

**Brunswick Hills Township
Zoning Commission Public Hearing Meeting
April 4, 2019**

PUBLIC HEARING MEETING: Vice Chair Mickas called the Zoning Commission Public Hearing Meeting to order at 7:05 pm. A roll call of the board was executed.

- **Board Members in Attendance:** Matthew Mickas (Vice Chair), Barb Porter; Trica Murphy, Linda Kijek
- **Alternate Board Members in Attendance:** Patti Wettermann
- **Others in Attendance:** Trustee John Witthuhn, Zoning Liaison; Evelyn Czyz, Zoning Inspector; Mary Jean Milanko, Zoning Secretary; Fire Chief Anthony Strazzo
- **Members Not in Attendance:** Sandra Jenkins, Chair (Excused Absence)

Swearing in of New ZC Board Member: Trustee Witthuhn swore in Patti Wettermann as an alternate board member of the BHT Zoning Commission for 2019. Mrs. Wettermann was seated to represent a full board in the absence of Mrs. Jenkins.

Public Hearing – Agritourism

Proposed Text Amendments to Add Sec. 303-14 Agritourism, Definitions, and Regulations to the Brunswick Hills Township Zoning Resolution.

Vice Chair Mickas stated the purpose of the public hearing is to review the proposed text amendments that the board is looking to add to Sec. 303-14 on Agritourism definitions and regulations. Mr. Mickas stated we just received the letter back from Brian Richter, Medina County Prosecutor's Office tonight and gave the board a few minutes to review Mr. Richter's comments on Agritourism. Mr. Mickas summarized there is a concern from the prosecutor on some of the language we want to put in that cannot be enforceable. Mr. Mickas asked the board to take time to review the letter in further detail and he will reach out to Mr. Richter for more clarity. He said obviously we don't want to put the township in a bad position to not be able to enforce this, but we also want to be able to put something in the book to help back the Zoning Inspector. Secretary Milanko noted that the Medina County Planning Commission will review the proposed text amendments at their May 1, 2019 meeting. Vice Chair Mickas opened the floor to public comment.

Public Input/Comment

1. **David Goodyear, 691 Pearl Road, Brunswick Hills, OH 44212** stated he has a problem with this Agritourism thing. He said I am not going to get a permit because I am already in the business, but for a person that opens up a new business and is going to build a gas station in town and then you are going to tell him he has to tell you how much money he made the year before in the gas station that he hasn't even built yet? Mr. Goodyear stated it says in here that anyone with Agritourism has to prove that they made over \$2,500. He said that is copied off the CAUV, but how can you put that into zoning? He said and then to tell me or anyone else who has a business that we can't build over 35 feet – that's not going to cut it. He said are you going to tell me I can't put a bank barn on the farm and use it for my cattle, horses or anything else? He said you are all my neighbors whether you like it or not and I hate to see us go to court over something silly like this. I want to put in a bank barn and you are worried about safety? He said we had an aerial fire truck that would have covered it but the township got rid of it so you can't use that as a 35 ft. height on a barn.

Mr. Goodyear said I don't know if you've talked to anybody who has an Agritourism business around here, but I sure would like to talk to somebody ahead of time because to me this isn't right in any form. Who is going to come in and worry about me having outhouses for the public if I'm growing and selling berries as a pick your own unit. Who is going to enforce that? Are you going to throw that onto Evelyn (Zoning Inspector) to be the bad person on something that you probably can't enforce?

Mr. Mickas responded by saying the Prosecutor's Office is stating we cannot enforce certain rules in this language so that is something that we need to review; and that is part of the process to make sure the Prosecutor reviews this before we put this into law. He said regarding the \$2,500, there are rules within the ORC (Ohio Revised Code) that state certain restrictions to have Agritourism, which is what we based the law on. He said we take that into account and make sure that it matches what we put in our regulations. The 35 feet is based on public health and safety if we don't have an aerial truck able to hit the 35 feet. Mr. Goodyear asked how it is a public health concern with the building being over 35 feet on a farm. Mr. Mickas said the problem is with the Agritourism with the sense you will have customers within the barn. Mr. Goodyear said maybe. Mr. Mickas said we will reach out to verify all of this and see if it is a concern from the fire department and police, but that is one of our concerns. He said there is no control over what structures you may be able to use for Agritourism. He said the public health is something as a township we are able to regulate. The ORC really restricts the regulation, which is good for farms that are trying to make money and we want to encourage that, but we want to make sure public health and safety is part of that.

Mr. Goodyear asked what this meeting is for tonight seeing as you can't vote on it, just a hearing? Mr. Mickas stated we will have to continue this public hearing because we have to have the information back from the Prosecutor's Office, but we are waiting for the Planning Commission report to review. Mr. Mickas said we will continue the hearing to next month where we will accept it or deny it. Mr. Mickas stated we are on the Planning Commission agenda for May 1st and we have to wait for their staff report on recommendations and comments to review. Mr. Mickas said following the review of the Prosecutor's comments and the Planning Commission recommendation, we will review the feedback and then we can vote to amend and approve, deny, go back to the drawing board or go ahead and approve as it is.

