



Powell

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Judge Dismisses Liberty Township's Target Appeal

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Powell, OH: A judge has ruled in favor of the City of Powell's Board of Zoning Appeals regarding a proposed Target retail store within the City's Golf Village development.

Delaware County Court of Common Pleas Judge W. Duncan Whitney dismissed an appeal by Liberty Township relating to the proposed Target store for lack of standing.

Judge Whitney's ruling, issued July 21, rejects an appeal filed by Liberty Township on July 18, 2008. The Township appealed a decision by Powell's Board of Zoning Appeals that upheld the issuance of a zoning certificate for Triangle Properties Inc. to construct the Target store near the southeast corner of Sawmill Parkway and Home Road. Judge Whitney said the Township did not have standing to appeal the BZA's decision.

"Liberty Township is not directly damaged by the issuance of the zoning permit. ...The township cannot demonstrate actual harm, or the possibility of harm at a later date," the Court wrote.

Under the terms of the Cooperative Economic Development Agreement (CEDA) crafted between the City of Powell and Liberty Township in 2002, the City annexed the Golf Village area. As a result, the Golf Village area is subject to the City's zoning and developmental control. The City must uphold the zoning regulations of Liberty Township as they existed when the CEDA was signed on the land covered by the CEDA, with only limited ability to make changes.

"The Court finds that Liberty Township unambiguously agreed that zoning control and enforcement over the area would be administered by the City of Powell," Judge Whitney's ruling states. "The Court finds no provision of the CEDA which creates standing for the Township."

The Court also upheld the decision of Powell's BZA that the design of the proposed Target store represented a "pedestrian-level" building. Judge Whitney found that the City's BZA ruling was "based on a preponderance of reliable, probative and substantial evidence."

Powell City Manager Steve Lutz said he is pleased with the court's ruling that the City abided by the CEDA when issuing the zoning certificate for the Target store.

"The City of Powell is contractually obligated to implement the zoning that was established by Liberty Township," he said. "Our staff deemed that the proposed Target store met those zoning requirements, and their determination has now been vindicated after exhaustive review in two separate appeals."

Powell City Councilman Don Grubbs said he hopes Judge Whitney's decision puts the issue to rest. "Hopefully, Liberty Township will not waste any more taxpayer dollars with further appeals over this issue," Grubbs said.

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