

Town of LeRay

Zoning Board of Appeals Minutes

May 5, 2021

Call to Order

On May 5, 2021, the LeRay Zoning Board of Appeals held their monthly meeting in person and via teleconference. The meeting was called to order at 6:30 p.m. by Chairperson Oatman.

Open Regular Meeting

Board members in attendance: Chairperson – Jan Oatman, Jacalyn Tunstall, Christian Favret, Zoning Enforcement Officer – Lee Shimel, and Clerk – Morgan Melancon. Also in attendance was Tina Leary, Matthew Leary, and Maurice Mitchell. Member Blankman was absent.

Approval of Minutes

The Minutes from March 3, 2021 were reviewed by the Board members. A motion to approve the minutes was made by Member Tunstall and seconded by Member Favret.

The vote went as follows:

Member Tunstall:	Yes	Member Favret:	Yes
Chairperson Oatman:	Yes		

The motion passed.

Correspondence and Communication

Chairperson Oatman asked if there was anyone who was not on the agenda that wished to address the Board. There was none. Chairperson Oatman asked Ms. Melancon if there was any correspondence to which Ms. Melancon replied there was none.

Interpretation Meeting for Matthew R. Leary, of the decision by ZEO on April 2, 2021, for Article XV Section 158-120 A (10) of the Municipal Code, located on 25039 Chrysler Drive, tax parcel #75.05-1-23.

Chairperson Oatman asked the Board to review the Interpretation Application. Mr. Leary was in attendance and provided a brief description. Chairperson Oatman said it would be useful to know information such as if Mr. Selleck was using tools, what kind of tools they were, and anything else relevant. Mrs. Leary replied that Mr. Selleck was using screw guns, saws, and planers, and the saw dust from the woodworking would come into their area often, messing up the detailing they would get on their vehicles when their vehicle windows were left down. Mr. Leary explained that because of the constant noise, they were unable leave their doors or windows open as it would affect their ability to hear the television, take naps, or the like.

Mr. Leary presented a video of the noise to the Board as evidence. Chairperson Oatman said according to Town of LeRay Zoning Codes, Minor Home Occupations were allowed in an R-1 district, however the business had to comply with the criteria. It was apparent that they were not complying with the noise regulations based on the video.

Chairperson Oatman asked Mr. Shimel if he wanted to give any details on what he was led to believe was happening. Mr. Shimel stated that he had stopped by one evening around 6:30 PM when Mr. Selleck had been using a drill press in the garage with the door open. Mr. Shimel said he informed Mr. Selleck of the upcoming Interpretation and until a decision was made, he was still within the guidelines established with the Town code to continue.

Mr. Mitchell, a fellow neighbor on Chrysler Drive, stated that he was working from home because of Covid-19, and if he left his windows open in the summer the noise would disrupt his teleconference calls, regardless of where it was on the property Mr. Selleck was working. Mr. Mitchell stated that Mr. and Mrs. Leary and himself would often try and talk in the Leary's garage together and would have difficulty carrying on a conversation. Additionally, Mr. Mitchell brought up concerns of increased traffic due to at home sales, which were frequent in the summer and dropped off in the winter but were now starting to pick up again. Mr. Mitchell said that most of the merchandise had moved from the front of the property after Mr. Shimel had spoken to Mr. Selleck and Mrs. Craig.

Chairperson Oatman stated that there were always two sides to the coin, people always wanted to do what they wanted to do on their own property which is why there were zoning laws in effect but at the same time, people also had a right to peace and quiet enjoyment on their property. Mrs. Leary stated the reason she purchased the property was because it was outside the city limits and in an older neighborhood.

Chairperson Oatman reiterated that according to the Town of LeRay code, a minor home occupation was allowed in an R-1 district, but it had to meet the criteria as laid out, and if there were any violations of the criteria, the Zoning Enforcement Officer would have to address it. Chairperson Oatman said the Board would have to review the definition of Noise and decide in their opinion what was meant by whoever wrote the code if it was literal or if there should be a certain decibel level.

Mrs. Leary said when Mr. Selleck worked in the garage the door was never closed. Mrs. Leary said they had just done a home remodel and were using tools, but it was done in 3 weeks. Chairperson Oatman stated that there is a difference between doing a home remodel and running a business.

Chairperson Oatman asked Mr. Shimel if Mr. Selleck had told him that he was not selling out of his home to which Mr. Shimel replied that he had informed Mr. Selleck that he could not have a *For Sale* sign in his yard, and as far as internet sales there was nothing in the code that said he could not use that medium as an advertising tool. Chairperson Oatman said he could not sell out of the home to which Mr. Shimel said there was nothing in section 158-120 A that referred to that. Chairperson Oatman quoted number (6) of the code, "No tangible articles or products are offered for sale or repair services provided at the property." Chairperson Oatman asked if Mr. Shimel would like the proof of the online sale, to which Mr. Shimel said yes. Mr. and Mrs. Leary stated they would send the listing from Facebook Market place to Mr. Shimel as proof.

Chairperson Oatman asked Mr. Shimel if a permit could be revoked if the requirements of the code were not being met after the permit was issued, to which Mr. Shimel said he would have to send them a letter stating that the interpretation was overruled and send them an Order to Remedy the Violation via certified mail and give Mr. Selleck and Mrs. Craig a timeframe to cease operations. Mr. Shimel said if Mr. Selleck and Mrs. Craig continued then they would go into litigation, and finally to court.

Chairperson Oatman informed Mr. and Mrs. Leary that if they, or any other neighbors would like to send any information for the Public Hearing, to email it to Mr. Shimel. Additionally, a letter of notice could be mailed/e-mailed to be read at the meeting.

A motion was then made to set a Public Hearing for June 2, 2021 at 6:30 pm by Member Favret and seconded by Member Tunstall.

The vote went as follows:			
Member Tunstall:	Yes	Member Favret:	Yes
Chairperson Oatman:	Yes		
The motion passed.			

The Chairperson explained that a letter with the Public Hearing information would be sent in the mail.

Adjournment

A motion was made by Member Tunstall and seconded by Member Favret to adjourn the meeting at 6:56 PM.

The vote went as follows:			
Member Tunstall:	Yes	Member Favret:	Yes
Chairperson Oatman:	Yes		
The motion passed.			