

**Brunswick Hills Township
Zoning Commission Regular Meeting
February 7, 2019**

REGULAR MEETING: Sandra Jenkins, 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:** Sandra Jenkins (Chair), Matthew Mickas (Vice Chair), Barb Porter, Trica Murphy
- **Board Members Not in Attendance:** Linda Kijek (unexcused)
- **Others in Attendance:** Evelyn Czyz (Zoning Inspector), Trustee John Witthuhn, Zoning Liaison, Secretary Milanko

Approval of the Minutes

1. Approval of the January 10, 2019 Organizational Meeting Minutes

No edits or changes. **Motion:** Mrs. Murphy made a motion to approve the January Organizational Meeting minutes. Mrs. Porter seconds. **Roll Call:** Mr. Mickas-yes; Mrs. Porter-yes; Mrs. Murphy-yes; Mrs. Jenkins-abstain. Motion carries to approve the minutes.

2. Approval of the January 10, 2019 Regular Meeting Minutes

Edits: Mrs. Porter noted page one, first paragraph under Agritourism last sentence: *Mrs. Czyz stated if you put Agritourism in Sec. 302 Uses Exempt from Regulation, you could also reference it in ~~is see~~ Sec. 303-14 (i.e. list Section number, page number).*

Mrs. Porter referenced page one, second paragraph under Agritourism: *She said even the Building Department cannot require them ~~the~~ to build that building to certain specifics or code.*

Mrs. Porter noted the following correction on page 3 to change plant to “plan”:

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

Motion to approve minutes: Mrs. Murphy made a motion to approve the minutes with noted changes. Mrs. Porter seconds. **Roll Call:** Mrs. Murphy-yes; Mr. Mickas-yes; Mrs. Porter-yes; Mrs. Jenkins-abstain. Motion carries to approve minutes.

Continued Business:

1. Agritourism:

Secretary Milanko distributed the homework on proposed text amendments by Mr. Mickas and Mrs. Murphy [Attachment 1/Mickas and Attachment 2/Murphy]. Mr. Mickas referenced the packet: Brunswick Hills Township Zoning Resolution Modifications: [**Revise-Article II Definitions**] and said under Agriculture, he referenced the Ohio Revised Code (ORC) and used that section in the ORC and put those terms in the definition of Agriculture. He said all of the other definitions came from either the ORC or from Montville Township, which is based on the ORC language.

Agriculture Definition: Mrs. Murphy asked where the **Farm** definition came from and asked about CAUV. Mr. Mickas said he would have to check where he got the definition. Mrs. Porter stated it is the CAUV definition. Mr. Mickas asked if there is harm in the definition of farm in that way. Mrs. Murphy said in her opinion, yes, because what if you are a farm but you don’t do CAUV? She said or you have five acres and you have a farm and you don’t raise \$2,500 worth of produce, etc. Mrs. Murphy said she was wondering if that could become an issue. Mrs. Jenkins stated we should check on that in the ORC. Mr. Mickas said maybe we should define **Farm** separately. Trustee Witthuhn looked up Montville Township Agritourism and said the **Farm** definition is Montville’s.

- **Action Item:** Check the definition of **Farm**.

Mr. Mickas said he was looking to add a new section in the book for Agritourism which would be Sec. 303-14, on page 31 in the book, but **Sec. 303 Regulations - Applicable to All Zoning Districts** actually begins on page 18. Chair Jenkins stated it is applicable to all zoning districts and agreed it could go in that section of the book.

Mr. Mickas read over the proposed purpose statement Sec. 303-14 Agritourism (proposed new section). Purpose: Agritourism operations shall only be permitted when the use is compatible with the area in form and function; and is designed in such a way that will not endanger public health or safety and when the following requirements have been satisfied.

Mr. Mickas then read proposed General Requirements (See Attachment 1)

With reference to B. General Requirements (c.) Off-street parking lots and all points of ingress and/or egress shall be built and maintained in a manner necessary to protect public safety and shall comply with Sec. 601 – Off-Street Parking, except as required by the Ohio Revised Code.

Mr. Mickas said so the “except” came from regulations on off-street parking that we have in our book that I don’t think applies to Agritourism; or we can’t enforce. Mr. Mickas read B. General Requirements (d.) and (e.) from the handout and said these are taken from the ORC on what they need to do to qualify for Agritourism. Mr. Mickas stated this language is similar to Montville Township’s as they are the pioneers on adding this to their zoning code. He said I didn’t add anything specific on setbacks or requirements like Bath Township did. Mr. Mickas stated I feel like Agritourism can come in many shapes and sizes, so I don’t think we can generalize with specific numbers or size of a structure. Mr. Mickas stated if we want to set requirements, I think we need to look at it on an individual basis.

