

Violet Township Board of Zoning Appeals

March 21, 2019

Ms. Schirtzinger called the meeting to order at 7:30 p.m. and roll was called.

Members present: Mr. Dellinger, yes; Mr. Rector, yes; Mr. Collins, yes; Mrs. Cole, yes; Mrs. Gillette, yes; Mr. Kluczynski, yes; and Ms. Schirtzinger, yes. Also present were Kelly Sarko, Zoning Inspector and Jennifer Huber, Township Legal Counsel

Ms. Schirtzinger swore in all those wishing to speak. It was noted for the record that Ms. Sarko had also been sworn in.

Case Number 03-VA-2019 (continued from January 17, 2019)

An application for variance filed by Shawn Hensley for property located at 13450 Falmouth Avenue. This application requests a variance from the provisions of Violet Township Zoning Resolution Sections 3AA5-03(M) to allow a vehicle for a home occupation weighing more than two tons (gross) to be parked, stored or kept at the residence and 3AA5-03(H) to allow non-residents of the dwelling and non-family members to participate in a home occupation as an employee, employer or volunteer.

Shawn Hensley, 13450 Falmouth Avenue said it was never his intention to cause a rift in the neighborhood with this application. He said he secured off-site parking to say, "We want to be a good neighbor". He said they would not park the truck at the residence. However, in the event if he needed to come back and pick something up, he would and that would be the exception.

Fortunately, he said business is better than they would have expected so they will need employees. The employees would meet them at the truck location and go home from the truck location. He said he does not want people coming to his home.

He said they are asking to be allowed to have employees on the payroll in the near future. He was hoping this would simplify things.

Ms. Schirtzinger asked if Mr. Hensley is asking to amend his application. Mr. Hensley said he was and would be removing the variance from Section 3AA5-03(M). Ms. Schirtzinger confirmed that he would be asking for a variance from Section 3AA5-03(H).

Mr. Kluczynski asked if Mr. Hensley had an estimate of the number of non-family employees, he would employ. Mr. Hensley said he would prefer to error on the side of caution and said it would not exceed 10. He said they would be part-time workers. He explained in the case of illness that only healthy people are working. He said realistically it would be 3 to 5.

Mrs. Cole asked what the longest period of time he would be in the neighborhood to pick something up. Mr. Hensley said 10 to 15 minutes. He provided an example if they were doing lunch in Columbus, and were to be at Combustion Brewery, they might have to pick up some dry goods.

Mrs. Gillette said she appreciates him being so in-tune with his neighbors and his willingness to have an alternative plan.

Mr. Kluczynski asked for clarification, stating that normally when referring to a home occupation and non-family members in prior cases, it has always been non-family members coming to the house to work. Ms. Sarko said in some cases. Mr. Kluczynski said in this case they are going to meet at the truck at another location and asked if this applies. Ms. Sarko said the employees are on their payroll. Ms. Huber said the language in the code is "participate in the home occupation".

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Mr. Collins asked Mr. Hensley if his business continued to grow would he purchase another vehicle. Mr. Hensley said if they had two trucks he would probably purchase a commissary location and have the trucks park somewhere that would become the business location.

Jesse Boyd, 13496 Capetown Avenue said he did not see anything that said he would be moving the truck. Ms. Schirtzinger explained that Mr. Hensley amended his application because he would not be parking the truck there. He said he wanted to make sure employees would not be coming to the house. Ms. Schirtzinger said they would not be coming to the house. Mr. Kluczynski said they would probably place condition on the vote stating that employees would not be able to go to the house.

Mr. Boyd asked if picking up items at the home would be daily occurrence. Ms. Schirtzinger said Mr. Hensley testified that it would be rare and to quickly grab things. Mr. Boyd said he did not oppose the business if it was somewhere else. Ms. Huber noted the application has been modified verbally and it was being recorded for the record.

