

**Brunswick Hills Township
Zoning Commission
Regular Meeting Minutes – January 9, 2020**

CALL MEETING TO ORDER

Chair Murphy called the Brunswick Hills Township Zoning Commission regular meeting to order at 7:15 p.m. A roll call of the board executed.

- **Board Members in Attendance:** Barb Porter, Trica Murphy,
- **Alternate Board Members in Attendance:** Patti Wetterman; Sy Mougrabi
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector; Wes Humphrey, Assistant Zoning Inspector; Trustee Liaison Christina Kusnerak

Alternate Board Members Patti Wetterman and Sy Mougrabi were seated to represent a board of four (4) members in attendance.

SWEARING IN OF BOARD MEMBER: Trustee Christina Kusnerak swore in Sy Mougrabi.

APPROVAL OF THE MINUTES

1. December 5, 2019 Continued Public Hearing Minutes

Motion to Approve the Continued Public Hearing Minutes: Mrs. Wetterman made a motion to accept the December 5, 2019 Continued Public Hearing Minutes as written. Mr. Mougrabi seconds.

Roll Call: Mrs. Wetterman-yes; Mr. Mougrabi-yes; Mrs. Porter-yes; Mrs. Murphy-yes. Motion carries to approve the minutes.

2. December 5, 2019 Regular Meeting Minutes

Edit on the minutes: Mrs. Porter noted an edit on page 2, second paragraph on Motion to Postpone Right-of-Way and Setbacks. After motion where it says Mr. Mougrabi, it should say “Mr. Mougrabi seconds.” Mrs. Porter noted page 12 under bullet #22, second sentence she noted the word elevate should be “alleviate”. Mrs. Murphy noted an edit on page 12, first sentence: Mrs. Murphy noted there “we comments” should read there “were comments”.

Motion to Approve the December 5, 2019 Regular Meeting Minutes:

Motion: Mrs. Porter made a motion to approve the December t, 2019 Regular Meeting Minutes of the Brunswick Hills Township Zoning Commission. Mrs. Wetterman seconds the motion. **Roll Call:** Mrs. Porter-yes; Mrs. Wetterman-yes; Mr. Mougrabi-yes; Mrs. Murphy-yes. Motion carries.

CONTINUED BUSINESS

1. Right-of-Way and Setbacks

Chair Murphy asked the board if they had any comments on this or would they like to postpone until the next meeting. Mrs. Wetterman stated we have not had time to discuss or review this. Chair Murphy suggested the board table this to the next meeting.

Mr. Humphrey, Assistant Zoning Inspector asked what is the concern with Right-of-Ways and Setbacks? Chair Murphy stated the board was asked to look at right-of-way’s and setbacks along Pearl Road and define setbacks and where the setback point starts from to update the Zoning Resolution. Mr. Humphrey said you can put it under definitions and define it that way and that would clarify it throughout the document.

Motion to Postpone Right-of-Way and Setbacks: Motion: Mrs. Wetterman made a motion to table Right-of-Way and Setbacks until the February 6, 2020 meeting. Mrs. Porter seconds. **Roll Call:** Mr. Mougrabi-yes; Mrs. Wetterman-yes; Mrs. Porter-yes; Mrs. Murphy-yes.

CONTINUED BUSINESS: Continued Public Hearing

2. Drees Homes, Brambleside Commons proposed Subdivision Preliminary Plan for 406 Substation Road; PP# 001-02A-11-013-013 and PP#001-02A-10-007; R-1 Zoning District. 41.52- acre site proposing 39 sublots and 7.7 acres of open space.

- Review Medina County Planning Commission December 4, 2019 Staff Report
- Recommendation to the Board of Trustees for their Action.

Note: Evelyn Czyz, Zoning Inspector and Wes Humphrey, Assistant Zoning Inspector, recused themselves from the meeting regarding Drees Homes.

