

**Brunswick Hills Township
Zoning Commission Regular Meeting
November 1, 2018**

REGULAR MEETING: Vice Chair Mickas called the Zoning Commission Regular Meeting to order at 7:00 pm. A roll call of the board was executed.

- **Board Members in Attendance:** Matthew Mickas (Vice Chair), Al Fulkerson; Barb Porter; Linda Kijek
- **Alternate Board Members in Attendance:** Trica Murphy; Ed Kelly
- **Others in Attendance:** Trustee Michael Esber, Zoning Liaison; Evelyn Czyz, Zoning Inspector; Mary Jean Milanko, Zoning Secretary
- **Members Not in Attendance:** Sandra Jenkins, Chair (Excused Absence)

Ed Kelly was seated to represent a full board.

Approval of the Minutes

1. Approval of the October 4, 2018 Public Hearing Minutes

Edit: Mr. Fulkerson noted an edit on page 6, third paragraph, third line under Christopher Frank, the sentence: “*that the only alternative are these three rezoning’s is s false statement.*” Should read: “*that the only alternative are these three rezoning’s is s a false statement.*”

Mrs. Porter referenced page one:

1. **Brian James, Developers Management LLC, 943 Wye Drive, Akron, OH 44303** (representing the Hejduk property of 55.5 acres, Parcel No. 002-02D-14-013 on W. 130th St, Brunswick Hills, OH, 44212), Zoning District R-R Rural Residential. Zoning Map Amendment application requests the Rezoning of a corridor on W. 130th Street, Brunswick Hills Township from current Zoning District of RR-Rural Residential to proposed R-1 Residential Zoning for properties from Sleepy Hollow Road north to Laurel Road and from I-71 east to W. 130th Street, (with the exception of PP #001-02D-10-001 on Laurel Road adjacent to I-71 which is already R-1, containing approximately 213 acres).

Edit: Mrs. Porter stated the parenthesis should be moved to after R-1 for clarity: (with the exception of PP #001-02D-10-001 on Laurel Road adjacent to I-71) which is already R-1, containing approximately 213 acres).

Edit: Mrs. Porter also noted the same edit on page 8 under **Motion**: Mrs. Porter stated the parenthesis should be moved to after R-1 for clarity: (with the exception of PP #001-02D-10-001 on Laurel Road adjacent to I-71) which is already R-1, containing approximately 213 acres).

Motion to approve October 4, 2018 Public Hearing Minutes as corrected. Mr. Fulkerson made a motion to approve. Mrs. Porter seconds. **Roll Call:** Mrs. Kijek-yes; Mr. Kelly-yes; Mr. Fulkerson-yes; Mrs. Porter-yes; Mr. Mickas-abstain. Motion carries to approve minutes.

2. Approval of the October 4, 2018 Regular Meeting Minutes

Edit: Mrs. Czyz noted a correction on page 1:

C. Sec. 902-2.E. Submission of Applications

Mrs. Czyz stated any applications that come in from now must have a notarized signature of the applicant. She said and if it is the property owner and the owner says its ok, their signature also has to be notarized.

Edit: Mrs. Czyz stated any applications that come in from now **on** must have a notarized signature of the ~~applicant~~ **owner**. She said and if it is **not** the property owner and the owner says its ok, ~~their~~ the **property owner’s** signature also has to be notarized.

Mrs. Czyz stated it must be notarized that the property owner is giving their authority for someone to represent them.

Motion to approve minutes as corrected. Mrs. Kijek made a motion to approve the regular meeting minutes. Mr. Fulkerson seconds. **Roll Call:** Mrs. Porter-yes; Mr. Fulkerson-yes; Mr. Kelly-yes; Mrs. Kijek-yes; Mr. Mickas-abstain. Motion carries to approve minutes.

Continued Business:

1. Agritourism: Recap of the Agritourism session October 18, 2018 in Montville Township

Vice Chair Mickas stated that the Zoning Inspector and many members of the Zoning Commission attended the Agritourism session on October 18, 2018 in Montville Township. Mr. Mickas stated coming out of that he thinks there is a realization that we do need to make sure we get something in the book. Mr. Mickas stated until it is in the book, we cannot regulate anything against that. Mr. Mickas said he put together a packet that outlines what we need to do to get it into the book and distributed it to the board.