Discussion on Site Development Plans for Agritourism

Mr. Mickas asked, how do we process this? Do we force them to go through a site development plan; final development plan? Mrs. Czyz said would you even get it? Mrs. Czyz stated that would be my determination, especially for Agritourism. Chair Jenkins stated he is asking if we will require them in our resolution to have a site development plan. Mr. Mickas stated correct and which will require them to bring them to the board. Mr. Mickas stated that is how Montville Township has theirs, and they require a preliminary development site plan and a general development plan that follows their submission process. Mr. Mickas stated his opinion that it would be a second set of eyes instead of putting it all on the Zoning Inspector to enforce it, review it or ask questions. Mrs. Czyz asked if the ZC board will enforce it as well? Mr. Mickas stated you are the enforcer; we review and recommend to the Trustees. Mr. Mickas stated then it would force it to go to the Trustees based on our submission process and would follow the process for site development plans whether it be for a large development or a single piece of property.

Mr. Mickas stated he is torn on whether to add the site development plan review and wanted opinions on that. He said I believe we would have to put a fee in place for the application because a zoning certificate would have to be issued because they are changing the use of the property to Agritourism. Mrs. Czyz stated I can’t touch it and said all they have to do is have a piece of paper that says I’m Agriculture-Exempt and then that goes to the County. She said the County Building Department is the one who says you need to do this, this and this to meet the building code. Mrs. Czyz stated they don’t even have to meet our setbacks. Mr. Mickas and Mrs. Jenkins stated they thought they would. Mrs. Czyz stated if you put it in the book. Mr. Mickas stated we want to decide how we go about this as a Township. Mrs. Jenkins stated we have to get this in our book or you can’t touch any of it. Mrs. Porter agreed. Mr. Mickas stated you can enforce ingress/egress and said in Montville Township they can require a traffic survey from the Highway Engineer’s Office on ingress/egress for Agritourism. Mr. Mickas stated we can require a review from our Fire Department on off-street parking for public safety. Mrs. Czyz stated the Fire Department would review it anyway.

Mrs. Jenkins stated we can make the application process anything we want. Mr. Mickas stated the key thing is we want to validate structures, setbacks, parking where there would be ingress/egress for safety and to see a plan. He said we can follow strictly **Sec. 902 Zoning Certificates** (page 106) which is the normal zoning

process for a zoning certificate or changing the use of or altering any building or structure. Mr. Mickas stated for example let's say we have an apple farm or blueberry farm. They aren't building a new building, they are going to use the farm and provide pails so people can go out and pick their own. He said it's not a new building, but they are changing the use so now it is Agritourism. Mrs. Jenkins agreed. The board reviewed Sec. 902-1 and Sec. 902-2:

Sec. 902-1 Zoning Certificates Required

Before commencing any activity or construction, changing the use of or altering any building or structure, or changing the use of any building or premises, an application shall be made to the Zoning Inspector for a Zoning Certificate.

Sec. 902-2 Submission of Applications

A. All applications for Zoning Certificates shall be submitted to the Zoning Inspector who may issue Zoning Certificates when all applicable provisions of this Resolution have been met.

Mr. Mickas said so if we add something to the book for Agritourism and say they have to follow these guidelines, then it would be on our Zoning Inspector to decide if that meets all the requirements and it's good. He said then the site development plan would never come to the board and the Trustees would never look at it. He said if a wedding venue comes up and wants to serve wine, there would be nothing except for the building regulations, correct? Mrs. Czyz stated as long as they are having grapes on their property and viticulture comes into play, then it would be covered by Viticulture. Mr. Mickas said that wide range of possibilities is what I am worried about without having an approval process through this board and the Trustees. Mr. Mickas stated an approval process would give our Zoning Inspector the backing so she doesn't feel like she's on an island here approving it with just these regulations. Mrs. Jenkins agreed. Mr. Mickas stated I don't know if it is necessary and that is what I struggle with. Mrs. Czyz stated and as long as you are reviewing it, under **Sec. 902-2, item number (E)**, it states ten (10) days and we need to change that to thirty (30) days. Mr. Mickas stated correct, and that section is on the agenda tonight.