Roger Weaver, 3830 Bickel Church Road, Baltimore was present to represent Melvin and Dorothy Weaver, 13546 Capetown. Mr. Weaver asked how long a truck could park on Capetown and what the code says. Further, he asked about overnight parking of such vehicles. Ms. Sarko noted this is what this variance application is. Mr. Weaver asked without the variance, how long can the truck stay on the street without having problems. Ms. Sarko said he cannot have a truck that size parked on the street. Mr. Weaver said nothing has been done about a semi that sits in front of his parent's house. Ms. Sarko commented she has not seen the truck and was not aware of this issue. He asked what prevents another business from having a truck there. He wanted to know if Mr. Hensley would be violating the law if he parks his truck there for two or three days. Ms. Schirtzinger said you cannot enforce something if you do not see it.

Mr. Weaver said he does not understand why a residential community with residential housing even has to deal with this concept. Mr. Weaver said this board is allowing a variance and allowing a business to develop in a residential area. He thinks it is bad precedent. Ms. Sarko commented Mr. Hensley did obtain a Conditional Use Permit and this application is requesting a variance from one of the specific conditions for a Home Occupation.

Mark Gramlich, 13551 Capetown Avenue commended Mr. Weaver for what he said. He asked if residents, if the application does not pass, can paint their homes neon colors and that comment that has been posted on Facebook.

Debby Kelly, 13633 Capetown Avenue said she has lived in the neighborhood for the past 1 ½ years. Her plea was to consider the reason we have rules, which is to help us resolve our conflicts and to continue to allow our community grow and to support our neighbors.

Mr. Hensley thanked all the people that were for his application. He said he just wants to run a business and asked that if someone has a problem, instead of going to facebook come to him.

Ms. Schirtzinger asked how often he would be loading his truck from his home. Mr. Hensley said that in two months of operation, the truck has not been loaded at the house. He said it has been to the house one time on his way to Combustion Brewery to pick something up and it took about 4½ minutes. He noted food delivery goes to where the truck stored.

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Ms. Schirtzinger asked if he were sick is there any reason an employee would have to come to the house. He said if he is sick, the truck does not operate.

Jesse Boyd, 13496 Capetown Avenue said after listening to everything he says there are a lot of “ifs” and things that are not certain. He now recommends the board not approve this variance and asked Mr. Hensley to withdraw his application.

Mr. Kluczynski made a motion to approve Case Number 03-VA-2019, a variance from the provisions of Violet Township Zoning Resolution Section 3AA5-03(H) to allow non-residents of the dwelling and non-family members to participate in a home occupation as an employee, employer or volunteer with the condition that employees do not report to the residence and the condition the number of employees does not exceed 10 employees. Mr. Collins seconded the motion. Roll call vote: Mr. Kluczynski, yes; Mr. Collins, yes; Mrs. Cole, yes; Mrs. Gillette, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 06-VA-2019

An application for variance filed by Gary Wengert, Trustee, Eastern Gate Ministries, Inc., 6389 Blacklick Eastern Road for property located at 6389 Blacklick Eastern Road, Pickerington, owned by Eastern Gate Ministries Inc. This application seeks variances from the provisions of Violet Township Zoning Resolution Section 3W2(B)(2) to allow a sign for a church to exceed twenty-four square feet in area and Section 3W2(F)(2) to allow the erection of a digital LED sign.

This property is located on the south side of Blacklick Eastern Road, east of Toll Gate Road. The church was formerly known as Trinity United Methodist Church.

Eastern Gate Ministries is proposing to install an 85-inch wide sign x 55-inch tall sign – 32.46 square feet, LED sign. A variance is required, as the sign will exceed the allowable size for a sign for a church and for the LED portion of the sign. The application states they will be utilizing the existing sign base.

Section 3W2(B) (2) requires the Township Zoning Resolution bulletin boards and signs for a church community or other public building shall be permitted providing such bulletin boards or sign shall not exceed 24 square feet in area for sign base of the sign and shall not exceed 6’ in height from the ground level to its highest point and it shall not have more than 2 sign faces.

Section 3W2(F)(2) requires “No illumination involving movement or causing the illusion of movement by reason of the lighting arrangement or other devices shall be permitted

Gary Wengert, 6389 Blacklick Eastern Road said this was an LED sign and it gives them opportunity to use for their ministries. They are a church with many activities. The sign would give Vacation Bible School dates, pre-school enrollment dates, sermon series and it will be put to good use. They also do public things for the community like an Easter Egg Hunt, trick or treat. He said currently, they go out and change the letters for the sign.