Mr. Mickas stated he didn't think the board needed to go over this in detail tonight, but wanted to bring it to the board for questions and comments and then re-visit this at the December meeting to try to make sure we get an amendment into the book. He said the first page lists the definitions, and we have a definition of Agriculture in our book but it simply goes back to the Ohio Revised Code (ORC). Mr. Mickas stated he pulled a lot of this information from the ORC itself.

Terms that need defined: *Agriculture*, *Agritourism*, *Agritourism Provider*, *Agricultural Production*, *Conservation Practices*, and *Farm*. Mr. Mickas stated the other pages after definitions includes information on Montville Township's Agritourism and what they have added to their Zoning Resolution. He said there are a few other Townships like Bath Township and Clear Creek Township, but we need to make sure the language fits more toward our book and not necessarily that of another township's book, so we can use these as a frame of reference.

Questions and Comments by the Board

Mr. Mickas opened the floor to comments and questions from the Montville Twp. session and areas the board thinks we need to focus on. Mrs. Porter stated from what I understood we can't really regulate a lot because it falls under Agriculture. She said I believe we can regulate ingress and egress to a certain extent, but I don't think we can regulate parking areas and parking surfaces. Mrs. Porter stated the ingress and egress is something we should look into to make sure we don't cause traffic situations and safety hazards and so forth. Vice Chair Mickas stated he agreed and said the ingress and egress it is to protect public safety. Mrs. Porter stated also, it does seem odd that there cannot be some regulation to the building itself, other than the insurance company regulating it and asked if the County can regulate it? Mrs. Czyz stated the County can regulate the electrical and the plumbing. Mrs. Czyz stated anytime someone comes to the office with a proposed plan for putting in an accessory building to be used for Agriculture-Exempt, I always tell them make sure that building is put in according to code and it conforms. She said they still have to go to the Building Department for the electrical and plumbing. Mrs. Kijek asked if that would also apply to someone who is using their farm or a barn for a wedding? Mrs. Czyz said you would want to make sure your electrical and plumbing is up to code or else your insurance and fire department will have a problem with that.

Mrs. Czyz said just because you have an accessory building, it does not automatically say that you can use it to another use other than its intended use. She said she requires a notarized Agricultural form and they have to state what they are going to use the building for. So if it is not used for 50.1% for Agritourism, Agriculture or for that Agricultural Exemption and they say they don't want to use it for that anymore, I want to keep my classic cars, RV, mowers etc., that does not qualify. She said a little space of 10x10 to put the tractor I cut my grass in does not qualify.

Mr. Mickas said in doing research on this he had questions and asked Mrs. Czyz if she knows if the Agritourism is more about the procedure? He said that Montville Township wants to see a site plan for review on Agritourism. Mr. Mickas said I've seen others that talk about having it as a conditionally permitted use and asked if we are allowed to regulate Agritourism in that route and make them come before the BZA for a

conditionally permitted use? Mrs. Czyz stated she did not think so and said she always wants to see a plan no matter what they are building. She said if for nothing else for safety issues. She said if something happens to that building, the fire department has to know what the layout of the place is just as if there was a hostage situation, the police department would have to know the layout and what they are dealing with. Mrs. Czyz stated she's never had a problem with not getting a site plan. Mr. Mickas said so the other question he has is where does this (Agritourism) fit in our book? He said we have Agricultural Use defined under Sec. 302 – Uses Exempt from Regulation.

Sec. 302 USES EXEMPT FROM REGULATION

A. Agricultural Uses

Nothing contained in these regulations shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use of agricultural purposes of the land on which such buildings or structures are located, and no Zoning Certificate shall be required for any such use, building, or structure, except that within any platted subdivision containing fifteen (15) or more lots:

1. Agriculture uses shall not be a permitted use on lots of less than one (1) acre;
2. Dwellings and other buildings and structures incident to the use of land for agricultural purposes which are located on lots or parcels which are greater than one (1) acre but not greater than five (5) acres shall conform to the regulations and permitting requirements contained in this Resolution; and
3. Animal and/or poultry husbandry shall not be permitted on lots or parcels which are greater than one (1) acre but not greater than five (5) acres after thirty-five percent (35%) of the lots within the subdivision are developed. Any such operation established within a subdivision prior to the development of thirty-five percent (35%) of the subdivision lots shall be considered a non-conforming use once thirty-five percent (35%) of the lots are developed.

