

**Brunswick Hills Township
Zoning Commission
Regular Meeting Minutes – May 3, 2018**

REGULAR MEETING

Vice Chair Mickas called the Zoning Commission Regular Meeting for May 3, 2018 to order at 7:03 p.m.

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

Approval of the Minutes: April 5, 2018 Meeting Minutes

Vice Chair Mickas opened the floor to discussion on the minutes. No discussion, edits or changes.

Motion: Mr. Fulkerson made a motion to approve as written. Mrs. Porter seconds the motion. **Roll**

Call: Mrs. Porter-yes; Mr. Fulkerson-yes; Mr. Mickas-yes. Motion carries to approve.

Continued Business:

1. Agritourism

Vice Chair Mickas stated the next item of business is the discussion we had last month on Agritourism along with some questions from one of our residents, Mr. Clement (Mapleside Farms), about the properties he purchased. Mr. Mickas stated he did talk to Mr. Richter from the Prosecutor's Office and we had a brief conversation about it. He said Mr. Richter's statement was that each parcel in the Township is really an individual parcel and so the agritourism restrictions would have to be applied to every parcel unless they are combined in any way. Mr. Mickas stated so it wouldn't be that the Mapleside Farms would be able to fall in the same lines of the agritourism for the other parcels that are adjacent. Mr. Mickas stated that Mr. Richter did say that it is a new law so there are not as many cases out there. Mr. Mickas stated so basically what I got out of the conversation was that all of those parcels would be an individual parcel.

Mr. Fulkerson asked if there is any information on the new agritourism law where sections have to be certain sizes? Mr. Mickas stated he did not get that out of Mr. Richter. Mr. Fulkerson stated the areas that I have read so far, I haven't seen anything that says it has to be a quarter acre or a half acre or any square size. He said in some cases it (parcel) could be narrow and long so it's hard to say what it is. Mrs. Czyz (Zoning Inspector) stated the document that I just distributed [Attachment 1] is from a Zoning Inspector's Workshop I attended in Columbus through the Ohio Township Association and the definition that the Ohio Revised Code has adopted under R.C. § 901.80 is highlighted on your sheet and that is the official definition.

Agritourism

- **Definition:** An agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.

Mrs. Czyz stated on the second page (page 4) where it says Farm and under one of the bullet points under Agritourism Provider it says:

- Townships may not require a parking area to be improved in any manner, including requiring drainage or paving.

Mrs. Czyz referred to the second page (page 4) at the bottom and said that was discussion only and House Resolution Number 2 is going to be addressing this. She stated, but right now that House Resolution is just being introduced into the Legislation and that is as far as it has gone. Mr. Mickas stated just to clarify, this is the law §901.80. Mrs. Czyz stated that is the definition and it is already in the Ohio Revised Code so that is what we will be going under so when it says that Townships may not require a parking area to be improved by any manner, including drainage or paving, we can't require that at this point. She stated that is just a recommendation and that doesn't mean that the County Engineer's Office cannot require that because they do trump us. Mr. Fulkerson stated this is the same that I was reading but then again there is no indication as to property size. Mr. Mickas referred to the attachment handout and stated bullet number one says:

- Farm: land devoted to commercial agricultural production, either at least 10 acres in size or grossing an average income of \$2,500 from such production.

Mr. Fulkerson stated ok so there is a variation, it's not just limited to \$2,500. Mrs. Czyz stated and this is just up for discussion being presented to the Legislation Body. She stated they did give it a House Resolution number and it is House Resolution Number 2 so it is really just up for discussion. She stated what brought this Agritourism to the forefront is the incident that happened in Lodi. Mrs. Czyz stated so everyone is talking about it in every Township and at every training session because it is so new so she wanted to share this with the Board. Mr. Fulkerson asked just how new is this? Mrs. Czyz stated new, new, it is just being heard and it has not even been incorporated in the Ohio Building Code yet. Mrs. Czyz stated that if the Board reads page 4 of the document it may help answer some of the questions for you. Mr. Fulkerson stated he was just trying to see dimensions and it doesn't tell me it has to be a certain amount of square footage. Mrs. Czyz stated and it will not tell you until this becomes law; so this is just discussion. Mrs. Czyz stated this will probably have a number of revisions I'm sure before it goes before the House as a House Bill.

Mr. Fulkerson stated it talks about money a lot. Mrs. Czyz stated no it only talks about money once. Mr. Fulkerson stated I see it on page 2 and I see it on page 1. He said on page 2 they talk about \$2,500 and on page 1 there is \$7,000. Mrs. Czyz stated the information on page 1 is part of the proposed Legislation: **Clean Water Fair Pricing Act**. Mr. Fulkerson stated I am just saying I haven't seen anything in here on square footage, unless I've missed it; but I have seen in here several places where it mentions money. Mrs. Czyz stated and that is why I highlighted the definition of Agritourism on your handout. She stated the other is a proposed Legislation regarding Clean Water Pricing Act and what they are saying in there is that a house recently sold for \$7,000 in September of 2000 but that is with the Clean Water Act.

