



# Board of Zoning & Building Appeals

## Memorandum

**To:** Karla Richards, Clerk of Council  
**From:** Rebecca Lukats, Interim Boards & Commissions Secretary *RL*  
**Date:** 12-14-11  
**Re:** Approved/Signed Board of Zoning & Building Appeals Minutes:  
**Tuesday, June 7, 2011 and Tuesday, September 27, 2011**

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Attached you will find a copy of the approved/signed minutes from the Board of Zoning & Building Appeals meetings held on the above listed dates.

Please note that each original approved/signed minutes have been forwarded to, and will be on file with the Clerk of Council.

E-mail: Mayor (per Admin. Asst.)  
Administrative Officer  
Superintendent of Building and Zoning  
Finance Director  
Law Director  
Engineer  
Fire Chief  
President of Council/Council (7)  
Board of Zoning & Building Appeals (5)

CC: BZA File/Posting

**City of Norton**  
**BOARD OF ZONING & BUILDING APPEALS**  
**Tuesday, September 27, 2011**

The Board of Zoning & Building Appeals convened in Council Chambers at the Safety Administration Building. Chairman Dan Grether called the meeting to order at 6:30 p.m.

**I. ATTENDANCE:**

**PRESENT:** Dan Grether, Bill Helmick, Don Welch, Angie Wells and William Courson

**STAFF:** Russ Arters, Supt. of Building and Zoning

**II. PUBLIC HEARINGS: None**

**III. GENERAL DISCUSSION:**

Chairman Grether announced that they would have a follow-up general discussion on a prior application. Mr. Ondrej Kopcok, Applicant, and Jaroslav Kopcok, Owner, for BZA Application HO2-2011 regarding the property known as 4907 Rest Ave/PPN 4605539 came before the Board at the last meeting in August. He was denied to operate a Type B Home Occupation of a small "wholesale" meat processing facility.

Chairman Grether stated that at the August 16<sup>th</sup> meeting, he announced to all applicants that night to be aware that the Board was lacking a member. He announced that the Board only had four members present of the five, and four approval votes were needed to approve an application. Chairman Grether further explained that the vote had to be unanimous in order for each applicant to be granted their appeal, otherwise it would be denied with even one descending vote. Chairman Grether gave each applicant the option of postponing their hearing until there was a full Board of five members present; that opportunity was not taken.

Chairman Grether announced that Mr. Jaroslav Kopcok was there to get an explanation as to why his application was turned down. Chairman Grether said during the Board's caucus, they discussed several items that lead to their decision of denying the application. He wanted to be clear that they were not slighting anyone or anything of that nature. Chairman Grether stated they did not give the reason, because they were just moving on to other business. He said that happens at many other Board meetings throughout the State, including some heard in Columbus, as they have several hundred they hear. Chairman Grether said he could appreciate Mr. Kopcok's request; that is why they are allowing only a general discussion on this matter, since the matter is completed.

Chairman Grether said there were just a few areas of the codified ordinances the Board looked at. He said it mostly pertained to Section 1298.08, which classifies the Type B home occupancy. The applicant had asked for a 500 sq. ft addition. Chairman Grether said that mathematically, with an addition of 500 sq. ft, the ordinance says you can't exceed 25% of the dwelling. In Mr. Kopcok's drawing, he exceeded that; even the application shows several areas where the 25 % is exceeded, just by building it at 500 sq. ft. Chairman Grether said if one goes back to look at the

math proposed, the maximum Mr. Kopcok could have been at was 476 sq. ft, otherwise it has exceeded the limit right away. Chairman Grether said under Section 1298.08(d)(2) Section (f) clearly says in our codes, that no wholesale of stocks, products or supplies go out in a Type B home occupation. Chairman Grether went on to say Section 1298.08(d)(2)(g) states no storage of waste. Mr. Kopcok stated during the hearing that the all waste products would be stored in a container on the exterior of the property until removed by J and J Refuge, or F W Ruefner and Sons would remove bone scraps, which would be waste.

Chairman Grether said based on those three items, aside from any other discussion they had, any neighbors concerns, and/or any septic concerns, those were the tree main reasons for denial, according to the ordinances. The Board realized the applicant had things moving in the right direction, but after looking at the City's Codes it was went almost alphabetically with Sections (d), (f) and (g) in failure to comply. He said there was no way they could rule in granting the application, when those three items stood out. Chairman Grether said he hoped that answered any questions Mr. Kopcok may have had.