Sec. 902-2 (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 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.

Proposed Sec. 303-14 Agritourism, B. General Requirements

d. The agritourism provider shall provide evidence the farm on which the agritourism operation has ten (10) or ~~one more~~ acres devoted exclusively to commercial agricultural use; or if less than ten (10) acres are devoted to commercial agricultural use, evidence shall be provided that such farm produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.

- **Action item:** Mr. Mickas will check the language in Sec. 303-14 Agritourism, (B General Requirements)(d.) above to make sure it is from the ORC and not CAUV.

Mr. Mickas read Section (C.) Application for Agritourism Use and said what I am trying to get at is on top of the site development plans and the final development plans in the application, I want the acreage of the farm which is more towards section (d.) so if we don't want to worry about the acreage then we can take that out. He said if the farm has less than ten (10) acres then we would want to look at the yearly gross income.

Mr. Mickas said the idea behind all of this is that we can look at it and approve it. Mrs. Czyz said so this board wants to look at it. Mr. Mickas stated he would like opinions on this from Evelyn and John Witthuhn as Trustee. Trustee Witthuhn stated what you are saying is that you want to give more support to the Zoning Inspector, correct? Mr. Mickas said yes, that's how I'm viewing it. Mrs. Jenkins stated that is how Montville and other township did theirs because they want to have a little bit of control. Mr. Mickas said my fear in doing this without putting them through a site review plan is more on the sense of that it could be a really big operation that falls under the Agritourism and you have 1,000's of customers from all over coming in and it could cause a public health and safety issue for us. He said and if we can't control some of that upfront and try to ask those questions, that's my fear. He said on the other hand, what if it is just a small farm that falls under Agritourism where you just pick blueberries or strawberries that is not very big and now we have to put them through a big formal process. He said my opinion is fall on the other side; fall on the worst-case scenario.

Mrs. Jenkins agreed and said when we went through the Agritourism training, they said you have to be prepared. She said if we don't have anything in our book, they can do whatever they want according to Senate Bill #75. Mrs. Jenkins asked the Zoning Inspector if she agreed. Mrs. Czyz stated to a point and said if you don't have anything in the book you can't do anything. Mr. Mickas said the other option is we could put regulations in the book and we can be very specific on whatever we do want to control, like the size of a building. Mrs. Czyz stated if they have ten (10) acres, why would you need to control the size of the structure? You can control the height and that I would definitely recommend simply because we no longer have an aerial ladder and heaven forbid they build it to 50 feet in height or higher now we are really dependent on someone else be it the city or another township for mutual aid assistance. Mrs. Czyz said you should keep it at a maximum of 35 feet and if they say they need more then they have to come before the BZA for a variance. Mr. Mickas said and that is if we specify it otherwise or we could put them through the process and just not approve it. Mrs. Czyz said why would you not approve it if you're not restricting the height size? Mrs. Jenkins stated the height size is not in here. Mrs. Czyz said that's why you would have to add that limitation to be no higher than 35 feet to the pavement. Mr. Mickas asked if we have that limitation in the book. Mrs. Czyz said yes, 35 feet throughout and it might even be in the ORC. Mr. Mickas said so if we don't specify it Agritourism.....Mrs. Czyz said they could build it 50 feet in height because they are exempt from so much. Mr. Mickas said if we deny it, they could take us to court if they wanted to. Mrs. Czyz said they could take you to court anyway. Mr. Mickas said but if we didn't state it, we could deny the site review plan because they have a building that is higher than 35 feet which doesn't meet our residential zoning regulations. Mrs. Czyz said it wouldn't go to you anyway it would go to the BZA because they would have to apply for a variance for the height. Mr. Mickas said if we put the height in there, but what if we don't put the height in there? Mrs. Czyz said they could build it as high as they want and now you are talking about safety and that's where I bring in the Fire Department. How can they get to a structure fire that is 50 or 60 feet in height? Mr. Mickas said that is where the site development plan comes in and we do have ground to stand on if the height is in there. He said if it's not in there, we can say it's for public safety. Mrs. Czyz said if you don't have the height limit in there you are setting yourself up because you are not stating there is a limit. Mrs. Jenkins said so you are saying we put the height limit in. Mrs. Czyz stated yes, put the height limit in there.

- **Action Item:** Decision on adding height limit of 35 feet for buildings and structures.