Vice Chair Mickas asked the Board if they wanted to talk about anything from those conversations; to Evelyn's point this being so new it may be something to wait and see how the law plays out before we actually put anything in the book. Mrs. Porter agreed and stated they actually have to write the law first. Trustee Esber stated right now they are saying you have to have at least 10 acres, but you may have farmers with smaller acreage or people selling produce as agritourism on their

property and so they have to decide is it 10 acres, 5 acres, 20 acres, etc. He said what Evelyn is trying to say is this is only being proposed; nothing is concrete yet. Mrs. Czyz stated correct, except the definition. Trustee Esber stated and even in this document it says they have a right to the size of structures, parking area, where in that other paperwork we had at the last meeting it basically says we can't control with parking or drainage.

Trustee Esber stated that Mr. Clement sent us a map of the parcels he acquired (Attachment 2) but needless to say he is not here tonight. Trustee Esber stated this is the same problem we ran into with him the last time he tried to put parking down on Boston Road. Trustee Esber stated the residents on Boston Road were livid because one, the traffic, and two that is the thinnest road in Medina County. Trustee Esber stated Mr. Clement threw out a lot of things at our last meeting and one of them was that he said two different communities can have the Agritourism, remember that? Mr. Mickas stated he did bring that up in the conversation with Mr. Richter and he said that may be where farms cross county lines; one parcel that is in different cities. Mr. Mickas stated as we were talking through it, it became apparent that since it such a new Legislation or law, there isn't enough information out there on it. Mr. Mickas stated so in the case of the properties that he is purchasing, regardless of Agritourism, I think we have to treat it without that in the case. Mrs. Czyz stated absolutely. Mr. Mickas stated that is what Al (Fulkerson) was just saying, it's not really an Agritourism question it is more a Township property, single parcel, ingress/egress and how that works. Mrs. Czyz stated one of his biggest hurdles is going to be with the County Highway Engineer's Office as to whether they will allow that and of course they are going to confer with the Cuyahoga County Highway Engineer's Office to see if they can even come up with, or are willing to come up with, an amicable decision on that. Mrs. Czyz stated they might say that road cannot sustain that kind of traffic. Mr. Mickas said that falls both on Pearl Road and Boston Road, correct? Mrs. Czyz stated no, just the property on Boston Road because it's in the Township so it goes to the County Highway Engineer's Office, but the one on Pearl Road goes to the City because it is in the City. She said Pearl Road might also fall into the jurisdiction of the State Highway ODOT because it is a State highway. Mrs. Czyz concluded that Mr. Clement will have some definite hurdles to jump through.

Mr. Mickas asked if anyone else has anything more on Agritourism and said we can bring it up at a later date, but we can take it off the continued business for now and wait until we get an update from the Legislation. End of Agritourism discussion

Continued Business

2. Review of the Brunswick Hills Township Zoning Resolution

Mr. Mickas stated we will move on to the sections we were reviewing with our current zoning book.

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

Mr. Mickas stated we were talking about the Flood Plains and I know we had some conversations at our last meetings and said back in February, Evelyn, I believe you were going to meet with Andy Conrad to get some clarification on his comments. Mrs. Czyz stated she made a call to Mr. Conrad and said she doesn't know what's going on in this County as we are all just swamped so I have not received a call back or a definitive answer from him. She stated he knows what my questions are because I left that information on his voice mail recording. Mrs. Czyz stated hopefully she will get a call back or next week if she has some time she will try to contact him again. Mr. Mickas stated we will wait for more information on this section.

B. 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.

Mr. Mickas stated Sec. 703 is Continuation of Existing Uses. Mr. Mickas stated last month I said I was going to try to get an amendment together to propose to the Board. He stated in doing more research I think I caused more confusion upon myself. Mr. Mickas stated he will continue and he did find sections in other zoning books that are very similar, but not exact to what we are saying. He stated he will continue doing research and hopes to come back with something to present to the Board. Mrs. Czyz stated that Mr. Mickas is welcome to look through other Township zoning books that she has in her office as well.

