

# BURTON TOWNSHIP BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

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**Date:** April 18, 2023

**Time:** 7:00 p.m.

**Place:** Burton Township Administration Building

**Purpose:** Public Hearing to consider Application #1585-22, submitted by Western Reserve Land Conservancy, request for a conditional use zoning certificate.

**Board Member(s) Present:** Chairman Tim Snyder, Alan Skeen, John Nelson, Leonard Fife, Marilyn Percic, 1<sup>st</sup> Alternate Frank Vecchio, Secretary - Katie O'Neill.

**Absent:** 2nd Alternate Joseph Dallos.

**Attendees:** Heather Higgs, Eric Higgs, Chris Szell, Bob Owen, Esq., Leo Dombrowski, Teri Dombrowski, Leiana Sulecki, Stephanie Sulecki, Alan Benander, Maria Benander, Robin Worthen, Teri Couch, Rick Gruber - Zoning Inspector.

### PUBLIC HEARING

At 7:22 p.m. Vice Chairman Skeen calls the public hearing to order.

Vice Chairman Skeen announces the purpose of the hearing which is to consider Application #1585-22, submitted by Western Reserve Land Conservancy. They are requesting a conditional zoning certificate for land to be used as a Passive Public Park with hiking trails, restroom facility, park shelter, and wetland observation deck/boardwalk. Fishing will be allowed but no hunting or ATV or other motorized vehicle usage except for maintenance activities. Park anticipated to be open during daylight hours (which may vary). The park will be staffed and may host educational groups and other Land Conservancy sponsored events to aid in the engagement of their mission. This request is made in an R-3 (Medium Density Residential) district located at: 14757 Ravenna Road in Burton Township, Ohio. Parcel #04-707255 & #04-707256.

[Chairman Snyder enters the public hearing at 7:24 p.m.]

Secretary O'Neill states for the record that this hearing was published in the Maple Leaf, and that adjacent property owners had been sent notice of the public hearing.

Roll Call shows Board Members: Tim Snyder, Alan Skeen, John Nelson, Len Fife, Marilyn Percic, 1st Alternate Frank Vecchio to be present. 2nd Alternate Joseph Dallos is absent. Voting Members include: Tim Snyder, Alan Skeen, John Nelson, Len Fife & Marilyn Percic.

At this point Vice Chairman Skeen turns the hearing over to Chairman Snyder.

Chris Szell, Director of Conservation Project Management at Western Reserve Land Conservancy (WRLC), is sworn in.

Mr. Szell states that WRLC is a non-profit organization located in Moreland Hills, Ohio. Their mission is to preserve open space and working farm land. They are active in twenty one (21) counties within Northeast

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Ohio. To date WRLC has preserved seventy five thousand (75,000) acres, of which approximately ninety percent (90%) is privately owned land. Mr. Szell states there are some parcels of land in which WRLC has decided to retain ownership of, which include the parcels being considered.

Mr. Szell explains during the height of the COVID-19 pandemic, WRLC made the decision to make more public space available. Blue Heron Preserve was intended to be one of those spaces. This Preserve is located within both Burton and Newbury Townships. Located at 14757 Ravenna Road, the entrance to the Preserve is located within Newbury Township, with the majority of the land residing in Burton Township. Mr. Szell states the two (2) parcels located within Burton Township are zoned residential.

Mr. Szell states in 2016 the site was the location of the former Newbury Sand & Gravel pit operation. He states the former sand & gravel pit closed in 2004-2005, with WRLC acquiring the land in 2016, through a bankruptcy. WRLC then worked with Ohio Department of Mineral Resources (ODMR), to retire the mining permit, as well as reclaim the land. Mr. Szell explains in order to retire the permit, the land had to be properly reclaimed. Reclamation under ODMR on this site required the slopes along the pits to be a specific ratio of three to one (3:1). Mr. Szell adds once the mine was reclaimed, mining was no longer allowed on the property going forward.

