

ORIGINAL

IN THE SUPREME COURT OF OHIO

APPLE GROUP LTD.,)	SUPREME COURT
)	CASE NO. 2014-0301
Appellant)	
)	ON APPEAL FROM THE MEDINA
vs.)	COUNTY COURT OF APPEALS
)	
)	NINTH APPELLATE DISTRICT
BOARD OF ZONING APPEALS,)	COURT OF APPEALS CASE NOS.
GRANGER TOWNSHIP, OHIO, et al.)	12 CA 0068-M and
)	12 CA 0065-M
Appellees)	

MEMORANDUM IN OPPOSITION TO JURISDICTION
OF APPELLEES GRANGER TOWNSHIP BOARD
OF ZONING APPEALS, BOARD OF
TRUSTEES AND ZONING INSPECTOR

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**EXPLANATION OF WHY THIS CASE IS NOT OF PUBLIC
OR GREAT GENERAL INTEREST**

Appellant's case does not present any issues of public or great general interest. Rather this Appeal presents issues of importance only to Appellant. Circumstances such as those present in the instant case do not justify this Court's exercise of its discretionary jurisdiction. *Williamson v. Robick*, 171 Ohio St. 253 (1960).

Review of neither the decision of the Medina County Court of Common Pleas nor the decision of the Court of Appeals is warranted. The Appellant hinges its argument in support of this Court's jurisdiction on the assertion that the Appellee did not establish a comprehensive zoning plan for the Township. Contrary to Appellant's claims, Granger Township does have a comprehensive plan in compliance with R.C. Chapter 519 and corresponding case law which clearly set out the standards for a township's comprehensive plan.

Specifically, Appellant, in its Memorandum in Support of Jurisdiction distorts the requirements, misinterprets the Court's decision in *B.J. Alan Co. v. Congress Twp. Board of Zoning Appeals*, 2009 Ohio 5863, 918 N.E. 2d 501 ("B.J. Alan II") and asserts an argument, contrary to long standing law, that the comprehensive plan must be a separate document from a township's zoning resolution in order to support its claim that its appeal to this Court presents issues of public or great general interest.

Ohio cases have held that a zoning resolution itself may constitute a comprehensive plan. *White Oak Property, LLC vs. Washington Township*, 2012 Ohio 425, 2012 Ohio App. LEXIS 354. *Ryan v. Board of Township Trustees*, 1990 Ohio App. LEXIS 5519 (Ohio Ct. App., Franklin County Dec. 11, 1990). See also, *Rumpke Waste, Inc. v. Henderson* (S.D. Ohio 1984), 591 F. Supp. 521, 534-535; *Barnet v. Leshner* 1983 Ohio App. LEXIS 12651 (Ohio Ct. App., Miami County, Apr. 26, 1983), *Cassell v. Lexington Twp. BZA* (1955), 163 Ohio St. 340, 345-

346 (equating “comprehensive plan” with designation of “the use to which a particular area could be put”). This interpretation accords with the other provisions of R.C. Chapter 519, which do not refer to a “plan” separate from the Zoning Resolution. See, R.C. §519.05, §519.06, §519.07, §519.08, §519.10 and §519.11. *Ryan v. Board of Township Trustees*, 1990 Ohio App. LEXIS 5519 (Ohio Ct. App., Franklin County Dec. 11, 1990).

Appellant relies heavily on the Court’s case *B.J. Alan II*, but such reliance is misplaced. The Court of Appeals in the case *sub judice*, in upholding the Trial Court’s Decision, correctly applied *B.J. Alan II* and its mandates. This Court held in *B.J. Alan II* that:

R.C. 519.02 requires a township’s zoning resolution regarding unincorporated areas of the township to be “in accordance with a comprehensive plan.” ... R.C. 519.02 does not require that a township create its own comprehensive plan – it requires only that a zoning resolution be “in accordance with a comprehensive plan.” (Emphasis added.) To require each township to create its own comprehensive plan is to read additional language into R.C. 519.02. We cannot do that: “In matters of construction, it is the duty of this court to give effect to the words used, not to delete words used or to insert words not used.” *Cleveland Elec. Illum. Co. v. Cleveland* (1988), 37 Ohio St.3d 50, 524 N.E. 2d 441, paragraph three of the syllabus.