Mr. Kluczynski asked the size of the new sign. Ms. Sarko said it is 55” tall and 85” wide. Mr. Kluczynski asked if that was just the structure. Mr. Wengert said a portion of sign that is permanently backed has Trinity at the Eastern Gate on the top of the sign. The lower portion will be the digital LED message board. It will fit in their (existing) stone background within the parameters of the existing sign.

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Mrs. Cole asked if the Trinity portion of the sign would be lighted. Mr. Wengert said it is backlit and it would not change, as it is a permanent sign.

Mrs. Gillette asked if the LED part was rapid change. Mr. Wengert said it will scroll from time to time but it does not do movement.

Mr. Kluczynski asked if the sign would be turned off at night. Mr. Wengert said it depends what the Board says. He said he thinks that 10:00 p.m. would be the latest and they could power down. Mr. Kluczynski asked if they could do it automatically. Mr. Wengert said it could be programmed. Mr. Wengert said they would turn the sign on at 6:00 a.m. Mr. Collins asked if it would be the whole sign or the LED portion. The name portion would be on all the time and The LED portion would be turned off.

Mr. Collins said he read in the application that the sign has ultra bright abilities and if they will put it at maximum brightness. Mrs. Gillette asked the Board if they would be comfortable with him just following the recommendations of the manufacturer. The Board agreed. Mr. Collins asked if he would dim the lights back at night if it were a safety issue, Mr. Wengert said he would.

Mr. Dellinger referred to the sign's specifications; he noted it says it has full motion capabilities. Mr. Wengert said he understood they are not allowed to have motion. Mr. Dellinger wanted to make sure he understood that.

Mrs. Gillette made the motion to approve a variance as requested for property located at 6389 Blacklick Eastern Road, specifically a variances from Violet Township Zoning Resolution Section 3W2(B)(2) to allow a sign for a church to exceed twenty-four square feet in area, but not to exceed 32. 46 square feet in area; and a variance from Section 3W2 (F)(2) to the allow erection of a digital LED sign with the condition that the LED portion of the sign be turned off between the hours of 10:00 p.m. and 6:00 a.m.; and that the manufacturer's recommendations for dimming the brightness at night be followed, and the sign shall be dimmed further for safety reasons. Mrs. Cole seconded the motion. Roll call vote: Mrs. Gillette, yes; Mrs. Cole, yes; Mr. Collins, yes; Mrs. Kluczynski, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 05-VA-2019

An application for variance filed by Richard Colborn, 6056 Pickerington Road for parcel number 0380243600, .88 acres, located on the south side of Pickerington Road, east of Walnut Street, west of Broad Street. This application requests a variance from the provisions of Violet Township Zoning Resolution Sections 3AA4-03 and 3AA4-05(A)(6) to allow the construction of a detached accessory building on a lot which does not contain a principal structure; and section 3AA4-05(A)(1) to allow the size of an accessory building to exceed the maximum permitted on a lot containing one acre or less in area.

This property is located in Lockville, which is a platted subdivision. The property consists of three lots and a vacated alleyway. Lockville is zoned R-1 single family residential. The property is adjoined by single-family residences on the north and on each side of the property. Land owned by the Fairfield County Historical Parks owns the property at the rear of the site. The property is currently vacant and contains no home.

Mr. Coborn is requesting to construct a 40'x 50' (2,000 square foot) pole barn on the property. It appears through the construction drawings the height of the structure is 18.67 feet.

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Section 3AA4-06(A)(1) provides: On lots of one acre or less in area, the total floor area of all accessory buildings on the property, when added together, shall not exceed fifty percent (50%) of the minimum gross floor area permitted for a principal building in that district, or fifty percent (50%) of the actual gross floor area of the principal building

Section 3AA4-03 "Gross floor area" as used herein shall be total livable floor area exclusive of unfinished basements, unfinished attics, and attached garages.

3AA4-05(A)(6) requires an accessory building or structure shall only be allowed in conjunction with, and on the same lot as an existing principal structure.

Section 3A2-07 states: For all lots that are one-half acre or less in area, the total area covered by the dwelling and all accessory buildings shall not exceed thirty percent (30%) of the lot area.

