

Bainbridge Board of Trustees media release concerning the case of *Bainbridge Township Zoning Inspector, et al. v. The Chagrin Valley Learning Collective, Co Op., et al.*

The Board of Trustees are releasing this statement in an effort to explain the Township's position concerning the recent decision in the case of *Bainbridge Township Zoning Inspector, et al. v. The Chagrin Valley Learning Collective, Co Op., et al.*

Several weeks ago, we authorized an appeal of the decision in civil contempt proceedings in this case brought by the Township against the property owners of Kelly's Working Well Farm and a Learning Co Op, operating at the site. The trial court determined that the property owners and Learning Co Op. did not comply with a consent agreement with the Township because they had violated 10-foot distance restrictions with respect to the structures containing fire hazards on the property. The decision, however, also determined that the summer camps and Learning Co Op., with students from ages 5 through 18, were allowed to operate as agritourism at this small Bainbridge farm. The Township appealed this part of the decision to the Court of Appeals.

Prior to this litigation in 2020, the Bainbridge Township Board of Zoning Appeals determined that the property owners of Kelly's Working Well Farm would have to obtain a use variance in order to operate a school and camp at the site. The Board also determined that the school and associated camps operating at the site were not agritourism events.

The Township and Fire Department have tried to work with the property owners and agreed to enter into a consent agreement in 2022, in the injunction case, to allow the property owners some use of their property. Considering the fire hazards in the buildings on the site, the agreement only allows agriculture use and agritourism events. These events can only be held on the grounds of the property, with strict compliance of the distance restrictions to structures at the site to ensure safety for all visitors.

As Trustees, we take enforcement of our Zoning Resolution and the Ohio Fire Code very seriously. The Bainbridge Township's Zoning Resolution was enacted, in large part, in the interest of promoting public health, safety, and welfare within our community. As well, all fire code regulations are based on the potential for serious risk of harm to people, including injuries and death from fire hazards. All the structures at Kelly's Working Well Farm were constructed without approvals or permits from public entities, including the County Building Department, and the Bainbridge Fire and Zoning Departments, which resulted in the 2019 fire citation against the property owners.

The State Legislature, back in 2016, enacted provisions for agritourism, under R.C. 901.80, in order to provide some immunity from civil liability and limitations on local

zoning enforcement for farms hosting these events. Under this statute and the 2020 Board of Zoning Appeals decision, agritourism activities must be limited in duration or timespan and must also be open to or invite the general public to participate in the activity. We have, ourselves, enjoyed participating and engaging with the community at local agritourism events on farms, which would include, for example, you-pick-operations. We also appreciate and understand the benefits of having these activities in our Township and County.

General property uses and businesses, however, such as the Chagrin Valley Learning Collective, Co Op., are not activities open to the general public. The Learning Co-Op and camps are limited to children of certain ages and operate for an indefinite period of time upon the property. The Learning Co-Op also functions as primary schooling for the student participants, who do not attend public school. Consequently, these types of businesses should follow the Bainbridge Township Zoning Resolution. The use is also restricted by a prior decision of the Bainbridge Township Board of Zoning Appeals and is operating in violation of the current Consent Agreement between the parties.