

**DECISION**  
by the  
**Trotwood City Council**

**A DECISION BY THE TROTWOOD CITY COUNCIL  
REVERSING THE DECISION OF THE TROTWOOD BOARD OF  
ZONING APPEALS IN CASE 20-07 BY A VOTE OF FIVE (5) AYES  
TO TWO (2) NAYS AT A SPECIAL MEETING HELD ON  
WEDNESDAY, OCTOBER 14, 2020, AT THE TROTWOOD  
COMMUNITY AND CULTURAL ARTS CENTER.**

Pursuant to Trotwood City Charter, Section 7-2, this matter came before the Trotwood City Council upon receipt of a *Petition for Appeal* dated September 11, 2020, filed by the City of Clayton, Ohio, through Law Director Martina Dillion. The City of Clayton sought to appeal the July 30, 2020, decision of the Trotwood Board of Zoning Appeals (hereinafter "BZA") in Case 20-07. The BZA had voted to approve the application of Joseph and Pamela Heintz for a variance allowing for the substitution of non-conforming use of the property known as 6464 Westbrook Road in Trotwood, Ohio, to be used as a parking drop lot for up to 50 semi-trucks and trailers.

A Notice of Public Hearing scheduled for Wednesday, October 14, 2020, at the Trotwood Community and Cultural Arts Center, was advertised and published on October 8, 2020. The appellant and the applicant were both duly informed of said public hearing and both parties were present.

Upon conclusion of the public hearing, the Trotwood City Council approved a motion to reverse the decision of the BZA by a majority vote of five (5) ayes. The public hearing testimony was as follows:

At 6:00 p.m., as scheduled, the Trotwood City Council, through Mayor Mary McDonald, opened the public hearing whereupon sworn testimony was given by representatives of the City of Clayton; the applicant, Mr. and Mrs. Heintz; Trotwood City Officials, and residents near the property.

Clayton Mayor Mike Stevens, Law Director Martina Dillon, Public Services Director Randall Sanders, and Police Chief Matt Hamlin all testified on behalf of the City of Clayton. Issues raised on behalf of the City of Clayton included concerns that the site was inappropriate due to the current road structure; substituting the proposed non-conforming use for the current non-conforming use was not an appropriate decision; greater burden would be placed on the City of Clayton, for care, supervision, and control of the public street; increased liability on the City of Clayton for potential injury caused by said use; Westbrook not suited or designed to handle heavy trucks and that it is not sufficiently wide with adequate shoulder to allow trucks to operate on said road; that the area is

zoned residential PUD and that there were approximately 82 homes within 300 feet of the proposed use; and, the potential for more serious and/or fatal accidents with semi-trailer traffic due to the number of inexperienced and inattentive drivers going to and from MVCTC, Northmont High School, and Trotwood High School.

Law Director Dillon further presented that the current non-conforming use had been discontinued for a period in excess of twelve (12) consecutive months, and, therefore, it was inappropriate and contrary to the City of Trotwood Zoning Code to reestablish another non-conforming use.

Thereafter, Joseph and Pamela Heintz, the applicants, addressed the Trotwood City Council expressing their opinion that there is a need for weekend and overnight parking for semi-trucks and trailers. The applicants testified that there is current damage to Westbrook Road but believes said damage was caused from the tornado clean-up; semi-trailers have a high center of gravity so they would be highly visible; trucks should be able to operate within the road as it currently exists; noise would not be a problem as trucks should never drive over 35 mph on Westbrook Road they would consider prohibiting those who rent from them from using their Jake brakes; and, the loads should not be heavy and should not break down the road as others have stated. The applicants described their plan to improve the property by installing security cameras, fencing around the entire property to secure the area, to include a sliding gate with a passcode, and landscape barriers.

Trotwood Police Chief Erik Wilson addressed the Trotwood City Council and expressed concerns with speeding on Westbrook Road and that a car-to-semi crash would be more severe and could be catastrophic. Chief Wilson reviewed statistics regarding the number of traffic crashes and data to support the amount of time it takes to stop a truck. Chief Wilson also reminded council members that they voted in 2016 to reduce the speed limit due to the number of traffic crashes.

Trotwood Deputy City Manager Stephanie Kellum reviewed a memo submitted by City Manager Quincy Pope outlining his concerns with the use of Westbrook Road and this property as a parking area for semi-trucks and trailers. Deputy City Manager Kellum also shared a memo from the city engineer, who does not believe the property on Westbrook Road is appropriate for the intended use as several improvements would have to be made to improve traffic safety. Deputy City Manager Kellum referred council members to City of Trotwood Codified Ordinance 1131.02(h), which states no structural alterations or improvements shall be permitted to be made when considering another nonconforming use and therefore, the BZA erred in

substituting the proposed non-conforming use for the existing non-conforming use as the applicants would be required to make structural alterations or improvements in order to use the property as intended.

Thereafter, Mr. John Fugate testified that the subject property is approximately 100 feet from the back wall of his house and that allowing semi-trucks to operate on the property at all hours would create loud noise and an unreasonable living situation for he and his family. Ms. Phonda Gamble, a resident of Westbrook Meadows, testified that the area is not appropriate for this type of business and it should not be allowed.

The public hearing was then closed and City Council deliberated the issues raised and the proposed use. Several council members had concerns with the property being a semi-truck and trailer parking facility, while others thought the concerns could be mitigated. Following deliberation of the issue and discussion of the site as appropriate or not for the proposed use, a motion was made by Vice Mayor Brown, seconded by Council Member Kelley, Jr., to reverse the decision of the Board of Zoning Appeals in Case 20-07. Upon vote by roll call, City Council reversed the decision of the Board of Zoning Appeals. Those voting aye were Mayor McDonald, Vice Mayor Brown, Council Member Gales, Council Member Kelley, Jr., and Council Member Page. Those voting nay were Council Member Vaughn and Council Member Finley. Thereafter, the meeting was adjourned.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

APPROVED:

\_\_\_\_\_  
KARA B. LANDIS  
CLERK OF COUNCIL

\_\_\_\_\_  
MARY A. MCDONALD  
MAYOR

\_\_\_\_\_  
TYNA R. BROWN  
VICE-MAYOR

CITY OF TROTWOOD      3035 OLIVE ROAD      TROTWOOD, OHIO 45426

## CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify that the foregoing is a true and correct written **Decision** of the verbal vote of the Trotwood City Council during a special meeting held on October 14, 2020, and approved at a regular meeting held on the **2nd** day of **November, 2020**, and further, that I am duly authorized to execute this certificate.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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KARA B. LANDIS  
CLERK OF COUNCIL