

**Brunswick Hills Township
Zoning Commission Regular Meeting
January 10, 2019**

REGULAR MEETING: Matthew Mickas, Vice Chair, called the Zoning Commission Regular Meeting to order at 7:07 pm. A roll call of the board was executed.

- **Board Members in Attendance:** Mrs. Murphy, Matthew Mickas, Barb Porter, Linda Kijek
- **Board Members Not in Attendance:** Sandra Jenkins
- **Others in Attendance:** Evelyn Czyz (Zoning Inspector), Trustee John Witthuhn, Zoning Liaison, Secretary Milanko

Approval of the Minutes

1. Approval of the December 6, 2018 Regular Meeting Minutes

Edit: Mrs. Kijek referenced page one under approval of the minutes: change Mr. Kijek to “Mrs.” Kijek.

Motion: Mrs. Murphy made a motion to approve the December 6, 2018 Regular Meeting minutes. Mrs. Kijek seconds. **Roll Call:** Mrs. Kijek-yes; Mrs. Porter-yes; Mrs. Murphy-yes; Mr. Mickas-abstain.

New Business: None

Public Comment:

A gentleman interrupted from the audience asked if the developer from the W. 130th street property was on the agenda tonight; if not we aren’t going to stay for the meeting. The board stated he is not on the agenda tonight. Mrs. Czyz, Zoning Inspector, stated she has not heard anything from him since he was here in December. Mrs. Czyz told the audience members they can call her office to find out when he will be placed on the ZC agenda.

Continued Business:

1. Agritourism: Review Montville Township Language

Mr. Mickas stated at a previous meeting he passed out Agritourism language from Montville Twp., Bath Twp. and Cedar Creek for reference points. Mr. Mickas stated there are two items that come up as we look at adding this to our book and that is (1) where it should go in the book and (2) what do we want to put in there. Mr. Mickas stated it could fit in *Sec.302 Uses Exempt From Regulation* (where the agriculture sits) or in *Sec. 303 Regulations Applicable to All Zoning Districts*; which would be adding Sec. 303-14 as a new section. Mr. Mickas said if we put it in Sec. 303 then we have to state that this is for Agritourism when it is with an agricultural use or something that mirrors that use of the property. Mrs. Porter asked if agriculture is applicable in all zoning districts. Mrs. Kijek asked if that is for commercial too. Mrs. Czyz stated yes, all zoning districts. Mrs. Czyz stated if you put Agritourism in Sec. 302 Uses Exempt from Regulation, you could also reference it in see Sec. 303-14 (i.e. list Section number, page number).

Mr. Mickas stated the Montville Township language says they want Agritourism to follow their development plan review process, but I haven’t had a chance to compare their development plan process with ours. Mr. Mickas said he thinks Agritourism should mention public health, public safety, and he believes there should be a review process that needs to happen with their plans on what we can control such as structure(s), parking areas, ingress / egress, etc. He asked if it has to go through a formal plan review. Mrs. Czyz stated she cannot control the structure or how the structure is built. She said it would be under the Agriculture rules and regulations and they would have to have a notarized exempt form. She said even the Building Department cannot require them to the build that building to certain specifics or code. Mr. Mickas stated he thought we could control size and setback. Mrs. Czyz stated she cannot control the size. Mrs. Porter also thought we could control setbacks.

Mr. Mickas read **ORC Sec. 519.21 Powers not conferred on township zoning commission by chapter (C) (4)**

(4) Agritourism. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to agritourism, except farm markets as described in division (C)(1) of this section, as size of a structure used primarily for agritourism, size of parking areas that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.

Mr. Mickas stated so we can regulate the size of the structure. Mrs. Czyz stated she will not be enforcing that, per the Prosecutor's Office. Mrs. Czyz gave an example of the equestrian center that just went in the township and said she cannot regulate the size of that building. Mr. Mickas stated when looking into the Agritourism, we are trying to understand what we can and cannot control and what should be in our book. Mrs. Czyz stated if someone comes into the office and wants to build an agricultural structure, she says although you don't need a permit from me, you do need to go to Medina County for the plumbing, electrical, etc. She said once they have the exemption, they don't have to build it to code, but she still encourages individuals to do so. She said if they decide to sell it down the road, the first thing an appraiser or title company is going to ask is if this is a conforming building. Mr. Mickas stated so they come in and you suggest that they go to code, but you are not forcing them to go through a development plan approval process for Agritourism.