Mr. Mickas said if you use Montville Township Agritourism as a guide, they don't have specifics like that in theirs, but they do force the site review plan so are we considering that they are opening themselves up? Mrs. Czyz said they could build it all the way to the front of the property; it's Agriculture and hands go up, but they are going to need some room around the facility whether it's for parking, etc. She said all of the parking has to be ADA (American Disabilities Act) compliant. Mr. Mickas said we can't make them change parking or anything. Mrs. Jenkins said not according to Senate Bill #75. Mrs. Czyz stated it would be under the ADA standards for accessible design. Mr. Mickas said they don't have to pave it or do anything. Mrs. Czyz stated they do in order to be ADA compliant. Mr. Mickas asked if they have to be ADA compliant if they are under Agritourism. Mrs. Czyz stated absolutely because it is a commercial structure and although it's allowed because it is a venue, it does not exempt you from ADA; that is my understanding. She said how are you going to push a wheelchair on gravel? Mrs. Jenkins said so they would have to have some designated spots. Mr. Mickas stated they could have a section of paved parking and the rest of the parking could be in

a field. Mrs. Czyz stated they could put the parking in land bank parking but they would have to comply with our zoning regulations and then the ADA's. Mrs. Jenkins said I don't believe we can control parking regulations in Agritourism. Mr. Mickas read over the Agritourism law and said we can regulate the size of the parking areas, the setback building lines of structures and ingress/egress for Agritourism.

Mr. Mickas read **ORC Sec. 519.21 (4) Agritourism**: "*Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.*" Mrs. Jenkins read from **The Ohio State University; Ohio Legislature Passes Agritourism Legislation** (page 3-4): "*Counties and Townships must identify public health and safety issues and develop appropriate zoning standards and must be prepared to recognize Agritourism situations that pose health and safety due to size and location of the structure, ingress/egress and the parking area(s). If a public health or safety issue is identified and the county or township wants to regulate that issue, it must have enacted zoning standards that address the issue.*" Mrs. Jenkins said I don't see anything in here on ADA. Mrs. Czyz stated the ADA will come into this because now you are preventing that person who is disabled from going into the venue and cited examples of a wheelchair bound person, someone with arm braces, someone with a cane to stabilize themselves. Mrs. Czyz stated I have the **ADA Standards for Accessible Design** book here in my office and you are welcome to look at. Mrs. Czyz stated that is something the board should think about when adding Agritourism language.

- **Action Item**: Check ADA regulations for Agritourism and adding to zoning language.

Mr. Mickas stated so we've talked about height limitations for buildings and structures; looking at setbacks public health and safety items and off-street parking and walkways and that is what I want to see in a site plan. Mr. Mickas asked if the board agreed he should add those limitations specifically in the language and agree on going forward and enforcing the site plan review process. Mr. Mickas said he will try to revise this for the next meeting but confirmed we did find out the Farm definition is from the ORC 901.80

901.80 Immunity from liability for agritourism providers.

<http://codes.ohio.gov/orc/901.80v1>

(4) "Farm" means land that is composed of tracts, lots, or parcels totaling not less than ten acres devoted to agricultural production or totaling less than ten acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars from agricultural production.

Mr. Mickas stated he will reach out to Brian Richter (Medina County Prosecutor's Office) on the ADA regulations. He said if it is a commercial piece of property and follows those standards as well as the Agritourism, there will be a lot of people at play at this point. Mrs. Jenkins agreed and said it says here (source?): "*Visitors to Agritourism operations must take responsibility for their own safety. The law recognizes there is inherent dangers on farms. Visitors who wish to participate in an Agritourism experience must be aware of these dangers and be prepared paying attention to surface conditions, being cautious around animals, etc.*"

End of conversation on Agritourism.

2. Review of the Brunswick Hills Township Zoning Resolution

- **Tricia Murphy: Sec 303-10E. Conditionally Permitted Uses In Intermediate Regional Flood Plains** (Attachment 2)

Sec 303-10E

- E. **Conditionally Permitted Uses In Intermediate Regional Flood Plains - 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.** The following uses of land

~~and structures may be permitted by the application for and the issuance of a Conditional Zoning Permit by the Board of Zoning Appeals that the use pattern and the structures proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the flood plain or significantly change the volume or speed of the flow of water. Such design may be accomplished by the use of piles, stilts, cantilevering or other such construction methods which will place the desired building and structures above the determined flood level elevation in a safe manner that the foundation and structural supports of buildings and structures will withstand the anticipated level, volume, and velocity of the water and minimize impeding the natural free flow of the floodwater.~~

- ~~1. Utilities, roads, off street parking, structures and buildings for public or recreational uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.~~
- ~~2. Dumping or back filling in a manner and with material approved by the Board.~~

Mrs. Murphy stated she amended the language based on the recommendations by Andy Conrad, Medina County Engineer's office.

