson, yes; Mr. Jones, yes; Mr. Heistand, yes. 5-yes, 0-no. MOTION CARRIED

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Mr. Hutchinson questioned why the Miami Overlook Public Hearing was cancelled. Mrs. Sizemore replied that the attorneys have postponed the hearing for two to three weeks.

Mr. Heistand stated that he would like to see the Public Hearing rescheduled for a regularly scheduled meeting date.

**OTHER BUSINESS:**

None.

**ADJOURNMENT:**

There being no further business to conduct, Mr. Johnson motioned to adjourn the meeting.

VOICE VOTE ON MOTION. ALL IN FAVOR. MOTION CARRIED.

The meeting adjourned at 6:32 p.m.

Respectfully Submitted,

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Kelli R. Sanders-Novak  
Clerk of Council