Ms., Sarko showed the Board a copy of the portion of Lockville plat which shows Mr. Colborn's properties. She explained that Mr. Colborn is proposing to build a pole building on Lots 178, 179 and 180 shown in green. Between Lots 179 and 180 is an alleyway that has been vacated. She showed the location of Mr. Colborn's home on Lots 223 and 224 along with the vacant alley between those lots as well as vacated alleyway at the rear of Lots 223 and 224. The color diagram was entered into the record as Exhibit "A".

Mr. Kluczynski asked about the vacated alleyway between 179 and 180 was that considered as part of the property. Ms. Sarko said it was and used to be right-of-way that had been vacated.

Douglas Hertlein, attorney for Mr. Colburn noted the subject address is 6056 Pickerington Road, Carroll, Ohio. He said this matter arose when Mr. Colburn submitted a building permit for this building and it was denied and advised that because it was contrary to the zoning provisions it needed a variance. He said the vacant lot is almost .9 acre and it is immediately across the road from Mr. Colborn's residence that is .5 acre.

He said the .5-acre parcel (6056 Pickerington Road) does not have any room to build. The location for the building they have proposed is such that the lot is still amenable to sell. He said the purpose of the building is an accessory building for his residence. Mr. Hertlein said Mr. Colborn has quite a bit of things on his property and there has been a long history of issues that Ms. Sarko has brought up about this property. Many of these issues involve the things sitting out on the property. Mr. Hertlein noted that the properties adjoining from the east and the west each of them have large outbuildings similar to what Mr. Colborn is proposing.

Mr. Kluczynski asked if there were any intentions of building any other outbuildings or homes on this property. Mr. Hertlein said not at this time.

Mrs. Gillette asked if the building would be on lot 178. Mr. Hertlein said it was basically on 178

Mr. Dellinger asked if the home was on lot 223 or 224. Mr. Hertlein said it straddles on both lots.

Mrs. Cole asked if he said there were homes on lot 177 and 181. Mr. Hertlein said on 177 there is a driveway with a large outbuilding close to 178 and a large barn on either Lot 181, 182 or 183.

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Mr. Kluczynski said the idea of building placement of this structure in that rear corner gives the owner options for future construction or sale. Mr. Hertlein said yes. Mr. Kluczynski asked Ms. Sarko with the setback requirement, would that cause any future issues. Ms. Sarko said they would have to get another variance because the accessory building would not be behind the house. She said variances would also be required for the size of the home. If a home were to be built, it would have to be 4,000 square feet and 20 feet tall.

Mr. Dellinger asked if with this accessory building is it enough to clean up both sides of the road. Mr. Hertlein said yes, everything would be inside this building. Anything extra would either be in the barn or gone.

Mr. Kluczynski asked about the materials, the flooring etc. Mr. Richard Colborn, 6056 Pickerington Road was present. Mr. Colborn said the floor would be concrete, there will be gravel in the driveway, it would be insulated, will have electricity. He said it would be gray and black in color and there will be no plumbing.

Mr. Kluczynski asked about exterior security lights. Mr. Colburn said he had not thought of this but thought it was a good idea. Mr. Kluczynski noted that prior applicants were concerned with the proximity of lighting and brightness and when it would be on. He said he would probably do the motion lights. The overhead doors will face the road and it will be a gravel driveway.

Mrs. Gillette said the package plan says that there are two single hung windows. Mr. Colborn said yes and they will be on the east side.

Ms. Sarko asked if that front setback measured from the edge of the right-of-way of Pickerington Road or was it measured from the edge of the pavement. She said the right-of-way of Pickerington Road is 66 feet wide and the structure needs to be at least 50 feet from the edge of the right-of-way. Mr. Colborn said it was meant to be the edge of the right-of-way. Mr. Rector said he wants to make sure that is shown on the drawing,

Mrs. Gillette asked what the height of overhead doors are. Mr. Colborn said 10 feet.

Mr. Kluczynski asked about the side and rear yard setbacks. It was noted both were required to be a minimum of fifteen feet. Mr. Hertlein said it can go further west or further east on the site.