- **ZC Recommendation:** Amend Sec. 303-10E per Andy Conrad recommendation.

- **Matthew Mickas: Sec. 703**

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 said the jest of this is saying for any conditional zoning certificates at one year we will reissue them if we amend the zoning resolution. He said I talked to Brian Richter and basically he stated it's administrative thing on reissuing certificates if you change anything; so he said this is an administrative issue for the township to determine. Mr. Mickas stated he gave suggested language to him but basically what he said is the Zoning Commission should consider if this language is even necessary. Mr. Mickas stated he read it and it is about re-issuing zoning certificates and I think we can just strike it from the book; that's my recommendation. Mrs. Czyz stated a perfect example of that is the Madden Brothers who have a Conditional Zoning Permit with conditions and were required to renew once a year after review by the BZA. A couple of years ago the BZA removed the condition of appearing yearly before the board. Mr. Mickas stated Sec. 703 can be removed from the book because the township does not reissue Conditional Zoning Certificates. Mrs. Czyz agreed with the removal of this section.

- **ZC Recommendation:** Remove Sec. 703 Continuation of Existing Uses Conditionally Permissible Under this Resolution from the zoning book.

- **Matthew Mickas: Sec. 902-2 Submission of Applications**

- 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 **Fire Department and** Zoning Commission for review and **recommend recommendation of** approval, denial, or approval with specified conditions or modifications of the site development plan as submitted to the Board of Trustees 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~~ **Board of Trustees.**

Mr. Mickas stated he reviewed Sec. 902-2E and stated the ZC is a recommendation board and we recommend to the Board of Trustees. He said he did not see anything in this section that says the Board of Trustees must approve it so we should probably add another statement that the Board of Trustees approves it. Mrs. Murphy noted a correction in the last sentence and stated Zoning Commission should be replaced by **Board of Trustees**. Mr. Mickas said we should change “recommendation of” to **recommend**. Mrs. Czyz informed the board that the Fire Chief would like to review all site plans for subdivisions, etc. and suggested adding that for submission of applications. “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 **Fire Department and** Zoning Commission”. Mrs. Czyz stated the Fire Chief will review all plans. Mrs. Murphy asked if he can deny it. Mrs. Czyz stated he would be making recommendations for public safety; the road width; fire hydrant placement, etc. Mrs. Czyz stated I was reviewing a preliminary stage site plan recently and they wanted to put all of the mailboxes in one specific area and I suggested they place three cluster mailboxes throughout the street; however, the Post Office determines that so we have no say over that. The developer would like a mailbox in front of every parcel, but the Post Office will tell him where he will put them. Trustee Witthuhn asked if the board is concerned that by adding the Fire Department you’re giving them the authority to reject or approve a proposal, is that what you are saying? Mr. Mickas stated his concern is there is no public hearing. Mrs. Czyz said it’s just for review. Trustee Witthuhn stated maybe you can amend it to say “and send a copy to the Fire Department. Mr. Mickas asked the Zoning Inspector if she was talking about all applications or just site development plans. Mrs. Czyz said you (ZC) only get site development plans and maybe Agritourism, if you add it, and the Fire Department would review it anyway. Mrs. Czyz stated if they are going to have a building, then the Fire Department needs to look at it to make sure it meets fire code.

Mr. Mickas referenced **Sec. 904-4** and said it talks about site development plans and referral to the Board of Trustees.

➤ **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 recommend approve approval, denial or approval with specified conditions or modifications of the site development plan as submitted to the Board of Trustees. the site development plan as submitted, deny the application, or approve the site plan with specified conditions or modifications.~~

Mr. Mickas also referenced **Sec. 904-6** which says the Township Zoning Inspector may seek expert advice and wondered if it fits more in that area. Mrs. Czyz said I think it is in **902-2E and in 904-4**.

➤ **Sec. 904-6** Professional Assistance

The Zoning Inspector, with the authorization of the Township Trustees, may seek expert advice or require special studies to be made prior to acting on any site plan. The cost of securing such advice or studies shall be borne by the applicant, which sum shall be placed on deposit with the Township Trustees.