Discussion on Existing Oil and Gas Wells on the Property

Chair Murphy stated the board reviewed the December 4, 2019 Medina County Planning Commission staff report and asked the board if there was any discussion or questions on the report. Mr. Mougrabi referenced the oil wells on the property that they say are empty and not pumping any gas or oil and asked is that true? Chair Murphy said we received a legal document today regarding the wells on the property, but I don't know that this board can determine if they are still pumping or not pumping or how long they have been. Chair Murphy said we did receive letters from attorneys for both the applicant and the well side of it. Mrs. Porter said I believe the letter from Richard Law Office, LLC states the well is still operational and producing oil and gas. Mrs. Wetterman suggested the legal documents be forwarded to our attorney for a legal opinion. The other board members agreed that the township should get a legal opinion from our attorney.

Chair Murphy called the applicant to the podium.

1. Thomas Sutcliff, Land Acquisition Manager for Drees Homes, 6860 W. Snowville Road, Brecksville, OH. Mr. Sutcliff referenced the zoning meeting notice board on the wall and noted that it says "informal concept plan" for Drees Homes and wanted to clarify that the "preliminary plan" is what we are presenting at this continued meeting. Mr. Sutcliff provided a recap and said Drees Homes is coming in for the preliminary plan approval and it is the first in many steps. He said the well issue, the engineering and anything not related to zoning, the board will have plenty of opportunity to voice your concerns. Mr. Sutcliffe stated we have received a couple of opinions about the well and that is a civil issue between the land owner and the well company. He said there are a couple of letters going around but nothing has been presented to Drees Homes from the well owner or their lawyer because we are not involved. He said our plat for the subdivision does not contain the well, so it is a lease issue and they are arguing about what the obligations are. Mr. Sutcliffe said he did have the Department of Natural Resources ODNR results of the well for the last five years and it has not produced oil or gas in five years; nor have there been any royalties paid in five years. He said in Ohio it is three years and they consider it for forfeiture, but that is not related to our discussion on the preliminary plan tonight.

Mr. Sutcliffe reiterated that we are compliant in all aspects of the zoning Sec. 303 Regulations for All Zoning; Sec. 403 R-1 Residential; Sec. 509 Maintenance to the HOA documents; Sec. 901 Administrative Roles; Sec. 904 Site Revision Plans; 11.2(A) , 11.2(7), 11.4 (A-M); and we've provided every one of the items on the Zoning Inspector's checklist for review. He said knowing that we've checked every box for the preliminary plan and it becomes a "By Right" form of approval because everything is there.

Mr. Sutcliffe said the residents complained at the last meeting about the wetlands and we far exceed any wetland and open-air requirements. He said we are bringing onboard a company called West Creek Conservancy that will take over the common areas that are being preserved as conservation zones. He said many Homeowners Associations are notorious for not enforcing their own bylaws on protecting the open area, so to solve that, Drees hired a conservancy group. He said there was also concern by the neighbors on maintenance of the subdivision and the storm water and we pointed out that in Ohio the ORC requires that the HOA be bonded to that and if failure to comply, the county can come in and assess the homeowners of the HOA. Mr. Sutcliffe said some of the people in attendance last month adjacent to the property on Brambleside expressed an interest in screening and water flow issues. He said our water goes into the already dedicated conservation area to the north of us, but we are willing to work with them during the engineering phase with some natural fencing of hard trees, shrubs, etc. Mr. Sutcliffe said the traffic issues will come up during the engineering phase and if they require a traffic study, we will perform it. Mr. Sutcliffe stated every submittal that the county is requiring we will duplicate our responses to the Zoning Inspector and Zoning Secretary even though we are not required to. Mr. Sutcliffe stated he is aware of the disconnect and timing of the Medina County Planning Commission meetings and the Zoning Commission meetings.

Mr. Sutcliffe stated the price of homes came up and our homes will start in the \$370,000's and up, plus extras, so the neighbors don't have to worry about depreciation of their homes. He said there were questions on lot sizes and our lot sizes are the same as theirs, which follows the R-1 Zoning regulations. He said someone brought up the reservation strip (spite strips) and we told them we already had a legal recommendation and we will financially compensate those individuals with reservations strips even though it is not required. Mr. Sutcliffe stated he brought Travis Crane, TCG Engineering, our engineer for this project to answer any engineering questions.