B.J. Alan II at ¶13.

This holding supports the fact that a comprehensive plan does not have to be separate from the Zoning Resolution itself, contrary to Appellant’s contentions. In fact, Granger’s Zoning Resolution at Section 103, effective August 8, 2007 reads, in pertinent part; “... the Board of Trustees has found it necessary and advisable to adopt these zoning regulations as a comprehensive plan of zoning.” The Court of Appeals and Trial Court acknowledged the same in their rulings in accordance with the law.

In its Memorandum in Support of Jurisdiction, the Appellant also misrepresents the testimony of Susan Hirsch of the Medina County Department of Planning Services by citing only part of her testimony and using it out of context. In support of its argument, Appellant indicates

that; “[u]ndisputed proof exposed the Township’s lack of a ‘comprehensive plan.’ That proof included no less than the Medina County Department of Planning Services’ (‘MPDPS’) report and comments to the Township, regarding a zoning amendment Appellant designed for its property, which stated; Granger Township does not have a comprehensive plan for guidance for this proposed zoning.” See, Appellant’s Memorandum pp. 3-4.

This quotation cited by the Appellant is taken out of context and serves to distort and mischaracterize the evidence presented at trial. Appellant omitted Susan Hirsch’s further testimony where she stated that while a traditional separate comprehensive plan may be preferable, nonetheless, in her opinion, a township zoning resolution itself can serve as the comprehensive plan and satisfies the statutory requirements. (Tr. p. 863: 10-13). In this case, Granger’s Zoning Resolution does constitute a comprehensive plan itself. (Tr. p. 864: 12-18).

Appellant’s argument that Courts have relied on a well-worn misapplication of this Court’s case, *Cassell v. Lexington Twp. BZA*, 163 Ohio St. 340, 127 N.E.2d 11 (1955) simply has no merit. Moreover, there has been no misapplication of the law or as Appellant claims a persistent distorted application of R.C. §519.02’s terms. Courts have applied R.C. §519.02 and case law in a consistent manner. Likewise, the Courts below have applied *Cassell, B.J. Alan II* and the mandates of R.C. §519.02 correctly. Appellant’s view is a misapplication of the law for its own benefit. Therefore, this matter is not of public and great general interest and it does not justify this Court’s exercise of jurisdiction over this case.

STATEMENT OF CASE

Pursuant to Ohio Revised Code Chapter 519, the Granger Township Board of Trustees has the authority to enact a Zoning Resolution, in accordance with a comprehensive plan, to govern the development of real property within Granger Township and indeed, have

enacted the Granger Township Zoning Resolution in accordance with Granger Township's Comprehensive Plan.

Appellant owns approximately 88 acres of undeveloped land in Granger Township (hereafter "Granger"), which it acquired in May, 2006. The land is located in Granger's R-1 district, which is zoned for single-family and two-family homes, and which requires a minimum lot size of two acres, as required by §301 of the Township Zoning Resolution. (Mag. Dec. 2/2/2012 p.2). The R-1 district sets the following dimensional standards:

The minimum lot area shall be two (2) acres. Each lot shall have a minimum of one hundred seventy-five (175) feet continuous frontage on a public or approved private street, and a minimum of one hundred seventy-five (175) feet of continuous lot width on and from the street right-of-way to the setback line.

Zon. Res., §301.C.1.

That zoning was in effect at the time Appellant purchased the property.

Through this action, Appellant is attempting to develop a subdivision consisting of 44 single-family homes. Each home would be situated on a one-acre lot, in violation of Granger's two-acre minimum. The proposed use is essentially a cluster development, placing dwelling units on the smaller, one-acre lots. However, when Appellant purchased the property, it clearly knew that the land was zoned R-1 residential.

Section 103 of the Granger Township Revised Zoning Resolution, effective August 8, 2007, reads in pertinent part, as follows:

In order to promote the health, safety, morals and welfare of the residents of the unincorporated area of Granger Township and to conserve and protect property and property values, and to provide for the maintenance of the rural character of Granger Township...the Board of Trustees has found it necessary and advisable ***to adopt these zoning regulations as a comprehensive plan of zoning*** which will regulate the location, height, bulk, number of stories and size of buildings and other structures, percentages of lot areas which may be occupied, building setback lines, size of yards, and other open spaces and density of population, the uses of

buildings and other structures and the uses of the land...and for such purposes to divide the unincorporated area of Granger Township into zoning districts and to provide for the administration and enforcement of such regulations...(Emphasis added).

