

Town of Mayfield Board of Appeals

**Wednesday
August 24, 2011**

Minutes

Present:

Richard Bumpus, Chairman
David Sammons, Member
Richard Dixon, Member
James Cownie, Member
Michael Stewart, Code Enforcement Officer
Carmel Greco, Town Attorney
Paul Wollman, Salton Attorney
Steve Salton
Walt Ryan
Barbara Handy
Victoria Croft
Rebecca Berrigan
Andrew Dutcher
Brooke Berrigan
John and Dawn Thomas
Rick Morrison
Vince Coletti
Jean Russell
Steve Burns
Kevin McClary
Don Russell
Richard Travis
Kimberly Travis
Laurie Demaria
Rick Argotsinger
Barbara Cook
Jim Rulison
John Banekiles
Jarrett Carroll
John Tygert
Sherri Ford
Shanna Dufel
David Eye
Jack Putman
Carolyn Putman
Art and Shirley Goodemote

Meeting called to order:

Meeting was called to order at 7:00 PM

Approval of Minutes to the July 27, 2011 Meeting

Motion: To approve the minutes to the July 27, 2011 meeting.

Made By: Richard Dixon

Seconded: James Cownie

Unanimous

Public Hearing Salton Interpretation

Opened at 7:20

Attorney Paul Wollman representing Steven Salton spoke first stating that the Saltons purchased their property on October 28, 1994 and the Zoning Ordinance #2-2005 which the Town alleges prohibits Home Occupations Businesses such as the keeping of wild animals did not become effective until August 9, 2005.

Attorney Wollman stated that Steven Salton is not operating a business given the fact that he has no items for sale and has no signs located on the property and does not charge admission. It was also stated that there is no noise or smell associated with the property and the Board was invited to visit.

Attorney Wollman also stated that Steven Salton possesses all the required Licenses from the State of New York and the US Department of Agriculture for possession of the tigers and Leopards and has attended required training. He also stated that there were cats present on the property prior to zoning and requested that the Board look at whether the zoning was in effect when the Tigers were first brought to the property. He maintains it wasn't in effect when the tigers were first brought to the property in which case there is no zoning law that would apply to the property respect to the tigers and leopards.

Attorney Wollman made the additional point that the Town was aware of the Saltons keeping of wild animals and took no action until recently, citing November 18, 2010 minutes in which Councilman Coletti brought up the subject and stated that there are 3 locations in the Town with exotic animals that are inspected yearly and therefore he feels we do not need to do anything in the future on this. Forcing the Saltons to obtain a permit in light of the passage of time would cause unfair prejudice to them and the Town of Mayfield is barred by the doctrine of laches from doing so.

Board members Dixon and Sammons asked about the timeline of the tigers and leopards arrival on the property and were given documentation regarding that item including a bill of sale and USDA Certificate.

A written copy of Attorney Wollmans points was presented to the Board for the record.

Board member Cownie asked if a tax return was filed for a business associated with the tigers and if any donations were taken. Steven Salton replied that no business return is filed and that sometimes he accepts donations for food.

Attorney Greco reviewed the documents submitted by Attorney Wollman and began by explaining that the reason for this hearing is to determine if the Town Code Enforcement Officer was correct in his determination that Steven Salton is operating a Home Occupation as defined in the Town Zoning Regulations and read the June 10, 2011 letter from the Code Enforcement Officer to the Steven Salton. Noting that it is a requirement of his License to exhibit the animals, a fee is collected from members who visit the site, and that appointments are taken from the public to view the animals.

Attorney Greco noted that the date of purchase of a tiger does not give Steven Salton grandfather status for that property and that the training certificate, an inspection certificate and license that were submitted are all dated after zoning was in effect.

Attorney Greco stated that with respect to the Town not taking any prior action Councilman Colettis comments were not presented in the correct context with respect to the minutes of November 10, 2010 He stated that the zoning statute is there to protect the public and that the determination that a Home Occupation was being conducted took place recently.

Attorney Wollman responded that Attorney Greco can not interpret minutes and that the animals were on the property prior to zoning and there is no proof that they weren't. He also stated that Supervisor Argotsinger and the Code Enforcement Officer viewed the tigers and were aware of their presence last fall.

John Tygert spoke stating that he worked on the property for 3 weeks and did not observe anyone paying to see the tigers. He said they were like docile 300 pound kittens. He stated a business is about making money.

Richard Travis a neighbor challenged the August 2005 date calling it ridiculous. He stated they are not kittens and that he lives around the corner and hears them growl at 2 to 3 in the morning.

Laurie Demaria stated she had visited the site several times spending 2 hours there one time. She was not asked for any money, was not afraid, heard no growling and made an appointment out of courtesy.

Rebecca Barrigan said she made an appointment and took her 5 year old daughter to visit and was never asked for money. Her daughter was educated about the tigers and she donated a few dollars to help feed the animals.

Sherri Ford a neighbor stated that we are not talking about kitty cats and that her son does not want to go outside when the tigers are making noise.

Shanon Dufel a neighbor said that business cards were handed out with a fee printed on

them but she has no proof. She lives across the street and says the tigers roar at 5 in the morning and they have rats as a result.

Attorney Greco presented the Board with a card showing an admission fee printed on the back.

Attorney Wollman presented the Board with a card not showing any fee printed on the back.

Kimberly Travis a neighbor claims that business is being conducted on the property and questioned how Salton pays to feed the tigers.

Don Russell stated that he had lost two sales due to the tigers. He also stated that there were porta johns on the property last year and questioned if Salton had liability insurance.

Jean Russell a neighbor stated she was bothered by the growling also.

Richard Travis questioned Dave Eglin why he had no tigers.

John Tygert stated that the cages are per state regulations and that the tigers are not going to get out.

Kevin Mclary a neighbor said that the tigers have grown from 1 to 5 and that there is no limit to the number he can have. When he moved there it was zoned R-1 and he didn't think there would be a problem with tigers. This is a zoning issue about protecting property values and enforcement of zoning provisions.

Steven Salton stated he is not interested in getting anymore tigers due to the expense. He stated the admission cards that were handed out to people telling them it was for a donation not an admission fee.

Attorney Greco reminded everyone that the issue before the Board was whether the Code Enforcement Officers determination was correct with respect to the operation of a Home Occupation by Steven Salton.

Barbara Handy stated that a business is something that brings in income and thinks that we need to look the word up in the dictionary.

Art Goodemote stated that this country is about freedom and that Steven Salton should not be told what to do.

Attorney Wollman stated that this is America, that Steve is a disabled vet fighting to do what he wants. He is inspected, has been there for over 3 years, and should not be attacked for doing what is a hobby. There was no zoning in effect when he started and he is not a home occupation.

Sherri Ford stated she has the right to know he has the tigers.

Richard Travis stated he moved into his house in April 2006 and there were no cats there

then. He pays his taxes to live in an R-1 zone.

Attorney Wollman stated that there was no zoning when Salton started and that this is not about him, the cats or selling a house.

Motion to close hearing:

Made By: Richard Dixon
Seconded: James Cownie
All in favor

Other Business:

September 28, 2011 next meeting.

Close of Meeting

Motion: To close meeting
Made By: Richard Dixon:
Seconded David Sammons
All in favor