

**Brunswick Hills Township
Zoning Commission
Regular Meeting Minutes – April 5, 2018**

REGULAR MEETING

Chair Jenkins called the Zoning Commission Regular Meeting for April 5, 2018 to order at 7:08 p.m.

- **Board Members in Attendance:** Sandra Jenkins (Chair), Matthew Mickas (Vice Chair) Barb Porter and Al Fulkerson
- **Board Members Not in Attendance:** Linda Kijek
- **Others in Attendance:** Trustee Michael Esber, Zoning Liaison

Approval of the Minutes

1. Approval of the February 1, 2018 Regular Meeting Minutes

No edits or changes. **Motion:** Mrs. Porter made a motion to approve the minutes from the February 1, 2018 regular meeting. Mr. Mickas seconds the motion. **Roll Call:** Mrs. Porter-yes; Mr. Fulkerson-yes; Mr. Mickas-yes; Mrs. Jenkins-yes.

2. March 1, 2018 Meeting / Cancelled

Continued Business: Review of the Brunswick Hills Township Zoning Resolution

1. Sec 303-10E. Conditionally Permitted Uses In Intermediate Regional Flood Plains

Chair Jenkins stated she didn't think we can discuss this one yet because Evelyn Czyz (Zoning Inspector) was supposed to get together with Brian Richter (Medina County Prosecutor's Office) and Andy Conrad (Medina County Engineer) on this, so we don't know if she has had a chance to do that. Chair Jenkins stated we have to go to the new Intermediate Regional Flood Plains guidelines.

2. Sec 703 Continuation of Existing Uses Conditionally Permissible Under This Resolution

SEC. 703 CONTINUATION OF EXISTING USES CONDITIONALLY PERMISSIBLE UNDER THIS RESOLUTION (page 91)

All uses existing at the time of passage of this Resolution or amendments thereto and conditionally permissible in their respective districts under this Resolution shall be issued Conditional Zoning Certificates within one (1) year after the passage of this Resolution or amendments thereto. The Certificates shall be issued by the Board of Zoning Appeals.

Chair Jenkins stated she has read this many times and she still doesn't understand how Mr. Richter is interpreting it the way he is. Mr. Mickas stated he thought the way Mr. Richter is interpreting the language is that we are stating those Conditional Zoning Certificates have to be renewed one year after the passage of any resolution – they have to be “re-renewed”. Mr. Mickas said he is not sure if he sees that stated and said he doesn't understand exactly how that interpretation may be. Mr. Mickas stated he tried to look at some of the other zoning resolutions in Medina Township, but he couldn't find anything exactly making a statement about continuation of existing Conditionally Permitted Uses. He stated he didn't think he was any further along in understanding or being able

to revise that section now vs. back when we first started discussing it. Chair Jenkins stated she is in the same position on it. Mrs. Porter asked, are you thinking this has to go back before the BZA then within a year of every Conditional? Mr. Mickas stated yes; that's what I thought Mr. Richter was saying. Mrs. Porter stated that throws out any "grandfathering". Mrs. Jenkins stated it's only if it is sold and not used for that conditionally permitted use if you were to change it.

Trustee Esber stated an example in the Township is the Madden Brothers who had to come back every year before the BZA. Mrs. Jenkins stated and this all came about because we wanted to change the language to say "Certificates shall be issued by the Zoning Inspector". She said that was the only language we were looking at. Mr. Mickas said correct but then Mr. Richter said the interpretation of this section is something we should revisit. Mrs. Porter asked, do we think they should have to come back every year if we change the zoning, or should we change the wording of this section so it is clear? She said it is confusing when you read it.

Mr. Fulkerson asked why we can't just leave it the way it is. He said you don't want to take this section out of the book. Mr. Mickas stated he didn't think we wanted to remove it from the book, we just want to clarify that we are not going to make them come back every year for a certificate when they've already attained it. Mr. Mickas stated they would be "grandfathered" in. Mrs. Jenkins stated that Brian is suggesting it read something like "*all uses permissible prior shall remain valid uses*". Mr. Fulkerson said but do you want to do that? He said if it was legal back then, it may not be legal now. Mrs. Porter stated she would say "*all uses that had a conditional certificate*". Mrs. Jenkins stated she was with AI and we should just leave it. Trustee Esber stated the only thing he would be concerned about is with the trailer park, which we don't even allow anymore, but as long as they continue to be a trailer park its ok. He said the trailer park up on Pearl Road sold and as long as he doesn't change the use as a trailer park it can remain, but if he were to ever close it down for one year he could not reopen it as a trailer park. Trustee Esber stated that is an example of a conditional use that is not allowed now.