The purpose of the R-1 district is to “manage low-density residential development that will preserve the rural residential character of Granger Township.” (Zon. Res., §301.A). Appellee’s zoning resolution defines “rural” as “Low density housing, country/agrarian uses, and green space.” (Zon. Res. Art. XI, p.91). “Green space” is defined as “Undeveloped open space lacking a structure”, excluding athletic fields. (Zon. Res. Art. XI, p.89). “Open space” is defined as any “area of land which is in its natural state, or is developed only for the raising of agricultural crops, or for outdoor recreation.” (Zon. Res., Art. XI, p.91).

Appellant’s plans to develop a subdivision on its property, consisting 44 cluster homes on lots significantly smaller than the two-acres required under Granger’s zoning resolution, prompted Appellant to seek variances in order to accomplish its plan for the property.

On September 20, 2007, Appellant applied to the Granger Township Board of Zoning Appeals (hereafter “BZA”) for 176 variances; four variances for each of the 44 lots which would allow Appellant to build homes on lots of about one acre per home, instead of the required two acres; would allow the lot frontage to be reduced to about 108 feet instead of the required 175 feet and the side yard set-back to be only 15 feet.

After being duly heard, the variances were denied. The Board of Zoning Appeals (BZA) found in part that the street view of Appellant’s proposed use would conflict with Granger’s goal of maintaining its rural character, as there would be homes on one-acre lots (instead of two-acre lots) with only 30 feet between them.

Appellant then filed an administrative appeal, asking that the Trial Court reverse the BZA’s denial of the 176 requested variances. In so doing, Apple contended that the BZA’s

decision was arbitrary, capricious, unreasonable, and unsupported by a preponderance of the evidence. Appellant also raised constitutional issues in its appeal. On October 3, 2008, the Court affirmed the BZA's decision, finding that the decision was supported by a preponderance of the evidence and that the request for variances was, in reality, an attempt to rezone the land to fit Appellant's plans. (See, Journal Entry, October 3, 2008). See, also generally, Ninth District Court of Appeals Decision and Journal Entry 9/30/13, ("Decision"). at ¶4.

In an alternative attempt to bring its development plans to fruition, Appellant filed a separate complaint for declaratory judgment, seeking a declaration that the R-1 zoning classification is – as applied to Appellant's property and the proposed use - not substantially related to Granger's health, safety, convenience, prosperity, or general welfare; that it is arbitrary, capricious, and unreasonable; and that it is thusly unconstitutional and in excess of Granger's authority as delegated under Chapter 519 of the Ohio Revised Code. (Mag. Dec. 2/2/2012, p.3). Furthermore, Appellant asked the Court for an order requiring Granger to permit Appellant to develop its property as it proposed. (Mag. Dec. 2/2/2012, p. 3).

The Magistrate arrived at the following seminal conclusions of law: "Granger Township's desire to maintain the rural character of its land is a legitimate governmental goal, which may be regulated by its zoning resolution." (Mag. Dec. 2/2/2012 p. 5). In addition, the Magistrate concluded that, "the zoning resolution at issue is consistent with the township's goals of maintaining its rural character and controlling the aesthetics of the street views of residential development." (Mag. Dec. 2/2/2012 p. 16). The Magistrate also held that Granger's zoning resolution, "is a comprehensive plan which is a valid exercise of the township's legislative authority pursuant to R.C. 519.02." (Mag. Dec. 2/2/2012 p. 5). The Magistrate elaborated that, "[t]he zoning resolution itself meets the statutory requirement of a comprehensive plan because it

has the essential characteristics of a comprehensive plan; it encompasses all geographic parts of the community and integrates all functional elements.” (Mag. Dec. 2/2/2012 p.5). See also, generally, Decision at ¶s 17 & 19.