Mr. Mickas raised the question if the board wants to see a formal review process for Agritourism. Mrs. Czyz stated you probably would not even see those plans. Mr. Mickas said but we can enforce it. Mrs. Czyz stated she can enforce the parking, the number of available spaces they need to have and ingress / egress. Mrs. Kijek asked why they would have to have a preliminary and final development plan for Agritourism if we can't regulate it. Mrs. Czyz stated because we need to know where the building will be; you can't have it on an easement so there will be some areas that you are not allowed to build on so I will need to review those plans. The board noted that Montville Township requires a review of a preliminary and final development site plan. Mrs. Porter asked if they can enforce that if it is under agriculture. Mr. Mickas noted from the training workshop that if we don't put something in around Agritourism, we have no power to do anything. He asked do we want them to go through a formal process with a preliminary plan, a final development site plan that gets approved by the Trustees, etc. for Agritourism or do we want to make a separate approval process for Agritourism. Mrs. Czyz stated you should put something in the book about Agritourism on what and what cannot be done and then asked are you going to charge a fee for that? Mr. Mickas stated Montville Township's Agritourism use is approved through a development plan review process, discussions of preliminary and final development plans by the Zoning Commission. Mr. Mickas stated the board seems all in agreement that we need to have a process for Agritourism in our book. Mr. Mickas stated he will work on a draft of language based on the items that we can regulate and then we can debate it. He said he will note parking regulations, ingress / egress, but he won't put in setbacks or the size of the structure unless the board thinks that is something we should regulate. He said he won't include the CAUV like Montville Twp. did. Mrs. Czyz noted there are a lot of things already in our book you can put in under Agritourism that we can enforce.

End of discussion on Agritourism.

2. Review of the Brunswick Hills Township Zoning Resolution

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

Amendment confirmed: The board agreed, per Dan Wilhoite, Medina County Engineer's recommendation, to remove the outdated language in this section and add the following language: ***Development activities within floodplains designated by the Federal Emergency Management Agency are subject to the Flood Damage Reduction Regulations which have been adopted by the Medina County Board of Commissioners.***

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

Sec. 703 CONTINUATION OF EXISTING USES CONDITIONALLY PERMISSIBLE UNDER THIS RESOLUTION

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 the issue with this section is issuing or reissuing Conditional Zoning Certificates within one (1) year after the passage of this Resolution or amendments thereto. He said if it's an existing use, we are not going to reissue a certificate because they are technically grandfathered in. If we change a conditionally permitted use, or we create a conditionally permitted use in a district and it was a prior permitted use, they are grandfathered. Mrs. Kijek referenced certificates shall be issued by the Board of Zoning Appeals and asked if we are changing that. Mr. Mickas stated that is where we originally started with this section to change BZA to Township Zoning Inspector, but we do not reissue the certificates once granted. Mrs. Murphy asked if we could just say they remain conditionally permissible without reissuing. Mr. Mickas stated he agreed with that and has reached out to Mr. Richter at the Medina County Prosecutor's office on suggested language.

➤ **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 stated we were going to change the ten (10) days to **thirty (30) days**. Mrs. Murphy referenced the last sentence: "The Zoning Inspector shall issue a Zoning Certificate within ten (10) days after approval of a site development plan by the Zoning Commission" and said but we (ZC) want to approve it. After reviewing it, the board noted "approval" by the Zoning Commission should say "**recommendation**". Amendment: "the Zoning Commission will make a recommendation to the Board of Trustees." Mr. Mickas stated the Zoning Commission only makes a recommendation and the Board of Trustees decide the approval.

[Note: check similar language in other sections referring to the Zoning Commission shall recommend the approval or denial of the proposed site development plan, or the approval of some modification thereof to the Board of Trustees.]

Discussed amendment to Sec. 902-E

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~~ **recommendation to the Board of Trustees as set forth in Section 904-3**. The Zoning Inspector shall issue a Zoning Certificate within ~~ten (10)~~ **thirty (30)** days after approval of a site development plan by the ~~Zoning Commission~~ **Board of Trustees**.

➤ **Sec. 904-3** Referral to Zoning Commission

Mrs. Czyz suggested amending the last sentence in 904-3 and said Application should be **Application(s)**
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(s) 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.