Mr. Mickas stated it might fit under **Sec. 303 -REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS** and set up a new section: Sec. 303-14 for Agritourism.

Mrs. Czyz stated we may have an Agritourism situation coming into the township. A gentleman came in about a six-acre parcel in the Township and asked what he could do as there is a building on the parcel, but he does not want to use it as a home right now. Mrs. Czyz said well you have to have a home so my advice to him was – you've got six acres; take that first acre for your home and in the back five acres you could plant some grape vines and in a couple of years you will have grapes and turn that accessory building into a wine bar. Mrs. Czyz stated that would totally conform, but he has to have a house there. She stated but the wine he sells there will have to come from his crops. Mr. Mickas stated so that is something similar that Montville Township and a few others put in with the CAUV; so in that situation they would have to register with the CAUV. Mrs. Czyz stated not every property that is Agriculture is under the CAUV and for us to make that requirement is pretty stiff, so I don't know that we would win that if that was ever challenged.

- **Action Item:** Mrs. Czyz stated that she will be speaking to Mr. Jeffers, the Zoning Inspector for Montville Township, tomorrow and will talk to him about that. Mrs. Czyz said she will ask him how they can enforce that. Mr. Mickas asked if she report back next month on that.

Vice Chair Mickas stated these are the types of questions I wanted to propose to the board this evening to take back with you: (1) what is the language we want to put in the book; (2) what are the definitions and (3) where do we want this to go in our book. Trustee Esber stated when he looked at the Montville Township regulations it looks like they do have a lot of control; they have to have a site plan, etc. Mr. Mickas stated I believe they are controlling the “process”, not necessarily the regulations themselves. Mrs. Czyz said yes, you have to show the intent. Mrs. Czyz stated Agritourism still goes under the ORC 591.21 if you are a regular township or a home-ruled township.

2. Review of the Brunswick Hills Township Zoning Resolution

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

Mr. Mickas noted there was discussion at last month's meeting on Sec. 303-10E. that we haven't gotten any comments back from Andy Conrad on his statements regarding language changes. Mr. Mickas stated we've

been talking about this section for a while, but we never have really followed up and asked if there is any action item coming out of that? Mr. Mickas stated he believed that Mr. Conrad's comments were that we have outdated language in that section.

- **Action Item:** Mrs. Czyz stated she will see Mr. Conrad on 11/21/18 and will ask him to give us some sample wording.

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

- **Action Item:** Mr. Mickas stated he wanted to get back to this section and said he will reach out to Mr. Richter who had some comments on this and try to see what his suggested language is and get something back to the board by the December meeting.

C. Sec. 902-2.E. Submission of Applications

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

Mr. Mickas asked the board if they had comments. He said I believe it was perimeter changes we were making in that section originally, but there might be more to it now. Mr. Mickas stated I believe the ten (10) days reference we were looking to change to "thirty (30) days". Secretary Milanko confirmed from past ZC minutes that we discussed changing the perimeter to thirty (30) days and Mrs. Czyz confirmed it should be thirty (30) days. Secretary Milanko also stated 902-2E also says *the Zoning Inspector shall refer the application to the Zoning Commission for review and "approval" as set forth in Section 904-3*. Secretary Milanko stated the Zoning Commission is just a recommendation board so the language needs to state something to the effect: *The Zoning Inspector shall refer the application to the Zoning Commission for review and recommend approval, denial or modification to the Board of Trustees for their final decision.*

Secretary Milanko stated in addition, there is not a reference in **904-4 Zoning Commission Action** that the Zoning Commission is only a "recommendation board" and the ZC recommendation is sent to the Board of Trustees for final action. Section 904-4 states *The Zoning Commission may either approve the site development plan as submitted, deny the application, or approve the site plan with specified conditions or modifications* – and it should state Zoning Commission may recommend to approve, deny or modify the site plan with specified conditions or modifications to the Board of Trustees for final action.