Regarding the Burton Township parcels which front along Kinsman Road (State Rt. 87), it is the opinion of WRLC, that very little opportunity for residential development exists. This is due to the wetlands located on those parcels, coupled with the results of the past mining operations. Mr. Szell states residential opportunities may exist on the Newbury Township parcel, however results of the past mining operations would make it very difficult.

Mr. Szell states the WRLC was granted a conditional zoning certificate in October 2020, prior to the construction of the park structures. He states there are three (3) structures located on the Burton Township parcels: an observation tower (overlooks the wetlands), a shelter (1,900 sqft with fireplace), and public restrooms/office space/utilities room. Construction began in 2021 and was completed in November 2022. They received the Occupancy Permit in December 2021. Mr. Szell states that the trails are being improved at a cost of approximately \$220,000 and entrance grating and landscaping will be completed by May 2023 at a cost of \$75,000.

In November 2022, they applied for a variance, however that request was denied. Mr. Szell explains that they are now seeking a two (2) year conditional use certificate in order to operate Blue Heron Preserve as a public passive park. WRLC refers to passive activities such as hiking, bird watching, nature observation and fishing. Active recreation, such as ball fields, ATVs and playgrounds is not the intended use. Hunting and trapping is prohibited on the property. With the approval of the conditional zoning certificate, WRLC is anticipating a summer opening in June/July 2023.

Chairman Snyder reviews the general standards for a conditional use certificate with the appellant.

- A. The location, size and intensity of the proposed use shall be considered in relationship to the size and location of the site. **Mr. Szell states the property is one hundred and twenty (120) acres in total. The majority of the construction is located on approximately sixty (60) acres. All but Nineteen (19) acres reside in Burton Township the remaining acreage is located in Newbury Township. The hiking trails that wind through the property are a significant distance from any**

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property line. **Mr. Szell states there are no trails from Kinsman/Rt 87 southeast ward near the wetland area.**

- B. The proposed roads and other means of ingress and egress are of adequate width and condition to accommodate expected vehicular traffic to be generated by the proposed use and are reasonably constructed to permit access by fire fighting, police, ambulance and other safety vehicles and will not interfere with traffic on adjacent thoroughfares. **Mr. Szells states “that is correct.” “They are wide enough. The gate opening is approximately twelve (12) feet wide, and the access road is twenty (20) feet wide.” Chairman Snyder inquires about adequate parking areas and number of visitors to the park. Mr. Szell states the parking area consists of nineteen (19) parking spaces, including one (1) handicapped accessible space. Mr. Szell anticipates the daily attendance to be approximately fifty (50) visitors and that the designated parking area is equipped to handle it. He adds that the entrance was designed to allow multiple school buses to enter and exit safely, without affecting traffic on Rt. 44 (Ravenna Rd).**
- C. The size and number of proposed off-street parking spaces and loading/unloading spaces (if applicable) are adequate and are in accordance with the provisions of article VI of this resolution. **Mr. Szell responds “yes.”**
- D. The type, size, location and number of proposed signs are in accordance with the provisions of article VII of this resolution. **Mr. Szell states Burton Township has one (1) existing sign located on Rt. 87 (Kinsman Rd.). The three by three (3 x 3) foot sign lists WRLC as the owner of the property. Mr. Szell states there will be a large sign incorporated into the landscaping, located at the entrance of the park. This sign is located in Newbury Township and has received approval.**
- E. The proposed use will be compatible with the township land use plan. **Mr. Szell responds “Yes. WRLC believes the use is consistent with the proposed land use plan even though the land is zoned residential. Most of the land is not suitable for residential development due to the wetland habitat.”**
- F. The proposed use will not be hazardous or disturbing to existing or future neighboring uses. **Mr. Szell responds “No, we do not believe it will be.”**
- G. The proposed use will be served adequately by essential public facilities including roads, police and fire protection, drainage structures, refuse disposal, water and sewage disposal facilities, and schools, or that the applicant shall be able to adequately provide such services. Proof of compliance with applicable codes and regulations pertaining to the protection of the public health and safety including fire, sanitary sewage, water supply, erosion control, and storm water runoff may be required. **Mr. Szell responds “Yes, we are aware of this, and have met requirements with Geauga Soil & Water [Department] as well.”**