Appellant filed objections to the Magistrate’s decision that the Trial Court overruled. The order was appealed to the Court of Appeals which upheld the Trial Court’s ruling. (See, Decision). Appellant thereafter filed a Motion for Reconsideration of the Court of Appeals decision, which was denied. (See, Decision, 1/13/14). Similarly, this Honorable Court should reject jurisdiction since this matter does not present a matter of public or great general interest.

Susan Hirsch from Medina County Planning Services, testified and was clear that the two-acre lot size minimum, which provides for increased green/open space, is what Granger perceived to embody a rural character, and that Appellant’s proposed use fell short of this clear limitation. Ms. Hirsch was equally clear that in this matter Granger’s Zoning Resolution serves as the Township’s Comprehensive Plan. She further testified that Granger does not have a traditional comprehensive plan; a separate document and went on to state that a traditional comprehensive plan is preferable, however, in her expert opinion, a township zoning resolution itself could serve as a comprehensive plan. In this case, Granger’s resolution does operate as a comprehensive plan itself.

ARGUMENT AND LAW IN OPPOSITION OF JURISDICTION
APPELLANT’S PROPOSITION OF LAW NO. 1

For purposes of a township’s exercise of its statutory zoning power, the “zoning plan” that R.C. Chapter 519 empowers townships to adopt by resolution, which includes the zoning regulations and a zoning map, is not identical to or a substitute for the “comprehensive plan” identified in R.C. 519.02, with which R.C. 519.02 requires the “zoning plan” to be “in accordance.”

This proposition of law does not present any issue of public or great general interest. In its memorandum to invoke jurisdiction, Appellant indicates that various Court interpretations of

R.C. §519.02 are disordered. That is simply not the case. It is already clear in law that a zoning resolution can function as the township's comprehensive plan, despite Appellant's contrary argument. Appellant in this proposition of law discusses the separate roles of "comprehensive plans" and "zoning plans". In its circular argument Appellant quotes this Court's case of *B.J. Alan II* in support of Appellant's proposition, stating that *B.J. Alan II* at ¶13 indicates that: ("R.C. 519.02 does not require that a township create its own comprehensive plan ... it requires only that a zoning resolution be "in accordance with a comprehensive plan." See, Appellant's memorandum at p. 9. Appellant believes that the quote somehow reinforces the significance of each Chapter 519 term, "Zoning Resolution and "Comprehensive Plan" (i.e. separate documents). However, such a quote is contrary to what Appellant argues and in this case, in accordance with R.C. §519.02 and the law support Granger's Zoning Resolution can act as its comprehensive plan.

Simply, Granger's comprehensive plan meets the standard applied in *B.J. Alan II*. Appellant's conclusion is incorrect and is certainly not a matter of public or great general interest but only of interest to Appellant.

Granger Township has clearly qualified its Zoning Resolution as a document that also acts as its Comprehensive Plan. Specifically, Zon. Res. §103 General Purpose states:

In order to promote and protect the health, safety, morals, and welfare of the residents of the unincorporated area of Granger Township, Medina County, Ohio, and to conserve and protect property and property values, and to provide for the maintenance of the rural character of Granger Township, and to manage orderly growth and development in said township, **the Board of Trustees has found it necessary and advisable to adopt these zoning regulations as a comprehensive plan of zoning** which will regulate the location, height, bulk, number of stories, and size of buildings and other structures, percentages of lot areas which may be occupied, building setback lines, size of yards, and other open spaces and density of population, the uses of buildings and other structures and the uses of the land for trade, industry, residence, recreation, or other purposes; and for such purposes to divide the unincorporated area of Granger Township into

zoning districts and to provide for the administration and enforcement of such regulations. All regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts and zones*** (emphasis added).

Appellant relies on *B.J. Alan II*, which addressed the issue of the “comprehensive plan” requirement of R.C. §519.02. However, *B.J. Alan II* only reiterated that zoning resolutions are to be in accordance with a comprehensive plan and that townships may utilize a county-wide comprehensive plan to enact their specific resolutions in accordance with it. Nowhere in the case did this Honorable Court establish new or varied criteria to what already exists in Ohio law.