Mr. Jaroslav Kopcok was recognized by the Chairman and asked if he would want to speak to the Board. Mr. Kopcok said yes, and Chairman Grether said they would appreciate that. Mr. Kopcok came to the podium to address the Board.

Mr. Kopcok stated that regarding the 500 sq. ft., he knew it exceeds the current sq. ft. of the limitations for home occupations. The reason they requested that, however, was that they would build onto the house as he demonstrated in the application. He said with that addition, the house would have been 2, 000 sq. ft, over the 2100 sq. ft. He said therefor that 500 sq. ft. would be in compliance with Norton ordinances. Chairman Grether said according to the drawings Mr. Kopcok submitted and the county records, his square footage, with the 500 sq. ft. addition is 1900 sq. ft. even, as proposed in Mr. Kopcok's own drawings. Mr. Kopcok said that is not correct. Mr. Kopcok said the county has the home as a 1400 sq. ft. home, and more accurately it is 1350 sq. ft., which would total 1850 sq. ft. He said the 500 sq. ft. was not the only amount they were adding on to the house. Mr. Kopcok said he didn't have that material with him this evening, because he didn't know that was going to be a reason for the denial. He said it was discussed at a prior meeting and also with Mr. Russ Arters, Superintendent of Building and Zoning. Mr. Kopcok said the house would be more than 2100 sq. ft with the addition. He wished the Board had addressed this issue with him that night, so that he could have had the opportunity to clarify.

Mr. Kopcok said the point of requesting that square footage was something that could have changed to 477 sq. ft, if he would have known the Board was going to use that as a reason for denial. He said the only point they are adding the addition to the house is to be able to use that for meat processing facility.

Chairman Grether stated he understood, but to please keep in mind, the only tool they had to work with during the hearing is what the Board was provided with on the application by Mr. Kopcok. Chairman Grether reiterated that based on what he provided and on county records, he exceeded the 25% allowed the night this was proposed. Chairman Grether went on to say that there was no where on the application asking for anything additionally, and no where on the drawings that they looked at to build an addition to get to 2100 sq. ft. The Chairman said this is the first time it was brought up. Chairman Grether said looking at drawings submitted of 1350 sq. ft, he gave him 1400 sq. ft., and then Mr. Kopcok asked for 500 on top of either of those numbers, by that he exceeds the 500 sq. ft. Mr. Kopcok said, because he asked to use 500 sq. ft of the addition for a home occupation, he was not asking for the whole addition to be 500 sq. ft. Mr. Kopcok said once he applied for the addition permit, he would go to Mr. Arters. He said it would be up to Mr. Arters whether or not to accept that. In his opinion, Mr. Kopcok feels that was a separate issue.

Mr. William Courson said when you look at the drawings, the issue is clearly defined that the percentages are what they are. Mr. Courson stated that Mr. Arters's process is building permit approval, which is a totally separate issue. Mr. Kopcok said if you do the calculations, it is basic math. He said that the addition and the existing structure will be more than 2,000 sq. ft., which means the home occupation area used would be less than 25%, that is part of the ordinance.

Mr. Kopcok said that if the Board was not even willing to look at the basic calculations, then he couldn't really convince them. Chairman Grether reiterated that they looked at what he presented that night, and that they had concerns with the second issue of a wholesale operation. Chairman Grether said if you look at the City Codified Ordinance 1298.08 (d) (2) (F) again, it clearly states " There shall be no retailing or wholesaling of stocks, supplies or products conducted

on the premises....” He commented that it was not only stated in Mr. Kopcok’s application, but also stated orally by Mr. Kopcok, himself, several times during his presentation. He said Mr. Kopcok insisted that it was a wholesale product. Mr. Kopcok said it was not a retail operation, because state law prohibits retail out of the home.

Mr. Kopcok brought up a question about the wording of codified Section 12098.08(d)(2)(F) as quoted by Chairman Grether. Mr. Kopcok said according to the website link the word “substantial” was used in front of the words “retailing or wholesaling”. Mr. Kopcok wondered if that word made a difference or not, because in his opinion they would not be running a “substantial” wholesale business. Mr. Kopcok asked if the Chairman could define what the word substantial means in the code, and apply it to this situation.