Sec. 904-4 **Zoning Commission Action**

The Zoning Commission shall act upon an application for site development plan approval within forty-five (45) days of the date the site development plan is first heard by the Commission unless such time is extended with the consent of the applicant. The Zoning Commission may either approve the site development plan as submitted, deny the application, or approve the site plan with specified conditions or modifications.

Mr. Mickas referenced comments from the Planning Commission and said even though we are changing 902-2, E., we should also be referring to 904-3 and 904-4, which the main issue here is that there is nothing in our code that says that we "recommend" to the Trustees. It states that we approve and we actually just supply a recommendation to the Trustees.

Mrs. Czyz agreed and stated the Zoning Commission is only a "recommendation board" and sends the recommendation to approve, deny or modify to the Board of Trustees. Mrs. Czyz asked Mr. Mickas what his recommendation is to change the last sentence in 904-4. Mr. Mickas stated *the Zoning Commission may recommend approval, denial or approval with [specified conditions] or modifications of the site development plan as submitted to the Board of Trustees.*

New Section: Sec. 902-2 C. Mrs. Kijek stated this section references multifamily and asked if multifamily residences is up to four (4) families? Mrs. Czyz stated with the Auditor’s Office, anything four families or larger becomes Commercial so that is why we try to limit it to four (4) families. Mrs. Czyz stated there is multifamily in an R-1, R-2 and in a Commercial Zone. Mrs. Czyz stated Arbors of Bridgewater Crossings is actually located in a Commercial Zone but it extends over into the R-1 District and that is where they start having the single-family detached units. Mrs. Kijek stated it doesn’t say if it is a multifamily with four. Mrs. Czyz stated you don’t have to have four, it could be a multifamily with two. Mrs. Kijek stated correct but it is not showing multifamily over that of five or six. Mrs. Czyz stated the Zoning District it is in will dictate how many you can have.

E. ORC: Agriculture/Equine/ Equestrian Activities

- Open Space Conservation District; Sec. 401-2, B#2; pg.32
- RR; Sec. 402-2, B#1; pg. 34
- R-1; Sec. 403-2, B#3; pg. 37
- R-2; Sec. 404-2, B#3; pg. 39
- R-3; Sec. 405-2, B#5; pg.41
- Specific Standards for Conditional Uses; 804-17, pg. 104

Mr. Mickas stated we were looking at “equestrian activities” listed in the Zoning Districts and sections above and stated that “equestrian activities” are controlled under Agriculture so they aren’t conditionally permitted uses, so we talked about removing the word “equestrian activities” from each part of these sections. Mrs. Czyz stated not every equine farm is an equestrian farm as you can just have a couple of horses. She said an equestrian center would normally be more than two or three horses.

Mr. Mickas referred to page 32, Sec. **401 OC OPEN SPACE CONSERVATION DISTRICT**
401-2, B. Conditionally Permitted Uses:

2. Governmental or privately owned and/or operated picnic areas, playgrounds, private parks, swimming facilities, golf courses, tennis clubs, country clubs, equestrian activities, and other similar recreational facilities or uses of similar character which shall exclude uses similar in character to the following: commercial recreational uses as drive-in theaters, miniature golf courses, golf-driving ranges, rifle ranges, trap shooting, skeet-shooting ranges, pistol ranges or other ranges for the use of firearms; the operation of snowmobiles, motorcycles, and all terrain vehicles when conducted as a business such as by renting such vehicles or charging a fee in order to operate such vehicles on private property or the inviting of spectators to view the operation of such vehicles or allowing competition among such vehicles with or without charging a fee subject to Subsection 804.17.

Mrs. Czyz stated the words “equestrian activities” needs to be removed. Mr. Mickas said “equestrian activities” also appears under Conditionally Permitted Uses in RR, R-1, R-2, R-3 and in Sec. 804-17 Specific Standards for Conditional Uses. He said the purpose is to remove “equestrian activities” from each of these sections because it is controlled under Agriculture.

