

Villages file objections in mine appeal

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Indian Hill, Terrace Park and Newtown objected to a magistrate's decision dismissing the municipalities from an appeals case regarding a proposed underground limestone mine in Anderson Township. The appeal is in the Hamilton County Court of Common Pleas.

Magistrate Michael Bachman stated in his Jan. 10 decision dismissing the villages that three of the "arguments raise generalized claims regarding the villages' duty to provide for the safety and welfare of the citizens." Bachman further stated neither Indian Hill's greenspace nor Terrace Park's property across the Little Miami River is sufficiently near the subject property to grant standing in the appeal.



Keith Barklage/staff

The villages appealed an Anderson Township Board of Zoning Appeals June 2 decision granting Martin Marietta Materials' a special zoning certificate to operate the mine and variances to store explosive materials on its property, located near Broadwell and Round Bottom Roads. Mine opposition group Citizens Against Blasting on Our Miami (CABOOM) was dismissed in an earlier decision.

Attorney Tim Mara, who represents CABOOM and the 60 individual appellants, said Bachman made obvious mistakes in his decision to dismiss the municipalities. "Terrace Park literally owns property adjacent to the site," he said. "Indian Hill and Newtown own property very close to the (proposed mine) site." The collective objection, filed Jan. 21, argues that Bachman applied an incorrect standards to determine the standing of each village.

The communities also objected to Bachman's decision denying a motion to vacate the Anderson Township Board of Zoning Appeals' decision. The appellants argued that the decision, approved in a 3-2 vote, should be void because the BZA exceeded its authority by attempting to rule on various zoning amendments outside its jurisdiction, thus making the mine's approval illegal.

Bachman stated in his decision that he could not grant the motion to vacate judgment because he could not rule on pre-trial motions. Terrace Park Solicitor Bob Malloy said that reasoning is "logically inconsistent" because Bachman had previously ruled on several other motions in the appeals case.

"There is no trial in an administrative appeal, so how could (that) motion be pre-trial?" Malloy asked. "Subject matter jurisdiction can be raised and considered at any time. We simply pointed out those factors we thought (Bachman) had not correctly decided in the motion."

The other parties in the case, including Anderson Township and Martin Marietta, may file a response to the objection. Judge Steven Martin will rule on whether to uphold or reverse Bachman's decision.