Mr. Courson stated that the code is written for the Board to have flexibility in making that decision, and they did talk about the substantiality of it. He stated that it is vague just for that purpose, and at that time the Board determined it was a substantial use. Mr. Courson revisited the square footage issue. He said the addition was quoted as 500 feet. He said Mr. Kopcok stated he would be using the garage for deliveries, so there was no way to indicate how much of the property he would be using. The addition itself is very close to 25%, maybe a little bit less, but Mr. Kopcok clearly stated that he would also be using the garage. Mr. Kopcok commented by saying said the garage would not have to be used, if the Board was going to restrict it like that. Mr. Courson said that was what Mr. Kopcok’s statement was, so that is what the Board made their decision on.

Mr. Courson said the purpose of the discussion was to not play “let’s make a deal here”, it was to hear Mr. Kopcok’s arguments. The Board has responded with how they determined their decisions. He apologized for going back and forth here.

Mr. Kopcok said he was not trying to make a deal, he was just trying to get an understanding of why it was denied. He stated if the reasons were given to him at the meeting, then he wouldn’t be there tonight asking for a clarification. Mr. Kopcok said if no wholesale/retail operations were allowed at all in the code, why was the application allowed to go through. He wondered why it wasn’t just denied. On the application, Mr. Kopcok said he clearly stated it was a wholesale business; like the Board said it is vague.

Mr. Arters interjected and addressed Mr. Kopcok. He said that in 2009, it could partially be his fault that he allowed the application to be presented, as he overlooked the wholesale part. Mr. Arters said it is up to him to stop something like this from going forward. He said with any variance coming through, however, they still have the choice of going before the Board to appeal his decision.

Chairman Grether said Mr. Kopcok was correct in saying the code states “substantial” retail or wholesale of stocks, supplies or products conducted on the premises. Chairman Grether said he was conducting a sausage-making factory and exporting that off of the property; he would say that was pretty “substantial”. Chairman Grether went on to state that there was no other product proposed that night, to move in and out of that property, other than meat and sausage. The Chairman asked how would that not be considered substantial when in Mr. Kopcok’s own words, this was the only product produced. Mr. Kopcok said there would be several pounds up to several thousand pounds produced that would continually be taken on and off of that property. Mr. Kopcok’s asked how does the word substantial have an impact in terms of the product mix. Chairman Grether said it has impact in the ordinance. More discussion was had about the definition of the word substantial. Chairman apologized, but he will agree with Mr. Courson, they will not be going back and forth with it. Mr. Kopcok continues to disagree because he did not understand.

Chairman Grether again stated that they took all factors into consideration, and their decision as based on the material presented at the time of the hearing. The three factors discussed were the basis for their decision, and that is how it stands.

Mr. Kopcok discussed the trash issue, brought up at the last meeting, but he had nothing in writing this evening. He would like to have had the opportunity to address the concerns of the Board at that meeting, or at least been given a continuance until tonight’s meeting to have something prepared in writing for a rebuttal. He knows it is after the fact, but from a reasonability standpoint, he wished he would have had the chance to address the concerns of the Board. He said he came this evening just to get a clear understanding as to why he was denied. He doesn’t agree with the Board’s decision, but he does respect it.

Chairman Grether thanked Mr. Kopcok.

**IV. OLD BUSINESS:** None.

**V. NEW BUSINESS:**

Mr. Arters discussed The Storm Water Friendly Zoning Code and Ordinance Workshop coming up on October 27<sup>th</sup> at the Community Center Building. Mr. Arters said the Interim Secretary sent an e-mail to all the members, and they are to register with the County at the link given in the e-mail. He said if they didn't receive the e-mail or need further information, just contact us at the City Building. Mr. Arters said it would be good if the Board members could attend, but it is during the day from 8:00 AM to 12:30 PM. He said it would be a talk about the storm water ordinances. The Muskingum Watershed District has a grant that funded it, so there is no cost to anyone. They are examining our ordinances and Coventry Township ordinances, just to make suggestions and ways to improve different things with water run-off ,ditches, catch basins and high grass, etc.

Mr. Arters said under other new business there is an application on hold right now, but he has nothing filed yet for the next meeting.