Mrs. Czyz stated you receive a site development plan after I’ve gone to the concept meeting and such, reviewed it, given it to the Fire Department, so when you receive it it’s a clean plan. Mrs. Jenkins asked if in the past we have always given the plans to the Fire Department. Mrs. Czyz stated yes. Trustee Witthuhn stated we are trying to make sure the Fire Department is involved with larger projects, commercial buildings and things like that. He said they may even attend the meetings so their input can be an extra resource for you as well. Mrs. Jenkins stated she thought the reference to the Fire Department would fit in Sec. 902-2E and 904-4.

Sec. 902-2 Submission of Applications

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 **and the Fire Department** for review and **recommend recommendation of** approval, denial, or approval with specified conditions or modifications of the site development plan as submitted to the Board of Trustees 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~~ **Board of Trustees**.

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

The Zoning Commission **and Fire Department** 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 recommend approve~~ approval, denial or approval with specified conditions or modifications of the site development plan as submitted to the Board of Trustees. ~~the site development plan as submitted, deny the application, or approve the site plan with specified conditions or modifications.~~

Mr. Mickas said his concern with 904-4 is that the Zoning Commission has forty-five (45) days to act so are we requiring the Fire Department to give us their feedback before 45 days? Mr. Mickas stated there regulations for us to respond but wasn't sure if we wanted to put regulations on the Fire Department to respond. Mrs. Czyz said yes you do and I need them to give me feedback pretty much in one week.

➤ **Action Item:** Mr. Mickas will modify language in Sec. 902-2E and Sec. 904-4.

Mrs. Jenkins referenced **Sec. 904-3**. Mrs. Murphy noted two amendments in Sec. 904-3: first sentence “to the Zoning Commission for review and comment” should be “to the Zoning Commission for review and **recommendation**”. Last sentence make “Application” plural. Secretary Milanko asked if the board wanted to keep the language consistent by adding approval, denial or approval with specified conditions or modifications. The board agreed.

➤ **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~~ **recommendation for approval, denial or approval with specified conditions or modifications**. Applications 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.

➤ **Action item:** check and confirm language in 904-3 at next meeting.

➤ **Tricia Murphy: ORC:** Agriculture/Equine/ Equestrian Activities (remove Equestrian Activities). Mrs. Murphy noted proposed text amendments below with reference to equestrian activities.

➤ **Open Space Conservation District; Sec. 401-2, B#2;**

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.

➤ **RR; Sec. 402-2, B#1**

1. Government 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.

➤ **R-1; Sec. 403-2, B#3**

3. Governmentally 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 subject to Subsection 804-17.

➤ **R-2; Sec. 404-2, B#3**

3. Governmentally 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.

➤ **R-3; Sec. 405-2, B#5**

- a. Governmentally 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.

➤ **Specific Standards for Conditional Uses; 804-17**

Sec. 804-17 Government 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

➤ **ZC Recommendation:** Remove “equestrian activities” in all sections in zoning book.

➤ **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**)

Sec. 406-7 (B#1a) Application for PMUO

A. 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.

The board discussed “at least thirty (30) to forty-five (45) days” and asked if “at least” should be removed. The board decided not to remove “at least” language.

➤ **ZC Recommendation:** accept modifications made to Sec. 4067-7 (B#1a) Application for PMUO. Leave “at least” in language.

➤ **Sec. 406-7, A.(1) PMUO Submission Requirements**

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:

➤ **ZC Recommendation:** accept modifications made to Sec. 406-7, A.(1) PMUO Submission Requirements as amended above.

➤ **Sec. 411-5 (B) Conservation Development**

B. Application and General Development Plan Submission

Subsequent to the Pre-application Meeting with the Zoning Commission, each applicant for a Conservation Development Overlay District shall submit an application for General Development Plan approval to the Township Zoning Inspector. Applications shall be

made at least thirty (30) to forty-five (45) ~~ten (10)~~ days in advance of the meeting at which they are to be considered, shall include such fees and deposits as may be established by the Township Trustees, and shall include fifteen (15) copies of the following minimum information:

- **ZC Recommendation:** accept modifications to Sec. 411-5 (B) Conservation Development.

-
- **Trica Murphy: Gender Neutral Changes**
 - **Sec. 411-6**

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.

