

Notice of Appeal

Case No. Case No 14MOD1005

In 1988 the Planning Commission required me to record a crossover access easement across the FRONT yard of 8211 Shelbyville Rd (see Docket No. 9-2-89) insisting that vehicular ingress/egress would come from 8209 Shelbyville Rd which has a binding element requiring such access. For five years I corresponded and petitioned the owner of 8209 Shelbyville Rd, the Planning Commission, Kentucky Dept of Transportation and others regarding the enforcement of 8209 Shelbyville Rd.'s binding element for access, to no avail. A few years later, I bought the two properties (8210 & 8212 Whipps Mill Rd) located directly behind 8211 Shelbyville Rd hoping to someday develop a mini office park. I had no idea the Planning Commission would switch the location of future access easements and attempt to channel cars from the entire block between two residential houses.

When other properties along the 8200 block of Shelbyville Rd. were rezoned for office use, the Planning Commission required a REAR access easement which funnels traffic to Holley Rd. In 2006, the property located at 8213 Shelbyville Rd was the last property in the 8200 Block of Shelbyville Rd to be rezoned (Docket 9-57-06). The applicant, William Hunt agreed to construct a rear crossover easement to allow traffic from 8215-8225 to get to his driveway for access to Shelbyville Rd. After the rezoning, the Planning Commission suggested that cars for the entire block would have access to the driveway at 8213 Shelbyville Rd and my driveway at 8211 Shelbyville Rd. I purchased the property at 8213 Shelbyville Rd earlier this year and think the REAR easement is a bad idea. I pointed out at the DRC meeting, there is no easement along my driveway at 8211 Shelbyville Rd and the construction of a thoroughfare up to a private driveway makes no sense. In fact, it invites vehicular trespassers and accidents.

The DRC members were provided with a Staff Report which stated in the Case Summary/Site Context that a 1986 Study called for "8211-8225 Shelbyville Rd. would have a 22-foot access road in the Rear of the property." In the Staff Conclusions, the Staff Report states that "removing the rear crossover easement would undermine the justifications used to rezone the subject property, including a significant 1986 small area study by the Planning Commission." Fact is, the 1986 study did not specify a 22 foot rear access easement. The DRC voting members were provided with a Staff Report which contained fabricated information in order that the voting members would vote to uphold the rear easement in question.

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The simplest solution is to allow me relief of the rear & side access easement at 8213 Shelbyville Rd. The easement would only abut the back yard of 8211 Shelbyville Rd (which has only a front access easement) to the West and a private driveway to the South. If the driveways for 8215-8219 are ever closed, that traffic can use the rear easement to Holly Rd along with the cars from 8221-8225 Shelbyville Rd. which are already using that route. Once 8210 & 8212 Whipps Mill Rd. are rezoned for offices, their traffic can use the driveways along with 8211-8213 Shelbyville Rd.

In conclusion, the binding element requiring crossover easements in the driveway and back yard for 8213 Shelbyville Rd. should be removed for the following reasons:

- 1) The rear yard of the property located 8213 Shelbyville Rd should not be compromised due to the Planning Commission's failure to enforce the binding element for 8209 Shelbyville Rd to provide front access (which is the only reason the location of the required easements shifted from the front to the rear yards in the early 1990's).
- 2) Vehicles from all buildings 8211-8225 Shelbyville Rd should not have access to a driveway between two single family structures with a blind corners for safety reasons.
- 3) A rear easement should not be recorded/constructed that abuts to a private driveway thereby inviting vehicular trespassers.
- 4) A case shouldn't be decided based on a Staff Report which contained fabricated information intended to mislead the voting members of DRC.
- 5) The proposed rear easement and parking location(s) would preclude traffic from my future offices on Whipps Mill Rd from accessing my Shelbyville Rd properties and entrance thereby eliminating the connectivity that presently exists.
- 6) If traffic from my four contiguous properties (8210-8212 Whipps Mill Rd along with 8211-8213 Shelbyville Rd) all use the Shelbyville Rd driveway and traffic from 8215-8225 Shelbyville Rd use the Holley Rd access, all three criteria of the significant 1986 area wide Study by the Planning Commission will be met. There are:
 - a) Each property rezoned to low impact office
 - b) The character of existing structures will be maintained
 - c) Limited number of curb cuts on Shelbyville Rd.

If additional information is needed or you have any questions, please let me know.