**VI. CONSIDERATION OF MINUTES;**

Chairman Grether stated that they have had sufficient time to review the minutes sent to them, and ample time to respond back to the Interim Secretary if they had any corrections.

Mr. Helmick asked Mr. Arters why they were so behind on the minutes. Mr. Helmick stated they are just now approving January's minutes. Mr. Arters said the Planning Commission is the same way, they have run into problems and concessions and different things, and it just finally caught up with them. It is not the fault of anyone; it is just the way it is. Mr. Arters said we got behind and now we are trying to catch up. Mr. Helmick asked if there was any method that management has, that the Administration can use to make someone available part-time to get these things done and give you some help. Mr. Arters said it was talked about and it is in the process. Mr. Helmick repeated, it was talked about. Mr. Helmick asked that it be put on record, that he thinks the minutes are very important, and what the Board does. He said like tonight we walk in here, and there is another one that we all discussed this evening. Mr. Arters agreed they are important, there is no doubt about that. Mr. Helmick said that he thinks it should be a major concern to the Mayor, the President of Council and other people that are here in the Administration. In his opinion, these Boards and Commissions are very important to have and that is why they have them. Mr. Arters agreed and said it was very understandable, he said no misunderstanding about that. Mr. Arters said it has been in the process for the last two months, so let's get it caught up and be done with it, and move forward; point taken.

Chairman Grether asked the Board to consider Minutes from the January 19, 2011, meeting. He asked if there were any additions or corrections to the minutes. **Hearing none, Chairman Grether moved to approve the January 19, 2011, minutes; seconded by Mr. Don Welch. ROLL CALL: Chairman Grether – Yes; Mr. Welch - Yes; Mr. Helmick –Yes; Ms. Wells - Abstain; and Mr. Courson -Yes. Motion to approve carried 4-0-1.**

Chairman Grether asked the Board to consider Minutes from the February 15, 2011, meeting. He asked if there were any additions or corrections to the minutes. **Hearing none, Chairman Grether moved to approve the February 15, 2011, minutes; seconded by Mr. Helmick. ROLL CALL: Chairman Grether – Yes; Mr. Helmick–Yes; Mr. Welch- Yes; Ms. Wells- Yes; and Mr. Courson-Yes. Motion to approve carried 5-0.**

Chairman Grether asked the Board to consider Minutes from the March 15, 2011, meeting. He asked if there were any additions or corrections to the minutes. **Hearing none, he asked for a motion. Mr. Welch moved to approve the March 15, 2011, minutes; seconded by Ms. Wells. ROLL CALL: Mr. Welch – Yes; Ms. Wells - Yes; Mr. Helmick – Yes; Mr. Courson-Yes; and Chairman Grether – Yes; Motion to approve carried 5-0.**

Chairman Grether asked the Board to consider Minutes from the April 19, 2011, meeting. He asked if there were any additions or corrections to the minutes. Chairman Grether had a few corrections. The minor clerical errors were changed on page 1 and page 3 to reflect Chairman Grether instead of Chairman Helmick conducted the meeting. **Chairman Grether moved to approve the April 19, 2011, minutes as amended; seconded by Mr. Helmick. ROLL CALL: Chairman Grether – Yes; Mr. Helmick–Yes; Ms. Wells - Yes; Mr. Welch - Yes; and Mr. Courson -Yes. Motion to approve as amended carried 5-0.**

Chairman Grether asked the Board to consider Minutes from the August 16, 2011, meeting. He asked if there were any additions or corrections to the minutes. **Hearing none, the Chairman moved to approve the August 16, 2011, minutes; seconded by Ms. Wells. ROLL CALL: Chairman Grether – Yes; Ms. Wells- Yes Mr. Helmick–Yes; Mr. Welch- Yes; and Mr. Courson-Yes. Motion to approve carried 5-0.**

A comment was made by the Interim Secretary that at this time, the only minutes outstanding were those from the June 7, 2011, meeting.

**VII. ADJOURNMENT:**

There being no other business before the Board, the Chairman adjourned the meeting at 7:05 P.M. The Board's next scheduled meeting will be October 18, 2011, at 6:00 PM.

  
Board of Zoning & Building Appeals  
Chair/Vice-Chair

  
Board of Zoning & Building Appeals  
Vice-Chair/Member

12-13-11  
Date