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- H. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. **Mr. Szell responds "No, it will not be detrimental to the community and we do not believe it will be a public cost." Chairman Snyder asks if the park will enhance or take away from the residential property value? In WRLC's opinion, studies have shown that park land always increases the neighboring land values.**
  - I. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person's property or the general welfare. **Mr. Szell responds "Correct."**
  - J. The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance. **Mr. Szell responds "Correct. It will not." He states that the wetlands of sixty (60) acres, are already encumbered with conservation restrictions. Meaning that the east portion is protected by the Ohio EPA and the North American Wetlands Conservation Act.**

Mr. Vecchio asks if emergency responders will have access to the park after hours? Mr. Szell responds "Yes." WRLC has contacted the Fire Department and Sheriff's Department and will do so on an annual basis.

Mr. Vecchio asks if the gate will be open during operating hours? Mr. Szell responds "Yes." The gate is programmable to operating hours, and will automatically open to allow exit after hours.

Mrs. Percic asks if kayaks and canoes are permitted? Mr. Szell states motorized boats are prohibited, however a final decision has not been made regarding the allowance of non motorized boats. The park will not be providing kayaks, canoes or paddle boards, etc.

Mrs. Percic asks if there is a telescope on the observation deck? Mr. Szell states there is no telescope located on the observation deck. He explains the only house you can view from the observation deck is located on the parcel with the shared water area. Referring to pages fifty (50) and fifty one (51) of the application, Mr. Szell points out the shared body of water and the parcel that can be viewed.

Mrs. Percic asks if the trails will have directional signage for safety? Mr. Szell states there will be signage reminding visitors to stay on the trails, along the boardwalk making visitors aware of the swampy areas and along the east portion that fronts Rt. 87. There was an old access road that is overgrown and not accessible to visitors.

Mrs. Percic asks if the driveway is one (1) way? Mr. Szell states the driveway is two (2) lanes, twenty (20) feet wide, the gate is one (1) way.

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Mrs. Percic asks if there is lighting in the parking lot? Mr. Szell states the parking lot itself has no lighting, however there are lights outside of the restrooms that point directly downward. He states there are no lights that will affect the neighbors.

Mrs. Percic asks if the parking lot is striped? Mr. Szell responds "It is not." There are yellow ballards defining the spaces in the gravel parking area. The designated handicapped space is the only one concreted and striped.

Mrs. Percic asks if there is landscaping around any of the buildings? Mr. Szell states there is on landscaping surrounding the buildings and they do not have any future landscaping improvements at this point.

Chairman Snyder asks about the hours of operation. Mr. Szell states the park will operate during daylight hours, from dusk till dawn. Chairman Snyder asks how many hours of operation will an employee be on site? Mr. Szell states an employee will be on site from 8:00 a.m. to 5:00 p.m.

Mr. Skeen asks which permits allowed construction of the existing structures? Mr. Szell states they were constructed with the granting of the 2020 conditional zoning certificate and awarded the appropriate occupancy permit thereafter.

Mrs. Percic asks what type of events will be happening at the park? Mr. Szell states the educational component will be the most immediate, which may include night time bug searches , birding event, school age fishing event.

Leiana Sulecki, residing at 14720 South Rider Road in Burton Township, is sworn in. Ms. Sulecki has two (2) major concerns. The first is regarding noise and how it travels across the wetlands to her property. Ms. Sulecki states that she works from home and the noise could pose an issue. The second concern is the visibility of her home from the public wetlands. She asks if something can be done to limit the visibility.

Mr. Szell is unsure of how to limit visibility. The suggestion of trees is challenging due to the location of the wetlands and beaver activity. He states a berm could be built up along the bank with trees on top of that, however that could have an effect on the water supply. Mr. Szell states that he will need to consult his team for a viable solution.

Leo Dombrowski, residing at 14826 South Rider Road in Burton Township, is sworn in. Mr. Dombrowski states that a light is on after hours, however he can not confirm the exact location. He confirms that no lights are on during closed hours at the park. Mr. Szell confirms no lights.