Ms. Schirtzinger asked about the park behind lots 178, 179 and 180 and said it is shown on the drawing to 165 feet (deep). Ms. Sarko said each lot is 66 feet wide. Mr. Hertlein asked if she was speaking of the rear line that is along the park. Ms. Sarko said the depth of the lot. She said the area at the rear of the lot is the old Ohio Canal and is owned by the Park District. Ms. Schirtzinger said the drawing does not add up. Mr. Hertlein said his understanding is that it was platted as rectangular lots as shown on page 27, and the area that is shown by the black line cutting the lots shorter what was either taken or deeded over to the Historical Society. Therefore, the actual property line is not rectangular and it is as shown in the picture.

Ms. Sarko said that Mr. Hertlein had indicated there had been violations on the property for several years. She said the Zoning Office believes it obligated to inform the Board about violations of the Township Zoning Resolution that have been continuously present on or about this property as well as the owner's residence.

Ms. Sarko reported notifications both formal and informal began to be issued in 2008 for lots 178, 178 and 180. These violations consisted primarily for the open storage of scrap

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and used materials -generally scrap metal items (bicycles, air conditioning units, automobile parts, lawn furniture, etc.) which were left openly stored on the property. Additionally, apparently inoperable vehicles were stored on this property. The notices of violations were mailed to 6056 Pickerington Road. The property was transferred from Carol Colborn-Stewart to Mr. Colborn in March 2011. She noted the pictures were taken over the years.

Ms. Sarko distributed a packet of copies of violation notification letters and photographs of Lockville Lots 178, 179 and 180.

She said notices of violation were also issued regarding the property 6056 Pickerington Road – the owner’s address. These violations began in January 2008. Violations consisted of the open storage of scrap and used materials including riding lawn mowers, push lawnmowers, gas grills, bicycles, hot water tanks, automobile parts and inoperable motor vehicles. An accessory building on the property 6056 Pickerington Road was replaced. The owner was informed that a zoning permit was required to be obtained but no zoning permit was obtained. A deck with a handicap ramp was installed at the front of the home. A zoning permit could not be issued as additional information was needed and the owner was notified that additional information was required and she never received the information.

Ms. Sarko distributed a packet of copies of violation notification letters and photographs of 6056 Pickerington Road.

She reported another violation occurring from both properties is an apparent home occupation involving recycling, scrapping and selling of scrap or used materials. The owner was informed on several occasions that a conditional use permit was required for a home occupation. No conditional use permit for a home occupation has been issued for this business activity.

In late 2016, the Zoning Office sent the violations to legal counsel in 2016 for their assistance to resolve the violations. In January 2017, the property 6056 Pickerington Road was transferred from Mrs. Colborn-Stewart to her son, Richard Colborn. The violations still exist and the apparent home occupation continues to occur from the properties.

Ms. Sarko noted there are two accessory buildings on 6056 Pickerington Road.

The packet for Lockville Lots 178, 179, and 180, beginning with the date August 25, 2008 was entered into the record as Exhibit “B”. The packet for 6056 Pickerington Road, beginning with the date January 2, 2008 was entered into the record as Exhibit “C”.

Mrs. Gillette asked about the buildings on 6056 Pickerington Road. Ms. Sarko said it was her understanding the original building was damaged by straight-line winds. Mr. Colborn said that no permit was needed.

Mr. Kluczynski made the motion to enter into private deliberations at 9:40 p.m.

Mr. Hertlein said he wanted to address some of the issues that Ms. Sarko addressed. He said the items sitting around was a big part of the problem, as Mr. Colborn had no place to keep them out of sight. This has been a long-term problem. The barn should take care of the problem. As to the zoning violations or the building violations he has not pursued it with the builder other than he (the builder) told him he had the permit. Mr. Colborn thought the permit was approved. He said since this property has been a long-term problem he can now help Mr. Colborn alleviate some of these problems. Regarding the Home Occupation issue, he said when he spoke to Ms. Sarko and Ms. Huber they talked

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about this and whether or not they should file for a Home Occupation. He said Mr. Colborn did not finish high school, is in his late 50's, had his fingers cut off in an industrial accident and he is a recycler and knows no other occupation. He thought that when they discussed this he thought they decided it was better to let that lie for now. He was surprised that it came up at this hearing as an obstacle to this variance and he does not think it should.