Mrs. Porter said, by "permissible uses" do you mean in the book where it lists "conditionally permitted uses", or do you mean conditionally permitted uses for which certificates have been issued? Mrs. Jenkins stated that's where they have been issued already. Mrs. Porter stated ok so when Brian says let all permissible uses stand, that means for the ones that have actually had their certificates issued for them, but not as permissible uses listed in the book. Mrs. Jenkins stated right, he just wants to make it so they don't have to come back every year or every time we do a zoning change. Mr. Mickas stated that is not common practice as to what we do today. He said once we issue a Conditionally Permitted Zoning Certificate it's not like they have to come back every time we change the book. Trustee Esber stated no, but you could put restrictions on it. Trustee Esber stated at one time, the Madden Brothers had to come back every year for a renewal and they had to meet all of their 10 conditions, but eventually it was determined by the BZA that they would not have to come back every year, but would be called in for any violations.

Mr. Fulkerson said you almost have to have each one come in because each one is different. Mr. Mickas stated that on the certificate itself, like the Madden Brothers would have to come back whenever they have a violation to get it done but this "grandfather law" that we have in here – the certificate oversteps that as additional rules. He said so they are not fully grandfathered in by this verbiage he believed. Mrs. Porter agreed and said no they are not.

Mr. Mickas wondered if there is anything listed in the Ohio Revised Code (ORC) about Conditionally Permitted Uses/Certificates. Chair Jenkins stated we should research the ORC on this.

3. Sec. 902-2;E. Submission of Applications

Chair Jenkins read Sec. 902-2. and the Planning Commission comments:

- *Sec 902-2.E. Upon receipt of an application which requires submittal of a site development plan in conformance with Subsection C above, the **Township** Zoning Inspector shall refer the application to the Zoning Commission for review and approval as set forth in Section 904-3. The **Township** Zoning Inspector shall issue a Zoning Certificate within ~~ten (10)~~ **thirty (30)** days after approval of a site development plan by the Zoning Commission.*

Planning Commission comments: According to the Township Zoning Inspector, this timing increase is to allow the site development plan to be reviewed and approved by the Trustees prior to issuance of the Zoning Certificate; however, Sec. 904-3 states that it is the Zoning Commission that approves, disapproves or approves with modification the Site Development Plan. There is no requirement that the site plan be referred to the Trustees.

Chair Jenkins read the ZC comments:

Zoning Commission comments: The ZC is just a “recommendation” Board. All site plans are sent to the Brunswick Hills Township Trustees for final approval, modification or denial decisions. Hold for revised language amendment.

Chair Jenkins stated the Board should also look at Sec. 904-3 (page 110):

Sec. 904-3 Referral to Zoning Commission

Upon receipt of an application that requires a site development plan as required by Section 902-2(C), the Zoning Inspector shall forward copies of the completed application and site development plan to the Zoning Commission for review and comment. Application which are submitted prior to the established deadline date shall be placed on the next regularly scheduled meeting at which time the Commission shall consider said site development plan.

Trustee Esber asked Mr. Fulkerson if the ZC ran into a problem with this a few years ago where the developer did not submit their plans to the ZC? Mr. Fulkerson stated that is correct and we made them come to us. Mrs. Jenkins said so after they come to the ZC does it go to the Board of Trustees? Trustee Esber stated it goes to the Planning Commission after the ZC then to the Board of Trustees. He said the Board of Trustees sign the Mylar’s. Mrs. Jenkins stated Evelyn says the Trustees sign the preliminary plan and the final plan. She said if you (Trustees) are just signing Mylar’s then that is the final. Chair Jenkins stated that Evelyn wants to review this section because the ZC is just a recommendation Board. Mr. Mickas agreed and said we need to review this because the way it is written it says we (ZC) approve it and they are done. Chair Jenkins stated we will note Sec. 902-2.E.Submission of Applications will be put on hold to review with our Zoning Inspector.

End of Zoning Resolution review/discussion.