Questions/Discussion by the Board

Mrs. Murphy stated she has a question about acreage and said the Planning Commission Report says it is about 41.52 acres and on the application, it has a Permanent Parcel number but that only has 32.75 acres. Mr. Sutcliffe put the large Preliminary Plan on a display for the board and audience. Mr. Sutcliffe pointed to the boxed area and said the dark shaded gray area is not part of the subdivision. That's being created and we are not buying that parcel because the owner wants to keep that. He said that was part of our negotiations as he wanted to keep a large parcel for himself in the township. Mr. Sutcliffe stated he wanted to keep the oil wells and as much of the wetlands and the green space as he could so, we sacrificed a number of lots to give to him that. Mr. Sutcliffe stated he thinks that is the acreage difference. Chair Murphy asked if that is one parcel or two parcels. Mr. Sutcliffe stated what we are developing is the light gray and white areas. He said the owner wants to keep the wells, so we created a pathway access to the wells on the property he owns.

Chair Murphy stated on the application submitted to Brunswick Hills Township there is one parcel number listed and when I look at the Planning Commission report, there are two parcels. Mr. Sutcliffe stated they are two parcels today, but when we do the development, we will do the parcel split. Mrs. Murphy asked if the parcel that is narrower is part of this application. Mr. Sutcliffe said yes, it is. Mrs. Murphy noted there is only one parcel number on your application to the township. Secretary Milanko confirmed that Kuchta-Carrie Farms owns two parcels. Mr. Sutcliffe said it is showing as two lots on your zoning map. Mr. Sutcliffe stated he apologized that there is only one parcel number listed and if it was an oversight then he would be happy to update the application. Mrs. Murphy asked if he has done any lot splits yet. Mr. Sutcliffe said we can't do a thing until we come back to you in six months.

Mrs. Porter noted the aerial photograph provided in the packet and referenced subplot #29 on the northern end and said it appears on the photo to be completely wetlands. She said I know you won't know this until

the engineering is done, but it doesn't appear that there is a building envelope on that subplot at all. She said if it does go through the County Engineering and there is not a building envelope for that lot, you would not be able to build on it, correct? Mr. Sutcliffe stated that is correct and we still have to have the Ohio EPA and the Army Corps of Engineering involved. Mr. Sutcliffe said when that comes back, we feel there may be a number of lots that we won't be able to build on but we platted them and then send it to the Army Corps of Engineers. Mrs. Porter said she is also concerned about sublots #38 and #39 because you have to cross both riparian and wetlands. Mr. Sutcliffe said there are three sublots that we know are probably not going to happen; sublots #29, # 39, #3.

PUBLIC COMMENT

- 1. Evelyn Czyz, 453 Sugar Bush Circle, Brunswick Hills.** Mrs. Czyz said on the Preliminary Plan that was submitted on September 30, 2019 states on the map that a lot split parcel 12.6 acres, parcel to be created with lot split prior to major subdivision. She stated she did not believe the zoning office has any record of this parcel being split. She asked if the parcel has been split that the information be forwarded to the zoning office for the record. Mrs. Murphy said I believe he said there has not been any lot splits. Mrs. Czyz said on the maps there are two parcels so how do you create the two parcels. Mrs. Murphy referred to the second parcel on the map to the left and said the lot split will be done prior to the major subdivision so that is still pending. Mrs. Czyz stated there was a Variance granted by Medina County Planning Services and the Zoning office has not received information on it and asked Mr. Sutcliffe to forward a copy of the variance.
- 2. Patricia Lombardo, 419 Brambleside, Brunswick Hills.** Mrs. Lombardo referenced the dark gray area on the map that the owner plans to keep and asked if he will keep the trees? Is he clearing that? She wanted to know what is going to happen with that. Mrs. Murphy and the board members said we don't know. Mrs. Lombardo said because of the retention basin that is in our backyard, accessibility to that from the homeowners that would be purchasing in Brambleside Commons would be through my yard. What are our rights to keep our back yards private? She said we have people coming through our yard to go fishing and so this opens that up even more and our privacy will be taken away from us because of that green space area. Mrs. Lombardo said the Police say we can't say anything to them and they can just come through there. She said if the homeowners of Brambleside Commons are trespassing through that gentleman's property (dark gray area on map) to get to our lake (retention basin) then what are we able to do about that? She referred to the map and their lake and said the people who purchase in Brambleside would be trespassing on our property to get to the retention area. She stated the homeowners who live around the retention basin pay over \$300 out of our own pockets every year to treat that water because of the algae and the smell. She said when we purchased the property, we were told there was a homeowner's association and there was not, so my concern is that we are paying to have this water protected and we are now going to be adding more into that point. Mrs. Lombardo asked who is responsible for that water that we actually pay to have treated.
- 3. Ron Emhoff, 443 Brambleside, Brunswick Hills.** Mr. Emhoff said one of my biggest concerns, and that of the neighbors, is their ground water. He said it is a wet area back there and referred to the map. He said we have a retention basin and showed what area it takes care of and said the whole development feeds into that retention basin. He said when we get a good rain it's like a river and the area where he wants to build is always wet. He said if you go over to Marks Road you won't see any big creeks coming out of there, but if you go over to this area where there is another small lake or retention area it's wet and also feeding water. He said I called the Army Engineers and water planning but I couldn't get anyone. He said this area needs to be looked at very hard to make sure it can take all of this water because if he starts building it up it will all come back down on us three houses away.