Mr. Dombrowski states he can hear gunshots coming from the direction of the park, he asks if there is any hunting activity happening at the park while it is closed? Mr. Szell states "No."

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Mr. Dombrowski asks why WRLC invested in and improved the property before seeking the proper permits in order to open and operate as a park. Bob Owen, legal counsel to WRLC, responds to the question. He states that WRLC was granted a conditional use permit in October 2020 in order to begin construction on the structures within the park. When that permit expired in 2022, WRLC requested a permanent use variance in November 2022, which was denied. Attorney Owen explains they are now seeking another conditional use permit and will continue to reapply every two (2) years. Mr. Dombrowski asks if at some point it will convert to a permanent use. Attorney Owen states that WRLC will come back every two (2) years, if the opportunity for a permanent use was available they would consider it, however at this point it is not a consideration.

Heather Higgs, residing at 14694 South Rider Road in Burton Township, is sworn in. Ms. Higgs states that her property abuts a portion of the wetlands and the back corner can get flooded with high water. She is concerned that kayakers or canoers could unknowingly trespass on her property while utilizing the park. She asks how those boundaries will be known to park visitors and if this permit is denied what is the alternative plan for the use of the property?

Attorney Owen addresses the boundaries question, stating that if canoes and kayaks were permitted in the park, they would be restricted to the two (2) large lakes on the property. As the wetlands are protected, visitors are prohibited from utilizing the wetlands in that manner due to conservation restrictions. Attorney Owen addresses the alternative use question. He states that half of the park is preserved meaning nothing could happen to the wetland area. The other portion, which is not restricted, could be sold if necessary, and used as allowable by Burton Township.

Alan & Maria Benander, residing at 12725 Kinsman Road in Burton Township, are sworn in. Mr. & Mrs. Benander have the following concerns:

- Visitors going off the trails onto their property. Mr. Szell reiterates that there will be no trail access from Kinsman Road (Rt. 87). Trails will only be located on the parcel in Newbury and the Western Parcel in Burton. Referring to page fifty (50) of the application, the dotted redline illustrates where the trails will be located, compared to Mr. & Mrs. Bernander's property which can be seen on page fifty-one (51).
- Beaver Control: Mr. Szell encourages property owners to reach out to WRLC if there are any future issues.
- More structures: Mr. Szell states there are no more plans for additional structures at this time. If there were plans for more, WRLC would need to have permission from Burton Township to do so.

Eric Higgs, residing at 14694 South Rider Road in Burton Township, is sworn in. Mr. Higgs asks about the alcohol policy and if fishing licenses would be required? Mr. Szell states the park will prohibit the use of alcohol, and he is confident that this will be noted on the sign. He will check into the signage to confirm. Attorney Owen states the park will prohibit the use of alcohol, however they are unable to police it. The Sheriff's office will patrol occasionally. In terms of fishing, Mr. Szell states that licenses will be required.

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Mrs. Higgs asks if there is an issue with alcohol on the property are cameras able to be accessed? Mr. Szell states the only cameras at the property are located on the office building and the shelter, which are difficult to view in the parking area.

Mr. Dombrowski asks who to contact if there is an issue at the park? Attorney Owen states that both the Sheriff and the WRLC should be contacted in the event of a violation. The contact information for the WRLC will be available on the sign.

Ms. Sulecki asks how she can follow up on the visibility/privacy issue. Mr. Szell will provide his contact number.

Teri Couch, residing at 14765 Ravenna Road in Newbury Township, is sworn in. Mrs. Couch is an adjacent property owner. Mrs. Couch states there is a pool of water that extends out it goes over their driveway. Mr. Szell has noticed the water and anticipates the additional landscaping around the gate and driveway to resolve this issue.

Robin Worthen, residing at 12507 Kinsman Road in Burton Township, is sworn in. She states there are significant holes off to the east side of one of the trails. She states they could pose a safety issue as they are not natural holes she believes they were created by dynamite during the sand & gravel operation. Attorney Owen asks next time she is on the property to contact and show Mr. Szell.