Mrs. Porter stated she read this section over many times and thought she understood what they were getting at in Sec. 703. She said what I think is that a property/land that is being used by a landowner for a particular purpose at the time let's say before the Zoning Resolution is changed by the Township or amended by the Township, the use that they were using it for before that amendment took place they can still use it for that even though the Township has said that is not going to be a permitted use, we are going to make that a conditionally permitted use from now on. She said they will automatically be issued a conditional certificate rather than having to go before the Board because it was an existing use before. Mrs. Czyz stated it is a legal non-conforming use. Mrs. Porter asked if she was understanding that correctly? Mrs. Czyz stated you are absolutely right. Mrs. Porter asked if we really need to change this then.

Mr. Mickas asked Evelyn if we are actually issuing a certificate to them within a year. Mrs. Czyz asked, another one? Mr. Mickas stated if they have a legal conforming use and we make it in the book that it is a conditional. Mrs. Czyz stated it is a legal non-conforming use, we do not have to re-issue; I do not issue another conditional permit. Mrs. Porter asked if they would have had a certificate in the first place if it had been approved as a permissible use before? Mrs. Czyz stated that would have come through the Board of Zoning Appeals because they are the ones that have to hear a conditionally permitted use. Mrs. Porter stated right, but say they were using it for a use that was legal and then the Township revised the zoning code and made it not illegal but made it a "conditional use" rather than a "permissible use". Mrs. Czyz stated it is still a legal non-conforming use. Mrs. Porter stated right, but they didn't have an original certificate because they wouldn't have had to; but now they have to have a certain certificate so do they have to go before the BZA? Mrs. Czyz stated no. Mrs. Porter stated from what she understood, she didn't think they did. Trustee Esber asked if they have to actually be issued a permit? Mrs. Czyz stated no. Mr. Mickas stated that is what he is understanding from our book and that is where the confusion is in the language. Mrs. Czyz stated she doesn't know of any other Inspector that issues them. Mrs. Porter said so it is just called a non-conforming use. Mrs. Czyz stated it is a legal non-conforming use and I hate to use the word "grandfathered" but they are grandfathered in because they were legal at that time.

Mr. Mickas stated he was understanding this section the same way as Barb was and the only thing that he thinks where the confusion is that it says "*shall be issued a conditional zoning certificate within one year after the passage of this Resolution or amendments thereto.*" Mr. Mickas stated that is the one

line that is the confusing part and as I was doing the research I saw in other books that they don't state that. He said they don't state we have to re-issue a conditional zoning certificate. Mrs. Porter stated so maybe we can figure out how to take that sentence completely out of there. Mr. Mickas stated it would be more beneficial to this Board's time if one of us, or myself, try to propose an amendment and then we can debate over that. Secretary Milanko stated that you can also ask Brian Richter for suggested language.

Mrs. Czyz offered an example and said say you are using the lot for a car wash and that was perfectly legal at that time. She said the resolution has changed and it is now a conditionally permitted use, but you decide that you are going to sell to Al and Al is going to keep the car wash, or do a car wash and something else and it's under the conditionally permitted use; Al would then have to reapply because it's conditional. Mrs. Czyz stated and a conditional does not stay with the property like a variance. Mr. Mickas stated correct and that is Sec. 705, A. of the book and read:

SEC. 705 CHANGE IN USE, OWNER, OR OPERATOR

- A. Any non-conforming use of a building or land shall be reviewed by the Zoning Inspector and the Board of Zoning Appeals whenever there is a change in the owner or operator or in the use.

Mrs. Czyz stated if you allowed a car wash there and the new people want to put in a car wash it would be allowed. Trustee Esber asked, doesn't the "grandfathering in" go with the owner of the property and would it die once a new owner took over? Mrs. Czyz stated yes it does. She said although it is a legal non-conforming use as long as that owner has it; thus the reason why when a new owner takes it and uses it for the same exact thing - that's in my discretion. She said if he is adding something like the car wash and a beverage then now we have something a little different. Mrs. Czyz stated if they are just keeping it as a car wash that is her discretion to say they can keep it as that. Mr. Fulkerson stated that the ownership is the only thing that has changed. Mrs. Czyz stated yes and the "use" of the property is remaining the same and so now it comes from being a legal non-conforming use to a legal use. Mr. Fulkerson stated if they would attempt to increase the number of stalls that are on it or move something to a different place, then you've got a whole different change. Mrs. Czyz stated exactly and a perfect example of that is the storage buildings (R&B Storage). She said when they came in with their site plan before the Board to get that number of storage units put in that was approved and now they are going to put in another building of storage units – they don't have to come back because that was already approved. End of discussion on Sec. 703.

Mr. Mickas stated he did not have any further comments on the next sessions:

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

D. Sec. 904-3 Referral to Zoning Commission

E. Other sections deemed necessary

No further discussion by Board Members.

New Business: Application Request to Rezone 4867 Center Road from a R-1 (Residential) to a C-2 (Community Commercial) Zoning District

1. Application Request for a Zoning Map Amendment

Secretary Milanko stated she received an application request from the Zoning Inspector for a Zoning Map amendment to rezone a property which will be scheduled for the June 7th meeting.