2. **Bill Thorne, Attorney.** Mr. Thorne stated he is here on behalf of Mapleside, who does have an Agritourism business within the township. Mr. Thorne stated he reviewed the letter from the Prosecutor and said it covers 90% of the things I had problems with on your language. He said there are a few other things though that they didn't pick up on that I think are a problem. Mr. Thorne said you have a provision in Sec. 303-14 (B) (c) that requires how a parking lot shall be built and maintained and that is one of the things that the Prosecutor points out that you cannot control. He said you can require that they have a size – what it says is that size of parking area that may be required you can control it. It specifically goes on to say that you cannot control how they are built or how they are improved including drainage, base, etc.

Sec. 303-14 Agritourism

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 Section 601, except as required by the Ohio Revised Code.

Mr. Thorne then referenced 303-14 (B) (e)

e. The agritourism provider shall identify the educational, entertainment, historical, cultural and/or recreational relationship of the agritourism operation to the existing agricultural use of the property and the surrounding agricultural community in general.

Mr. Thorne said the first part of that is consistent with the definition, however, you have added the phrase "*and the surrounding agricultural community in general.*" and that is not part of the statute. The statute says you can have an agritourism business on a farm. He said it doesn't say it has to be in harmony with any of the surrounding area at all, it's just got to meet the definition for operation on that farm.

Mr. Thorne stated the other provisions are under 303-14 (C) that I have a concern with, which aren't raised by the Prosecutor, but would be (C) (b, c, d and f):

C. Application for Agritourism Use

Agritourism use is approved through the submission of application, General Development Plans and Final Development Plans in accordance with the provisions of Section 902 hereof and should include the following:

- b. proposed buildings and structures;
- c. building/structure spacing;
- d. setbacks;
- f. drives, common drives and all points of ingress and/or egress;

Mr. Thorne said you are wanting them to put on the site plan proposed buildings and structures and again, what the law says you can do is you can require certain things, but unless you have a regulation controlling it, it seems like a waste of time. He said Evelyn will get the site plan that will show where a building or a structure is, but if there is no regulation as to how far it has to be off, how far does it have to be between them, how far the setback is, then there is nothing in here that gives her any authority to deny it. So that's a problem with the setback provision, spacing, and buildings and structures. He said you have no regulation on it that she can apply to the site plan to say yes or no. An effort in futility for both sides at that point; them having to go through the expense of having a site plan with it on it and her trying to review it, but there isn't a regulation on it.

That statute says you can regulate those things, but you have to have a regulation and said how far do you want a proposed agritourism building to be setback and why because, as you said, it has to be based on safety or health and you've got to be able to articulate that if you are challenged. He said so when you look at those provisions, I think that is what you need to look at. Mr. Thorne stated I think your approach is a good approach, better than others that I've seen, and I think it is the way you ought to go and develop some concrete regulations for your Zoning Inspector. He said if an applicant can't meet the regulations then they have to go to the Board of Zoning Appeals. He said the way you are approaching it is good and again the site plan has to show building setbacks, spacing, etc. as it doesn't do anything unless you have a requirement of what those are. He summarized by saying consideration of my comments and that of the Prosecutor should help in making your modifications. End of public comment.

Motion to Continue the Public Hearing on Proposed Agritourism Text Amendments

Vice Chair Mickas stated we received the letter from the Prosecutor tonight and we are waiting for the report from the Medina County Planning Commission, therefore, I'll entertain a motion to continue the public hearing to Thursday, May 2, 2019 at 7:00 p.m. **Motion:** Mrs. Wetterman made a motion due to furthering research to postpone the submission until after meeting and continue the public hearing to Thursday, May 2, 2019 at 7:00 p.m. Mrs. Porter seconds the motion. **Roll Call:** Mrs. Kijek-yes; Mrs. Wetterman-yes; Mrs. Murphy-yes; Mrs. Porter-yes; Mr. Mickas-yes.

Vice Chair Mickas reconfirmed the continued public hearing date of May 2, 2019 at 7:00 p.m. to the audience.

Motion to Adjourn the Public Hearing- **Motion:** Mrs. Kijek made a motion to adjourn the public hearing meeting. Mrs. Porter seconds the motion. **Roll Call:** Mrs. Porter-yes; Mrs. Kijek-yes; Mrs. Wetterman-yes; Mrs. Murphy-yes; Mr. Mickas-yes. Meeting officially adjourned at 7:24 p.m.

Respectfully Submitted,

Mary Jean Milanko, Secretary



Zoning Commission

5/2/2019

Date