With no further testimony and nothing further from the Board, Chairman Snyder closes the public portion of the hearing at 8:38 p.m. for private deliberation.

At 8:47 p.m. Chairman Snyder reopens the public hearing and entertains a motion. Mr. Skeen moves that the Burton Township Board of Zoning Appeals grant a conditional zoning certificate to Western Reserve Land Conservancy as described in Application #1585-22 for the property at 14757 Ravenna Road in Burton Township, this being Parcel #04-707255 & #04-707256. Applicant is requesting a conditional zoning certificate from the Burton Township Zoning Resolution as amended August 14, 2019, Article IV, Section 402.4 Paragraph G. To use the land as a Passive Public Park with hiking trails, restroom facility, park shelter, and wetland observation deck/boardwalk. Fishing will be allowed but no hunting or ATV or other motorized vehicle usage except for maintenance activities. Park anticipated to be open during daylight hours (which may vary). The park will be staffed and may host education groups and other Land Conservancy sponsored events to add in the engagement of their mission. Mr. Fife seconds the motion. Chairman Snyder asks if Section 505.0 should be stated in the motion opposed to Section 402.4? Rick Gruber, Burton Township Zoning Inspector states Section 402.4 is correct for the regulation and Section 505.0 is the standards in order to meet a Conditional Use. Chairman Snyder asks if the Board would like to impose additional conditions? The Board does not add any additional conditions and the motion is brought to a vote.

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Roll Call Vote: Tim Snyder - yes, Alan Skeen - yes, John Nelson - yes, Leonard Fife - yes, Marilyn Percic - yes. All in favor. None opposed. Motion is approved.

Chairman Snyder entertains a motion to accept the Findings of Facts as read during deliberation. Mr. Skeen moves to accept as written. Mrs. Percic seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and Chairman Snyder calls for a vote.

Roll Call Vote: Tim Snyder - yes, Alan Skeen - yes, John Nelson - yes, Leonard Fife - yes, Marilyn Percic - yes. All in favor. None opposed. Motion is approved.

Chairman Snyder announces the application for a conditional use certificate has been approved. He announces that any member of the public can appeal the Board's decision within thirty (30) days of finalizing the paperwork, which will be finalized today. At 8:51 p.m. the public portion of the hearing concludes.

### OTHER BUSINESS

The Board reviews the minutes from January 3, 2023, the Organizational meeting. Mr. Skeen moves to approve the minutes as written. Mr. Fife seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and it goes to a vote.

Voice Vote: All in favor. None opposed. Motion approved.

The Board reviews the minutes from January 3, 2023, Application #1583-22 submitted by John Bonner. Mr. Skeen moves to approve the minutes as written. Mr. Fife seconds the motion. Chairman Snyder calls for discussion. Mr. Skeen states a great job done on the minutes and the motion goes to a vote.

Voice Vote: Four (4) in favor. None opposed. One (1) abstains. Motion approved.

### NEW BUSINESS

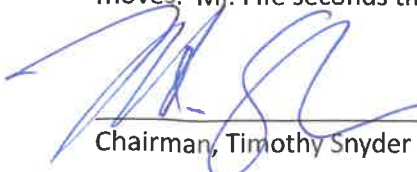
Application #1594-23, submitted by Daniel Burbridge is disseminated to the Board. Mr. Burbridge is requesting a conditional use certificate for a home occupation related to internet sales.

### NEXT MEETING

The next meeting will be a public hearing for Application #1594-23, submitted by Daniel Burbridge. This is tentatively set for Wednesday, May 17th at 7:00 p.m.

### ADJOURNMENT

With no further business to discuss, Chairman Snyder entertains a motion to adjourn. Mr. Nelson so moves. Mr. Fife seconds the motion. Voice vote: All in favor and the meeting concludes at 9:20 p.m.

  
Chairman, Timothy Snyder

5-17-23  
Date

  
Secretary, Katie O'Neill

5/17/23  
Date