Mrs. Czyz stated this is an application for a Zoning District change from an R-1 to a C-2. She stated when Crossings from West Valley was done they wanted the changes in the two corners of Marks and Center Road. When they changed that it was suggested that all four corners get changed to the new zoning. She stated the lady that lived at this property declined to have it rezoned, but at that point it was no cost to her to get it rezoned which was \$500 dollars. She said it was a package deal offered by the Township. Mr. Fulkerson asked what did she want to have it rezoned as? Mrs. Czyz stated she did not want to have it rezoned at that time. She stated the Comprehensive Land Use Plan shows that all of these four corners (on the corner of Substation Road and ST. RT 303) be changed to a C-1 or a C-2; some sort of Commercial. She stated it went off the table as she did not want to rezone because she was a senior, etc. Mrs. Czyz stated then she said she lived here for so many years and because she was a senior, she thought that this should have been done for her without paying a fee. Mrs. Czyz said unfortunately that did not work out for her. Mrs. Czyz stated so the property went up for sale and the gentleman who purchased it is now interested in changing it to a Commercial District.

Mr. Mickas asked for clarification as to where this intersection is. Mrs. Czyz stated this is at the Northwest corner intersection of Substation Road and Rt.303. Trustee Esber stated it is across from the dog place (Buckeye Sanctuary). Mr. Micas looked at the map and said there is the dog sanctuary and then the Utility on the corner and then the rental units. Ms. Czyz stated correct and the rental units are in a R-1 Residential District. Mrs. Czyz stated so that is what it is. She stated in your application packet I included page 26 of the Comprehensive Land Use Plan where it shows future use and one of the things it shows is office buildings, so it does fit in that. Mrs. Czyz stated she had the applicant include a copy of the Comprehensive Land Use Plan; Figure 7, so you could identify that as it is a gateway and that is what it is identified as.

Mrs. Czyz stated and what he wants to use it for is for car screening; car wraps that are put around the cars; embroidery work on cars and that type of work. She stated the most type of traffic he would get is through FedEx or UPS or normal traffic. She stated everything else would be done via email or computer so there won't be the everyday pedestrian traffic. Mr. Fulkerson asked, what is this steel building they are talking about? He said they want to build a steel building so how does that fit in with everything else around there? Mrs. Czyz stated it would be commercial and he can build a steel residential building now as long as it meets the building code of the Building Department. She stated you can't say he cannot build a steel building. Mr. Fulkerson asked what it is currently zoned as. Mrs. Czyz stated as R-1. Mr. Fulkerson then asked how close are residential properties near there. Mrs. Czyz stated if you look at your map there are residential properties all around it; to the North and to the West of it. Mr. Fulkerson stated I am making reference to what would basically be their neighbors – are you looking at 100 feet, 200 feet or something like that? Mrs. Czyz stated you would have to look at your map to see exactly what it is and there is a copy of the maps in your packet which should have the dimensions in there. Mrs. Czyz referenced the map and said its 435.60 which is the width of his property. Mr. Fulkerson stated he was looking to see if they are old homes around there. Mrs. Czyz stated they are old and they are on Rt. 303 and Substation Road. Mr. Fulkerson stated I want to see the property and all the traffic and cars going around it as there could be a lot of cars going in and out. Mrs. Czyz stated they said it would be

primarily FedEx and UPS going in and out of there. Mr. Mickas stated if it is zoned Commercial it doesn't mean that that use will stay as that business, correct? Mrs. Czyz stated what it is right now and what it is proposed for zoning is what we have to address.

Motion to Accept the Map Amendment Application Request for 4867 Center Road

Mr. Mickas entertained a motion to receive this application into record and set a public hearing date.

Motion: Mr. Fulkerson made a motion to accept the application request into record. Mrs. Porter seconds the motion. **Roll Call:** Mrs. Porter-yes; Mr. Fulkerson-yes; Mr. Mickas-yes.

Motion to Set a Public Hearing on Map Amendment Request for 4867 Center Road

Motion: Mr. Mickas made a motion to set the public hearing date for June 7, 2018 at 7:00 p.m.

Mrs. Porter seconds the motion. **Roll Call:** Mr. Fulkerson-yes; Mrs. Porter-yes; Mr. Mickas-yes.

Additional Business: None

Public Comment: None

Announcement of Next Meeting Date: Thursday June 7, 2018 @ 7 p.m. [Public Hearing]

Adjourn Regular Meeting

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

Roll Call: All in favor to adjourn. Meeting officially adjourned at 7:44 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Sandra Jenkins, Chair

Date