Mrs. Cole asked Mr. Hertlein what is his influence with Mr. Colborn and how can he remedy it. Mr. Hertlein said he was a neighbor. He said many of those notices Mr. Colborn did not understand the importance and the consequence. He expects that if there is another violation they would be able to remedy that.

Mrs. Gillette said if this new barn is supposed to help put everything inside and declutter, is there any thought given at all to increasing the height of the overhead door. She does not want him to back himself into a corner and have everything not fit in the 10-foot doors. Ms. Schirtzinger said he could say no more than 12' doors.

Mrs. Gillette asked legal counsel and Ms. Sarko if our applicant owns 223, 224 and the alley in between where the residence is and the property across the street and there are existing violations on the "yellow" side where the residence is while he has a variance on the table can he add to bring those buildings into compliance. Ms. Sarko said it would be a separate application.

Mr. Hertlein asked if they could make the variance subject to compliance with the building permit, on the shed and the deck. Ms. Sarko recommended they go down to the Map Room and join the properties into one tax parcel. She said there might be an issue with the detached accessory buildings on 6056 so they will probably have to come in and apply for a variance for the area of the detached accessory building on 6056 (Pickerington Road).

Mr. Hertlein said that when he met with Ms. Sarko and Ms. Huber and he said Ms. Sarko told him that the lots across the road could not be joined as one parcel with the .888 acres (Lots 178, 179, 180). Ms. Sarko said they are not joined between Pickerington Road where the house is located. The property line is in the middle of the house. He said he did not understand. Ms. Huber said the residential parcel where his house is, Ms. Sarko is saying to dot l's and cross t's their first step might be going to the county to get the parcels legally joined together so they are under one parcel number.

Mr. Kluczynski made another recommendation to enter into private deliberations at 9:40 p.m. Mrs. Cole seconded the motion. Roll call vote: all ayes.

The Board returned from private deliberations and resumed the meeting at 10:43 p.m.

Ms. Schirtzinger said the Board wants to work with Mr. Colborn and at one point in the meeting, Mr. Hertlein said that his client is willing to make some concessions or contingencies. She said they think it is great that Mr. Colborn has taken the step to get this variance. They cannot completely ignore the history of what has gone on. The Board is asking if he is willing to continue this until next month. Tell them what they are able to do realistically and in what timeframe. They want an action plan of how to correct some of these violations. Mr. Hertlein said once the barn is up the stuff all around will no longer be visible. Mr. Hertlein wanted to make sure he understood the concerns.

- Clutter on the property
- Non completion of information still needed for the permit for the handicap ramp
- No permit for the barn (on 6056 Pickerington Road)

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- The conditional use permit (for Home Occupation)

Mrs. Gillette said if we had the report a week before the next meeting that would work. Mr. Hertlein said they would be willing to continue this and come up the plan that they asked for.

Mr. Kluczynski made a motion to continue Case Number 05-VA-2019 to the next month on April 18, 2019 at the Violet Township Offices at 7:30 p.m. Mrs. Cole seconded the motion. Roll call vote: All Ayes.

Mrs. Gillette made the motion to approve the minutes from November 15, 2018, December 20, 2018 and January 17, 2019 Special and Regular meetings. Mr. Collins seconded the motion. Roll call vote: All ayes.

Mrs. Gillette made the motion that Thomas Collins be the Chairman for the remainder of 2019, Albert Kluczynski would be Vice Chairman and Don Rector would be Secretary, Ms. Schirtzinger seconded the motion, Roll call vote: Mrs. Gillette, yes; Ms. Schirtzinger, yes; Mr. Collins, yes; Mrs. Cole, yes; and Mr. Kluczynski, yes. Motion carried.

The next meeting is March 28, 2019.

Mrs. Cole made a motion to adjourn the meeting at 11:08 p.m. Ms. Schirtzinger seconded the motion. Roll call vote: All ayes. Meeting adjourned.

Respectfully submitted,

Thomas Collins, Chair

Donald Rector, Secretary

Date: _____