Appellant further argues that a comprehensive plan should be a separate document from the Township’s Zoning Resolution. The Court of Appeals, Trial Court, Magistrate and Granger Township do not agree. The established case law indicates that, “Ohio cases have held that the zoning resolution itself can constitute the comprehensive plan.” *Ryan v. Board of Township Trustees*, 1990 Ohio App. LEXIS 5519 (Ohio Ct. App., Franklin County Dec. 11, 1990) at *7. See also, *Rumpke Waste, Inc. v. Henderson* (S.D. Ohio 1984), 591 F. Supp. 521, 534-535; *Barnett v. Leshner* 1983 Ohio App. LEXIS 12651 (Ohio Ct. App., Miami County, Apr. 26, 1983), *Cassell v. Lexington Twp. BZA* (1955), 163 Ohio St. 340, 345-346 (equating “comprehensive plan” with designation of “the use to which a particular area could be put”). This interpretation is consistent with the other provisions of R.C. Chapter 519, which do not refer to a “plan” separate from the Zoning Resolution. See, R.C. §519.05, §519.06, §519.07, §519.08, §519.10, §519.11 and *Ryan v. Board of Township Trustees*, 1990 Ohio App. LEXIS 5519 (Ohio Ct. App., Franklin County Dec. 11, 1990). See also, Decision at ¶10.

According to the Magistrate, Trial Court and Court of Appeals, Granger has met the basic requirements for a comprehensive plan and further has properly adopted a zoning

resolution that was created and has been maintained in accordance with R.C. §519.02. Granger's document contains a map designating zoning divisions within the township lines and specific purpose statements listing the goals each area is to achieve.

The case *White Oak Property Development, LLC vs. Washington Township*, 2012 Ohio 425, 2012 Ohio App. LEXIS 354, further supports the decision of the Trial and Appellate Courts. As was done in the current case, the court in *White Oak Property Development, id.*, distinguished the facts in that case with *B.J. Alan II* and compiled the controlling authorities, stating:

In *Rumpke Waste, Inc. v. Henderson*, 591 F. Supp. 521 (S.D. Ohio 1984), the Federal District Court for the Southern District of Ohio stated that ("comprehensive plan" is a "flexible term," but that it "must be sufficiently detailed that a potential purchaser might ascertain in advance to what use property might be put." *Id.* at 534. With respect to sufficient detail, the plan must "define with certainty the location, boundaries and areas of the *** districts," and a failure to do so renders the plan invalid. *Village of Westlake v. Elrick*, 52 Ohio Law Abs. 538, 83 N.E. 2d 646 (8th Dist. 1948). The *Rumpke* court also found that "rural" zoning plans may be less detailed than plans for metropolitan areas with more complicated layouts. *Rumpke* at 534, citing *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365, 387, 47 S. Ct. 114, 71 L. Ed. 303, 4 Ohio Law Abs. 816 (1926). The court summarized that a rural comprehensive plan is one that "reflects current uses and allows for change as additional needs develop, and that bears a substantial relationship to the public health, safety or welfare[.]" *Rumpke* at 534.

White Oak Property Development, id., at ¶ 16.

Based thereon the court in *White Oak Property Development, id.*, found that Washington Township's "...resolution and map are, in fact a comprehensive plan, suited to the areas rural nature." *White Oak Property Development id.*, at ¶ 23. Granger's Zoning Resolution clearly reflects current uses in its detailed map and its specific regulations that are unique to the various districts. Furthermore, Granger's zoning resolution allows for change as needs develop in its

provision. (See, Zon. Res. §307, planned development districts; Zon. Res. §501, conditional zoning permits.)

Appellant seeks to raise an issue that is already well settled in the law and only of interest to Appellant. Any change in direction would only benefit Appellant and not the general public. Therefore, such a proposition is not of public or great general interest.

APPELLANT'S PROPOSITION OF LAW NO. II

A township's zoning regulations, adopted by resolution under R.C. Chapter 519, are, standing alone, insufficient as a matter of law to establish that such regulations are "in accordance with a comprehensive plan," as R.C. 519.02 requires.