-----**HOMEWORK ASSIGNMENT**-----

Distribution of Zoning Resolution sections assigned to board members for suggested language amendments:

- **Matthew Mickas:** Agritourism
- **Tricia Murphy: Sec 303-10E.** Conditionally Permitted Uses In Intermediate Regional Flood Plains
- **Matthew Mickas:** Sec. 703
- **Linda Kijek:** Sec. 902-2 (E)
- **Linda Kijek:** Sec. 904-3
- **Tricia Murphy: ORC:** Agriculture/Equine/ Equestrian Activities (remove 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

- **Tricia Murphy: Sec. 406-7** Application for PMUO (pg. 50/119) /change fifteen (15 days) to **thirty (30) to forty-five (45) days; change transmitted to submitted**

B. Development Plan Review Procedures: General development plans and final development plans shall be reviewed according to the following procedures.

1. **Review by Zoning Commission.**
 - a. All applications for Planned Mixed-Use Developments shall be ~~transmitted~~ **submitted** to the Zoning Commission for review at least ~~fifteen (15)~~ **thirty (30) to forty-five (45)** days prior to the meeting at which it is to be considered.

[Note: additional discussion on Sec. 406-7 is timing if over 30 days the ZC may have to call a special meeting]

- **Tricia Murphy: Sec. 406-7, A.(1)** PMUO Submission Requirements (pg. 48/119) (change Township Clerk to Township **Fiscal Officer** and add (**or the Township Zoning Inspector**))

A. Submission Requirements:

1. **General Development Plans** – Fifteen (15) copies of a General Development Plan for a Planned Mixed Use Development project shall be filed with the Zoning Inspector for consideration by the Zoning Commission and the Board of Township Trustees. Submission of this General Development Plan shall be by either the owner of the property or the developer of the property and shall be accompanied by such fees and review deposits as may be established by the Township Trustees. The General Development Plan (which may be set forth on one (1) or more maps or in one (1) or more instruments), a copy of which shall be retained by the Township Trustees and deposited with the Township ~~Clerk~~ **Fiscal Officer or the Township Zoning Inspector**, shall have been signed by all owners of property, or developers with an interest in the property, within the PMUD project, shall have been drawn to scale, and shall show the following:

- **Tricia Murphy: Sec. 411-5 (B)** Conservation Development (pg. 72/119) [change ten (10) days to **thirty (30) to forty-five (45) days**]

- **Tricia Murphy: Sec. 411-6** Gender neutral change he/she when referring to the Township Zoning Inspector. [*Note: check additional sections in the book for this edit amendment and change to **the Township Zoning Inspector***]

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 **Township 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~~ **the Township Zoning Inspector** shall take appropriate action as authorized by this Zoning Resolution to compel compliance.

-----End of homework assignment-----

Additional Discussion

Mrs. Kijek referenced Sec. 411-5 (A) and questioned whether the board discussed changing the applicant to the property owners. Mrs. Porter stated that we discussed requiring an applicant who will represent the property owners have notarized authorization and signatures of the property owners. Mrs. Czyz stated an applicant can represent a property owner but now the application has to be notarized by the owners. Mrs. Czyz stated a property owner can make an application and have an “agent” represent them or act on their behalf. [*Note: after discussion the board agreed that no edits/changes needed to this section.*]

Conservation Development Overlay
411-5 Application Requirements and Procedures

Property owners who wish to develop their land as a Conservation Development Overlay District shall make application for approval pursuant to the provisions set forth herein. Applications to subject land to these Conservation Development Overlay District regulations shall be heard and action taken by the Zoning Commission and Township Trustees in accordance with the procedures and provisions set forth.

A. Pre-application Meeting

Prior to the submission of an application and development plan for a Conservation Development, applicants shall notify the Zoning Inspector of their intent to file an application and request to be scheduled on the next available meeting agenda for the Zoning Commission. The applicant shall appear before the Zoning Commission and may present a preliminary sketch or concept plan of his proposed Conservation Development. The purpose of this pre-application meeting is to discuss the criteria and standards contained herein, to familiarize the applicant with the Conservation Development Overlay District review and approval process, and to review the applicant's proposed general approach to development of the site. As part of the pre-application discussion, the Zoning Commission may make comments, suggestions, recommendations, and observations regarding the applicant's sketch plan and development concept, however no action shall be taken by the Zoning Commission, and their comments, suggestions, recommendations, and observations shall not be relied upon by the applicant as indicative of any subsequent approval or denial.

End of Discussion on Zoning Amendments

Additional Business: None

Public Comment: None

Announcement of Next Meeting Date: Thursday, February 7, 2019 @ 7 p.m.

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

Roll Call: All in favor to adjourn. Meeting officially adjourned at 8:20 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Sandra Jenkins, Zoning Commission Chair

Date