New Section for Review

Mrs. Czyz referenced page 75, Sec. **411-16 Compliance Required**

411-6 **Compliance Required**

Subsequent to the approval of a Conservation Development plan, all subdivision plats, site plans, building permits, Zoning Certificates, and other plans for improvements and any development or construction within the Conservation Development shall be in substantial compliance with the approved Final Development Plan and any conditions of such approval adopted by the Township Trustees in approving the Conservation Development Overlay District and Final Development Plan. Any departure from the approved Final Development Plan and any conditions or development agreements attached thereto, shall be deemed to be a violation of this Zoning Resolution. When the Zoning Inspector determines that a proposed plan, request for Zoning Certificate, development or construction may not be in compliance with the Final Development Plan, he shall take appropriate action as authorized by this Zoning Resolution to compel compliance.

Mrs. Czyz stated the last sentence in this section needs to be gender neutral when referring to the (Township) Zoning Inspector. Mrs. Czyz suggests removing “he” and replacing with the “Township Zoning Inspector”.

- **Action Item:** Mr. Mickas agreed and said we will make that small modification and change “he” to “the Township Zoning Inspector”.

New Business:

1. **Letter of Intent to File an Application for Conservation Development by Brian James, Developers Management, LLC:** Secretary Milanko stated on October 26, 2018, Mr. Brian James, Developers Management, LLC emailed a letter of Intent to file an application for Conservation Development letter to our Zoning Inspector [Exhibit 1]. The letter requests a “Pre-application Meeting” with the Zoning Commission, per Sec. 411-5 (A) of the Brunswick Hills Township Zoning Resolution. Secretary Milanko stated the letter was received past the deadline for the November 1, 2018 ZC agenda, but confirmed Mr. James will be placed on the December 6, 2018 agenda for the Pre-application Meeting.

2. **Special Workshop Meeting:** Mrs. Czyz recommended that the Zoning Commission schedule a workshop in November with the Zoning Inspector and Trustee Esber, Zoning Liaison to review the Conservation Development Overlay regulations. Vice Chair Mickas agreed a special workshop meeting would be beneficial. **Motion:** Mr. Mickas made a motion to schedule Special Workshop Meeting on Thursday, November 8, 2018 from 5:30 pm – 7:30 pm to review the Conservation Development regulations. Mrs. Kijek seconds the motion. **Roll Call:** Mr. Kelly-yes; Mrs. Kijek-yes; Mr. Fulkerson-abstain; Mrs. Porter-yes; Mr. Mickas-yes. Motion carries to schedule special meeting.

Additional Business:

1. **Concept Plan for Cekada Property.** Mrs. Czyz stated there is a proposed subdivision going in off of Rt. 303 and Rob Henwood, Planning Commission, notified me regarding a concept plan meeting. Mrs. Czyz said I had no idea at that point what it was about. She said a gentleman came into her office one day and asked about the zoning for that particular piece of property, I told him and he said thank you goodbye. She said the next thing I know on Tuesday of this week I received a plan for a concept meeting on Wednesday, November 21, 2018 at 9 am. Mrs. Czyz stated that this is proposed development under the PMUO – Planned Mixed Use Overlay District and suggested the board review those regulations. Mrs. Czyz stated the front of this property is R-1 and the remainder is RR-Rural Residential and is part of the Cekada tree farm property. Vice Chair Mickas said to clarify, the normal process for concept plans is it goes to the Zoning Inspector first, then it goes before the Planning Commission and then it becomes a site development plan in front of the Zoning Commission Board. Mrs. Czyz stated that is correct. End of business discussions.

Public Input: None

Announcement of Next Meeting Dates:

- Thursday, November 8, 2018, 5:30 pm – Special Workshop Meeting
- Thursday, December 6, 2018, 7:00 pm – ZC Regular Meeting / Pre-Application Meeting for Conservation Development with Developers Management, LLC.

Motion to Adjourn: Mrs. Kijek made a motion to adjourn the meeting. Mr. Fulkerson seconds the motion.

Roll Call: All in favor to adjourn. Meeting officially adjourned at 8:10 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Zoning Commission

Date