New Business: None

Additional Business: Agritourism (See attached Law Bulletin)

Vice Chair Mickas stated after reading information on Agritourism there really isn't much we can do as a Board or as a Township to restrict. Mr. Mickas referred to Section 3 on the Law Bulletin on Ohio's New Agritourism Law and read aloud the following:

*3. Local zoning limitations—Ohio Revised Code 303.21 (counties) and 519.21 (townships)
The new legislation expands Ohio's "agricultural exemption" from local zoning to include Agritourism activities.*

However, the legislation does allow townships and counties to regulate some factors related to agritourism land uses if the regulations are necessary to protect public health and safety. These factors include the size of structures used primarily for agritourism and setback lines for such structures, egress or ingress into a parcel, and the size of parking areas. This limited authority does not include the power to require improvements such as drainage or paving for agritourism parking areas.

Mr. Mickas stated that is pretty much all that we can restrict if we want to, or if we want to add anything to the book. Mr. Mickas stated he would like spend more time reviewing this and the rules around it. Mr. Mickas stated we have a lot of rules on parking, etc., but it would be specific to agritourism so we would have to state in the book what those are. Mr. Mickas asked what regulations would we want? What would be the size? Do we want to follow the C2 zoning law or something else? Mr. Mickas stated at this point he did not have recommendations as to what those regulations are. Mr. Fulkerson stated agritourism is a new term and rather new to Ohio.

Public Comment: Agritourism/Mapleside Farms

1. Greg Clement, Mapleside Farms, 294 Pearl Road Brunswick, Ohio.

Mr. Clement stated that term (Agritourism) was actually coined in the 1970's and obviously wineries, apple orchards, and you-pick farms have been around for 80 years and I think they just had that term, "Agritourism" where they lumped everything together. He said if it was agricultural you had a farm or an agricultural area that was used that the public stepped on that's when they termed it agritourism – so again, the winery, the apple orchard, a farm, field trips.

Mr. Clement stated he knows this specifically because we worked with Larry Obhof (Ohio Senator) to get that Law passed in Ohio which is what I think you are referring to. Mrs. Jenkins said in 2016. Mr. Clement said yes and what preempted that happening in Ohio is a farm in North Carolina had field trips, like a lot of farms do in Ohio and all over the country. He said a teacher actually climbed up in a hay loft in a barn and was showing off in front of his class and he fell through the barn loft area. Mr. Clement said well it was an old barn so he fell through and he broke his leg and hip and he attempted to sue the farm for his negligence essentially. The case went all the way up to the state Supreme Court and they ruled the farmer is not liable; that when you are stepping on a farm you are stepping on a property that has some inherent risk if there are animals, or if there are crops, livestock, whatever. We all know you can step on a farm and you have old structures so they were the first state in the country to pass this law which basically protected farms from being sued. Mr. Clement stated so the liability thing was the main focus. He said we met with Larry Obhof in 2012 probably a year or two after we bought it (Mapleside Farms) and he brought this up to us and said he was trying to champion this bill in Ohio, so essentially they passed a very similar law in Ohio but the main crux for farmers and agritourism operators is you can't be sued essentially to get your farm. Mr. Clement stated I know there are other things in there like parking and whatnot. Secretary Milanko stated she read you also have to have warning signs. Mr. Clement stated yes and we have those which basically say you are on our farm – because essentially you can't take a 100 acre farm

and you can't pave or put concrete or asphalt on 10 acres because it is just not attractive or cost effective.

Mr. Clement stated we belong to an Agritourism Association that is 350 farms all over the country and these are farms that do very similar activities as to what Mapleside does like the corn maze in the fall, they have orchards, strawberry farms and wineries. He said they do hayrides and they do many of the activities that we do. He said they are all pretty much handled the same way and that is they don't pave much; they have a parking lot for their year round operations but then there are seasonal operations. He said literally we are talking about 12 days out of the year where you are really, really busy. Mr. Clement stated then what they do is if they raise corn or soy beans or whatever, they'll have parking here one year and then they rotate the crops so next year that will be crops and then they rotate their parking to different areas. Mr. Clement stated he is not a huge farmer so that is why we have the Eyssen's still there running the farm, but from an environmental perspective that is the most effective and best for the environment too.

Mr. Fulkerson stated agritourism covers a wide scope of different things you can do. He said you can have baby lambs and pigs, etc. and you are educating the public to rural life. He said the word agritourism he thinks is new, but the rest of it is not because it's been going on for years. Trustee Esber stated he did not know that is why they don't pave it so you can move parking around. Mr. Fulkerson stated what is parking this year could be the place for baby animals or whatever next year and they can switch it back and forth. Mr. Fulkerson stated the parking needs to be addressed up front to make sure there aren't any problems. He said if it is going to create problems then you have to be prepared to take care of them. He stated he didn't have a problem with him moving parking here to there as long as you don't have a problem that you are swapping from here to there. He said if you have parking that is a hard surface, that drainage has to go somewhere so these are things we need to look at. Mr. Clement stated our goal would be to maintain the natural state on all of the properties that we have acquired. He said I am a big believer in the beautification of properties and that's a big thing with Mapleside. Mr. Clement stated the properties that we are acquiring are pretty ugly and run down. He said the property with Oliveri and Sons looks like a trash heap.

