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Anderson Twp. mine appeal hearing Dec. 21

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Attorneys for Martin Marietta, Anderson Township and other area municipalities are volleying for control on how to proceed with the appeal of a decision granting a permit for an underground limestone mine.

Terrace Park, Newtown, Indian Hill and the mine opposition group Citizens Against Blasting on Our Miami (CABOOM) appealed the Anderson Township Board of Zoning Appeals June decision granting Martin Marietta a special zoning certificate to operate an underground limestone mine and a variance to store explosive materials.

A hearing on the appeal is set for Tuesday, Dec. 21.

More than 60 Anderson Township residents and business owners near the proposed mine site, on 480-acres of property near the intersection of Round Bottom and Broadwell roads, also are part of the appeal before the Hamilton County Court of Common Pleas.

The appellants filed a motion to compel the Anderson Township Board of Zoning Appeals (BZA) to vacate its decision before a court review of the 16 months of testimony and exhibits.

Martin Marietta, which opposed the motion to vacate judgment, argues that the mining company owns the vacant, residential-zoned property and calls the appellants' claim "simply ludicrous."

Anderson Township, which also opposed the motion to vacate judgment, claims the township zoning resolution gives the Board of Zoning Appeals authority to approve a conditional-use mining operation and to allow regulated substances, such as explosives.

In addition to opposing the motion to vacate judgment, Martin Marietta has moved to dismiss all the municipalities and CABOOM from the case claiming a lack of standing to participate in the appeal.

Martin Marietta's attorney Dick Brahm also states that Indian Hill, Terrace Park and Newtown expressed only general concerns of the community at large and complain about real and fictitious events that could be argued in every case to justify standing in the appeal.

Attorneys for the communities appealing the Board of Zoning Appeals' decision state that all the villages own property in the immediate vicinity of the proposed mining operation and are directly affected beyond that of the public at large.

Because of the proximity to the mine site, the attorneys argue that there would be a disproportionate impact on property values in Terrace Park and Indian Hill.

In Newtown, the attorneys argue that traffic from the mine would negatively affect the village roads.

The attorneys also claim the appellants were sworn parties in the original Board of Zoning Appeals hearing and are aggrieved by the board's decision, so, per the Anderson Township zoning resolution, the parties may appeal to the court.

Martin Marietta also moved to dismiss the Anderson Township Board of Zoning Appeals because "it is inherently wrong for a quasi-judicial body ... to morph from an impartial decision maker into an advocate or partisan when its decision is challenged."

The attorneys for the appellants allege that the motion to dismiss the Board of Zoning Appeals is part of Martin Marietta's "strategy of attrition."

The Board of Zoning Appeals voted 3-2 to approve the underground limestone mine and placed 25 conditions on its operation.

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