Again, this proposition of law asserted by Appellant is not of public or great general interest. According to Appellant, Granger does not have a comprehensive plan. However, the Magistrate, Trial Court and Court of Appeals found otherwise. Appellant's proposition II is simply more of its unsupported argument that Granger must have a separate comprehensive plan. Instead, the long standing law in accordance with the Ohio Revised Code, states in part; "...the board of township trustees may regulate by resolution, in accordance with a comprehensive plan..." See, R.C. §519.02(A), See also, *BJ Alan II*. Nowhere in the law is there a requirement that there must be a separate comprehensive plan.

In support of this proposition Appellant argues that the Trial Court, Court of Appeals and many other courts in the State of Ohio have incorrectly applied the case *Cassell v. Lexington Twp. BZA* (1955) 163 Ohio St. 340, 117 N.E. 2d 11, and the result compromises; "...rational, long range land use development ... and leaves land owners at the whim of local zoning officials." See, Appellant's memorandum at p. 13. That is simply not the case as evidenced in such cases as *BJ Alan II*, and *BJ Alan Company v. Congress Township*, 191 Ohio App. 3d 552, 2010 Ohio 6449, 946 NE. 2d 844 ("BJ Alan III"). Instead, this is a matter of Appellant's

dissatisfaction because the law does not serve its purpose in this situation. Appellant wishes to build a cluster development as it sees fit and not in accordance with Granger's lawful Zoning Resolution. Appellant would like to circumvent the long standing law for its gain to the detriment of the general public in Granger Township and elsewhere.

Moreover, Appellant's proposition requests that this Honorable Court discount and disregard *Cassel, id.*, as well as other Courts' interpretations of the law. Appellant proffers what it finds to be guidance in its interpretations yet really does not point to any law to support its assertion that so many courts are incorrect.

This Honorable Court in, *B.J. Alan II*, certainly did not imply a comprehensive plan needs to be separate from a zoning resolution. To the contrary, this Honorable Court simply remanded the case for judgment on whether Congress Township's zoning resolution was in accordance with Wayne County's comprehensive plan, thus preserving *Cassell, id.*, as controlling precedent on the standard for assessing a plan's comprehensiveness. Further, on remand in *B.J. Alan III*, the Ninth District Court of Appeals applied the *Cassell, id.*, test, with its own necessary elaborations. Thus, *Cassell, id.*, is clear and undisputable.

In *Cassell, id.*, the Court analyzed whether a comprehensive plan existed within the Lexington Township Zoning Resolution itself *Cassell, id.*, at 346. Lexington Township did not have a separate comprehensive plan so this Honorable Court analyzed the Zoning Resolution itself. The *Cassell, id.*, Court ultimately determined that:

It is obvious from this zoning regulation that the only portion thereof concerning section 35, which covers one square mile of area, is that it shall be used for farming, residential, commercial and recreational purposes. No designation is made in the regulation as to what portions of section 35 shall be used for each or any of those uses, and the record fails to reveal any map of the section designating such areas of use.

It is difficult to see how anyone interested in purchasing property in section 35 for a particular use could determine in advance to what use that property could be put. And, in the absence of any designation in the plan of the uses to which a particular area could be put, it is equally difficult for this court to see how there could be any uniform administration of the regulation within the section as required by Section 3180-26, General Code. Although we make no imputation of such action in this instance, a zoning regulation such as that involved herein could easily leave the administration thereof solely within the unwarranted whim or caprice of the officials charged with its enforcement.

Cassell, id., at p. 345

The Trial Court and Court of Appeals properly applied those broad principals and found that Granger's zoning resolution is also a comprehensive plan. Those are the principles the Trial Court and the Court of Appeals were guided by and acknowledged by the Ninth District Court of Appeals in *B.J. Alan III*, stating that:

Nonetheless, despite differences between this case and *Cassell*, we are guided by the **broad** principles outlined by the Supreme Court of Ohio. One such principle is the notion that an individual should be able to examine a zoning resolution in its entirety and ascertain to what use the property may be put. See, *Cassell*, 163 Ohio St. at 345. (emphasis added).

See, *B.J. Alan III, id.*, at ¶14.

Therefore, the leading test for determining whether a zoning resolution qualifies as a comprehensive plan in itself is outlined by *Cassell, id.*, and elaborated in *B.J. Alan III*. That leading test can be properly expressed as:

1. Whether one is able to examine the resolution and ascertain to what use the property may be put;
2. Whether the resolution's text is consistent with the zoning map;
3. Whether the zoning plan includes business or industrial zoning districts.