Mrs. Jenkins stated in order for you to be covered by this law you need to have at least 10 acres and \$2500 income from such production. Mr. Clement stated the parcels on Pearl are all at least three acres and it is contiguous land, three different parcels but they would all be connected. Mr. Mickas stated part of the issue is your property now is part of the City. Mr. Clement stated yes but the three parcels they are acquiring are in the Township. Mr. Mickas said a couple of questions would be is the property you are buying fall into this because part of the agritourism that you are doing is actually on a separate property that is City property. Mr. Mickas stated and the property you are buying now is not actually doing agritourism; which I'm not sure if there is a separation. Trustee Esber stated that is something we would have to have Brian Richter (Medina County Prosecutor's Office) look at because we are trying to see what he can or cannot do and what is legal so that is why I invited Greg to come up here tonight so we can see what we need to do to move forward or figure out if we can even move forward.

Mr. Mickas stated if it remains C-2 and it doesn't fall into that agritourism section, you're under the guidance of the book then and we would have to look at what the regulations are in a C-2, but it might say paved so you wouldn't be able to maintain that dirt. Mr. Mickas stated that really is going to be the question to Brian (Richter) is it contiguous land between two cities? Trustee Esber stated Mr. Richter is our Township Attorney and he would interpret the rules. Mr. Clement stated the law is pretty specific because he talked to Larry (Obhof) about this and if it is contiguous land essentially. He stated there are a few farms around Ohio that cross county lines so they are basically on two

counties. He said an under the agritourism that covers the farm no matter where it lays. Mr. Fulkerson stated that is why a drawing would be beneficial. Mrs. Jenkins said so you are just looking for parking. Mr. Clement stated yes; what we would like to do is acquire these parcels on Pearl Road and clean them up. He said they don't look good and they don't look good for Brunswick whether you are in the City or the Township. He said people don't differentiate that; it's just Brunswick and we are all together like that. He said he grew up in the Township the first 25 years of my life so I think it is important to clean up and improve that whole corridor on Pearl Road. Mr. Clement stated we wouldn't necessarily want a big parking lot just sitting there year round vacant and empty because that is what it would be; we would like to just keep it natural with grass. He said the 14 acres currently has some driveways through it already. Mrs. Jenkins asked if that was the Boston Road property. Mr. Clement said yes and it's wooded and so we would carve out an area of that and plant some apple trees and extend our orchard a little bit. He said we may plant some apple trees on Pearl Road and possibly put up a fence just so you know its Mapleside. Mr. Clement stated he would prepare a drawing for the next month's ZC meeting. Chair Jenkins confirmed the ZC meets the first Thursday of the month at 7 p.m. Mr. Mickas stated the next question is, not specific to Mapleside's case, but if we need anything around Agritourism in our book. Mrs. Jenkins stated we probably do.

Additional Discussion on Parking and Ingress/Egress

Mr. Clement stated I've thought a lot about ingress and egress with my eight years of owning Mapleside. He said we run the Johnny Appleseed Festival successfully each year and we've expanded a few of our festivals so we have about four to five weekends in the Fall that are busy. He said I'm thinking we can use our current parking and these new parcels that we're purchasing to satisfy our parking needs. He said the overflow parking would be using the driveway behind the barn to the 14 acres we are buying. He said he will map this out, but he is thinking that we don't want to have ingress on Boston Road because the ingress is the busiest area. He said so we would keep ingress on Pearl and fill up those 500-600 parking spaces and when we overflow on the busy weekends in October we use the overflow parking and then we exit only on Boston Road. Mr. Clement stated he thought this was the most sufficient way to handle that with minimal impact.

Announcement of Next Meeting Date: Thursday, May 3, 2018 @ 7 p.m.

Mrs. Jenkins noted for the record she will not be in attendance at the May 3rd meeting.

Adjourn Regular Meeting

Motion: Mr. Fulkerson made a motion to adjourn the regular meeting. Second by Mrs. Porter.

Roll Call: All in favor to adjourn. Meeting officially adjourned at 8:00 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Sandra Jenkins, Chair

Date