Neal Campbell, CPA
502 Macon Ave
Louisville, KY 40207

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MICHAEL NEAL CAMPBELL
CERTIFIED PUBLIC ACCOUNTANT
8211 SHELBYVILLE ROAD
LOUISVILLE, KENTUCKY 40222
(502) 423-1040

Mr. Frank Burke, Jr. 583-8373
General Council
Jefferson County Planning Commission 625-6230
Fiscal Court Bldg.
Louisville, KY 40202

Re: Planning Commission Docket No. 9-28-89


February 19, 1990

Dear Mr. Burke:

I recently received a letter (copy enclosed) from the Transportation Cabinet regarding our drive-way at 8211 Shelbyville Road. Although we are prepared to begin the construction as indicated on our district development plan, we have been unable to reach an agreement for the cross-over easement with Mr. Lee Lorch, the owner of the property to our west. Apparently Mr. Lorch's interpretation of the binding element #3 indicated on the Planning Commission Docket # 9-77-82 (copy enclosed) differs from ours. His position that for every square foot of his property which is dedicated for easement, that he be compensated with an equal amount of square footage of our property does not appear to be a "reasonable provision" and is totally unacceptable to us. Further, we do not feel the Planning Commission had this in mind when the binding element was established.

In light of the circumstances, we would appreciate an extension to comply with the proposed development, and perhaps you could look into this matter to determine if there is a solution to this impasse. I will contact you soon to discuss this matter further.

Sincerely Yours,


Neal Campbell, CPA

cc Alex Talbott
Holland Giebert
Robert Martin, P.E.

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MICHAEL NEAL CAMPBELL
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December 6, 1990

Mr. Frank Burke, Jr.
General Counsel
Jefferson County Planning and Zoning
Fiscal Court Building
Louisville, Kentucky 40202

Dear Frank:

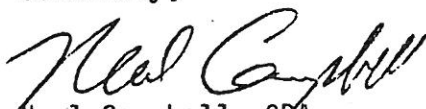
I am concerned over the developments regarding Mr. Lee Lorch and the property located at 8211 Shelbyville Road. As I discussed with you, Mr. Lorch has violated his binding element which requires him to make reasonable provisions to allow traffic to cross his property. He has installed wooden barricades to prevent any cross-traffic.

The firm leasing my property is also concerned about the situation and their clients backing out onto Shelbyville Road (which is necessary in absense of the paved cross-easement). Accordingly, I have placed gravel in front and rear of the subject property to facilitate parking and maneuring until Jefferson County Planning and Zoning and Mr. Lee Lorch have reached an agreement.

It should be noted that my partner and I are willing to amend our development plan to reflect our existing driveway. This would eliminate the need for a cross-over easement with Mr. Lorch and all procedings by Jefferson County necessary to enforce it.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Neal Campbell, CPA

NC:blw

cc: J. Holland Giebert

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MICHAEL NEAL CAMPBELL
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May 7, 1991

Mr. Frank Burke, Jr.
General Council
Jefferson County Planning and Zoning
Fiscal Court
Louisville, Kentucky 40202

Re: 8211 Shelbyville Road

Dear Mr. Burke:

The situation regarding the property located at 8211 Shelbyville Road must be resolved. The agreement between Mr. Lee Lorch and Jefferson County Planning and Zoning, as indicated in the binding element No. 3 regarding cross traffic/access to properties to the east, is clear. Reasonable provisions for cross-over access have not been made by Lee Lorch.

We have agreed to complete the construction in accordance with the plans submitted to Jefferson County Planning and Zoning. We retained the ERC/EDGE Consulting Engineers who staked the proposed cross-over easement in our property. When we tried to proceed with excavation and paving of the driveway and cross-over easement, our paving contractor, Commonwealth Paving, was prohibited from beginning construction by Mr. Lorch placing wooden stakes with rope at the common property line. Mr. Lorch's position is a direct and blatant breach of his agreement with Jefferson County Planning and Zoning.

Jefferson County should enforce Mr. Lorch's compliance with all binding elements associated with the rezoning of his property.

We are not in a position to force his compliance, as we have no privity to the agreement between him and Jefferson County Planning and Zoning. Your prompt attention to this matter will be greatly appreciated.

Sincerely,

H and N PROPERTIES


Neal Campbell, CPA

NC:blw

cc: Alex F. Talbott, Esq.
J. Holland Gilbert, CPA

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