ADDITIONAL GENDER NEUTRAL CHANGES

- **Article II Definitions**

- **Personal Care Services:** Services including but not limited to the following:

1. Assisting residents with activities of daily living, as by reminding them to engage in personal hygiene and other self-care activities and, when necessary, observing them while they attend to such activities to ensure their health, safety, and welfare.
2. Supervising residents who need assistance in administering their own medication, as by reminding a resident to take medication, taking the medicine to ~~him~~ the resident, opening containers, reading labels to ~~him~~ the resident, checking the self-administered dosage against the label, and storing the medication.

- **Plainly Audible:** Any sound that can be detected by the Township Zoning Inspector or other enforcement official using ~~his or her~~ their unaided hearing faculties.

- **Sec. 303-9 Driveways**

- B. Anytime a driveway exceeds two hundred (200) feet, it must have an unobstructed width of at least ten (10) feet and a height clearance of at least sixteen (16) feet. There must be an area of at least fifty (50) feet of unobstructed clear space off the driveway not further than two hundred (200) feet from the principal building to allow for an emergency vehicle to be turned around. Driveways that exceed two hundred (200) feet shall include a passing lane with a minimum additional ten (10) feet in driveway width and not less than fifty (50) feet in length to be located at the starting point of each and every additional three hundred (300) feet in driveway length. Driveways must be located a minimum of ten (10) feet from property side line. A copy of each Application for a Zoning Certificate shall be forwarded to the Fire Chief for ~~his~~ review.

➤ **303-10 C**

- C. Interpretation of District Boundaries - The boundaries of the Intermediate Regional Flood Plain and the Standard Project Flood Plain shall be determined by scaling distances on the map. Where interpretation is needed as to the exact location of the boundaries, the Zoning Commission shall make the necessary interpretation. Any person contesting the location of a district boundary shall be given a reasonable opportunity to present **his their** case to the Zoning Commission and to submit **his their** own technical evidence if **he such person** so desires.

➤ **402-5 E Rear Lot Development**

E. Application for a Zoning Certificate for Rear Lot

Application procedures as described in Section 901 shall be followed for rear lots with the following additions:

1. A copy of each application for a rear lot Zoning Certificate shall be forwarded to the Fire Chief for **his** review. The Zoning Appeals Board shall consider the Chief's recommendation in reaching their determination upon the application.

➤ **Sec. 406-1 Purpose**

The purpose of this Planned Mixed Use Overlay (PMUO) is to recognize and accommodate, through a unified plan, creative and imaginative mixed-use developments that enable expanded economic development opportunities in the township in ways that provide for a proper transition from the mixed-use development to any adjacent residential uses. These mixed-use developments shall include a mix of commercial and residential uses with a flexible arrangement and spacing of buildings. These regulations are established in accordance with Section 519.021(C) of the Ohio Revised Code, and provide for a mechanism whereby a property owner can request application of the Overlay District to **the property owner's his or her** parcel(s) for the purpose of constructing a Planned Mixed-Use Development (PMUD).

➤ **Sec 411-5 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 the** 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.

➤ **SEC. 507 SUPPLEMENTARY REGULATIONS**

- D. Identification - All signs must carry the name of the advertising agency, the erector, or **his an authorized** agent.

➤ **Sec. 802-1 Submission**

Applications shall be submitted to the Zoning Inspector on special forms provided for that purpose. Each application shall include, at a minimum, the following:

- A. The special application form completed and signed by the applicant. Where the applicant is not the property owner, a signed statement by the property owner authorizing the applicant to act as ~~his or her~~ **the property owner's** agent in seeking the Conditional Zoning Certificate.

➤ **Sec. 804-2 Mining; Soil Removal, Or Extracting Operations**

2. The area being mined or excavated shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty (50) feet to the top or bottom of any slope. No sand or gravel shall be removed or stored or overburden stored within one hundred (100) feet of any lot line not owned or controlled by the developer or operator of said business or ~~his~~ **the** agent **of the developer or operator of said business**, nor shall such mineral extraction business be conducted closer to any lot line or street so that areas continuous and adjacent thereto do to have adequate lateral support.

➤ **Sec. 903-2 Review and Issuance**

It shall be the responsibility of the operator of each non-residential use to notify the Zoning Inspector prior to occupying any building or premises or commencing any such use and to request a zoning compliance inspection. The **Township** Zoning Inspector shall inspect the site for compliance with the provisions of the Zoning Certificate and approved site plan, if any, and all of the applicable provisions this Zoning Resolution. Within ten (10) days of said inspection, the **Township** Zoning Inspector shall issue a Zoning Compliance Certificate identifying the specific use authorized on the premises or notify the applicant in writing of ~~his~~ **the** denial and findings of violations and/or deficiencies.