The Magistrate, Trial Court and Court of Appeals determined that Granger's Zoning Resolution satisfies the necessary legal elements of a comprehensive plan. The Magistrate found all of the following facts to be true, and concluded that the *Cassell, id.*, test is thereby satisfied,

of which the Trial Court and Court of Appeals concurred. The Magistrate found that Granger's Zoning Resolution is general in that it expresses the goals and objectives for the entire township through its purpose statements, which precede the various zoning districts. (Mag. Dec. 2/2/2012 p. 24). There is a document containing a map and designating zoning districts. (Mag. Dec. 2/2/2012 p. 26). One can easily ascertain the allowable use of any parcel in the township by examining the zoning resolution and map, which displays the location of the various zoning classifications and covers all township land. (Mag. Dec. 2/2/2012 p. 26-27). See also, generally, Decision at ¶ 7.

Furthermore, the resolution's text is consistent with the zoning map. (Mag. Dec. 2/2/2012 p. 27). The map and resolution divide the township into several districts, including various types of both residential and commercial districts, which prevents spot zoning. (Mag. Dec. 2/2/2012 p. 25-27). See also, generally, Decision at ¶ 17. Consequently, in the instant matter, Appellant was able, upon purchasing its property, to look at the zoning resolution and ascertain to what use the property may be put.

Additionally, the resolution's map and text are clear, so it does not promote a non-uniform, arbitrary, or piecemeal approach. When read in whole it is equally clear that the Zoning Resolution is comprehensive in accordance with R.C. §519.02. It encompasses all geographical areas in the township and integrates all functional elements as well as surmises policies and proposals that take into consideration future problems and possibilities.

The Court of Appeals followed the case law and Ohio Revised Code on this matter and considered this issue very extensively in ¶'s 10, 11, 12, 13, 14, 15 & 16 in the opinion. Appellant simply does not agree with the Court of Appeals conclusions and logic. Such a

disagreement as reflected in this proposition is for Appellant's own gain, does not amount to a public or great general interest and this Court should not accept jurisdiction.

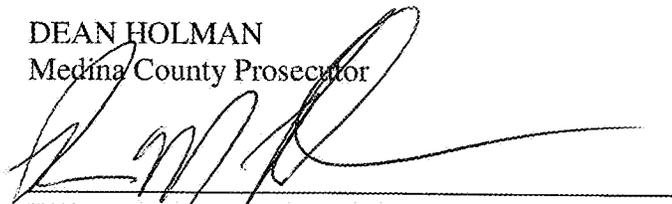
CONCLUSION

For the reasons set forth hereinabove, this Honorable Court should decline to accept jurisdiction in this case. The issues presented have been completely and competently adjudicated by the Court of Appeals and by the Court of Common Pleas in accordance with long standing law. Therefore, nothing presented in this case presents an issue of such public or great general interest or of such importance as to warrant the attention of the Supreme Court.

Wherefore, Appellees respectfully request that this Honorable Court decline to exercise its discretionary jurisdiction in this case and dismiss the appeal.

Respectfully submitted,

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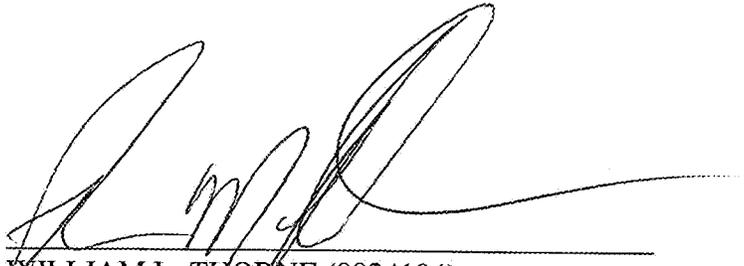
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CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing *Memorandum in Opposition to Jurisdiction of Appellees Granger Township Board of Zoning Appeals, Board of Trustees and Zoning Inspector*, was served by regular U.S. Mail, postage prepaid, on the following this 24th day of March, 2014:

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A handwritten signature in black ink, appearing to read 'W. L. Thorne', is written over a horizontal line. The signature is fluid and cursive.

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