➤ **Sec. 1001-1 Composition, Appointment, and Removal**

There is hereby created a Board of Zoning Appeals consisting of five (5) members appointed by the Trustees. The members shall be residents of the unincorporated area of Brunswick Hills Township. Each member shall be appointed for a period of five (5) years and terms shall be so arranged that the term of one member shall expire each year. Each member shall serve until ~~his~~ **a** successor is appointed and qualified. Members shall be removed for non-performance of duty, misconduct in office, or other cause by the Trustees, upon written charges being filed with the Trustees, after public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail, or by leaving such copy at ~~his~~ **the member's** usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by Trustees and shall be for the unexpired term.

➤ **Sec. 1003-4 Decisions**

Every decision of the Board of Zoning Appeals shall be by Resolution, each of which shall contain a full record of the findings of the Board of Zoning Appeals in the particular case. Each such Resolution shall be filed in the office of the Board of Zoning Appeals together with all documents pertaining thereto. In granting an approval the Board of Zoning Appeals may impose such conditions and/or stipulations as it may deem necessary to protect the public health,

safety, welfare and in furtherance of the purpose and intent of this Zoning Resolution. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the **Township** Zoning Inspector. Such decision shall be binding upon, **and observed by, the Township** Zoning Inspector ~~and observed by him~~ and **he the Township Zoning Inspector** shall incorporate the terms and conditions of the same in the Zoning Certificate or Conditional Zoning Certificate to the applicant or appellant, whenever such permit is authorized by the Board.

➤ **Sec. 1004** **APPEALS**

Appeals to the Board of Zoning Appeals may be taken by any person, firm, or corporation, or by an officer, board, or department of Brunswick Hills Township, deeming **himself themselves** or itself to be adversely affected by the decision of the Zoning Inspector or Zoning Commission respecting the interpretation of this Resolution. Appeals shall be made no later than twenty (20) calendar days after the date of the grievance. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative officer whose decision is appealed from shall certify to the Board of Zoning Appeals after notice of appeal has been filed, that by reason of facts stated in the Certificate, a stay would, in **his the administrative officer's** opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by the Board of Zoning Appeals or by a court having lawful jurisdiction.

➤ **SEC. 1103** **CONTENTS OF APPLICATION FOR AMENDMENT TO ZONING RESOLUTION**

A. All applications for a zoning amendment shall include:

1. Evidence that the existing Zoning Resolution is unreasonable with respect to the particular property, and it deprives the property owner of **his the property owner's** lawful and reasonable use of the land. For the purposes of this Zoning Resolution, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning.

➤ **ZC Recommendation:** Accept proposed gender neutral amendments.

[End of Discussion on Zoning Resolution Text Amendments]

Additional Business:

1. **Fire Department Request:** Chair Jenkins stated the Zoning Inspector received a request from the Fire Chief Anthony Strazzo to consider adding language to the Zoning Code regarding fencing around bodies of water (commercial). Board to review sample language from Plain Township (Stark County) provided by Chief Strazzo. Chair Jenkins asked the Secretary to add this item to the March 7, 2019 ZC agenda.

2. **Conservation Development Overlay Follow Up- Matthew Mickas**

Mr. Mickas stated he reached out to Brian Richter (Prosecutor's Office) on two items from our Conservation Development Overlay meeting. (1) "Working Days" defined. Mr. Mickas stated "working days" is listed numerous places in our book and we wanted to define "working days". Mr. Mickas stated he interpreted working days as Federal workdays, that does not include Saturdays or Sundays, or public legal holidays. Mr. Richter believed that interpretation is correct, so when we talk working days, it's Monday through Friday minus public holidays. Mr. Richter did state we do have a few areas where it is listed differently in our book, i.e. "days" vs. "working days". Mrs. Murphy asked if we need to change it to "working days" in our book. Mr. Mickas stated Mr. Richter did not make a recommendation on that. (2) Public Hearing required for Conservation Development Overlay. Mr. Richter said all meetings are public hearings; all Trustee meetings are public hearings, so for the Conservation Development Overlay there would have to be a public hearing.

Public Comment: None

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

Motion to Adjourn: Mrs. Murphy made a motion to adjourn. Mrs. Porter seconds.

Roll Call: All in favor to adjourn. Meeting officially adjourned at 8:35 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Sandra Jenkins, Zoning Commission Chair

Date