Additional Questions by the Board

Mr. Mougrabi asked Mr. Sutcliffe how are you going to move all of that water? Mr. Sutcliffe said we won't be moving any water towards them, the water flows northeast and referred the question to his engineer.

4. Travis Crane, Managing Partner, TCG Engineering, 1310 Sharon Copley Road, Sharon Center, Ohio. (Engineer for Drees Homes). Mr. Crane said every project we do has water coming on to it and then leaving and we have a responsibility in the engineering process to make sure we are not backing water up on someone else's property. He said we also have a responsibility to make sure the water discharging downstream does not exceed what was happening predevelopment. Mr. Crane said the County Engineer will review our calculations and our plans. Mr. Mougrabi stated the neighbor said the area floods and I think it does because I've been back there before and I don't understand where the water is going to go. Mr. Mougrabi asked what the engineering plan is to move the water. Mr. Crane said there will be storm sewers with catch basins to collect the surface water and it will be collected in pipes and the pipes will then be directed to storm water management facilities either wet or dry detention or retention basins with a flow rate control downstream. Mr. Mougrabi asked if those are shown on this plan. Mr. Crane said we are showing some rear yard basins and that is something that will be designed and detailed in engineering. He said we are also showing storm water management facilities on the preliminary plan. Mr. Mougrabi asked if there are any mounds behind the homes? Mr. Crane said we are not showing that now.

Mr. Mougrabi referenced subplot #3 and said he drives by it every day and there is always a huge puddle of water that sits there and it doesn't go anywhere. Mr. Mougrabi questioned additional lots (sublots #1, #2 and #3) and asked about the water. Mr. Crane said there is a culvert there. Mr. Mougrabi said so you would put a storm basin in this area. Mr. Crane said not around subplot #3 on Substation Road. Mr. Mougrabi wanted to know how they are moving the water when subplot #2 is blocking or you can't even build on it. Thom Sutcliffe (Drees Homes) responded and said if Mr. Crane submits his calculations and they say we can't do it, then we can't do it.

Chair Murphy asked Mr. Sutcliffe to forward the information on the variance granted by Medina County Planning Commission to the Zoning Office and to provide a copy for the Zoning Commission.

5. Patricia Lombardo, 419 Brambleside Drive returned to the podium. Mrs. Lombardo referred her question to Thom Sutcliffe (Drees Homes) and stated you said your company would maintain the property for two years and she wondered if that is after the last home is built or after the development starts? Mr. Sutcliffe said as we sell to individual property owners, their parcels will be their responsibility to maintain, not ours. He said the storm water facilities and the common areas will become the Homeowners Association responsibility. He said for the streets and the right-of-way's, we are required by the Ohio Revised Code and county to put a two-year maintenance bond on that. Mrs. Porter asked if the two-year maintenance would also include the access streets like Lockwood for Brambleside Commons? Mr. Sutcliffe said we did a subdivision in Wadsworth recently and we did a pre and post street evaluation with TCG Engineering and if there were changes, we resolved those changes.

Mr. Sutcliffe said one of the residents said he doesn't see water from our side flowing over Marks Road when he drives by and that is because the water flows to the northeast. He said there were comments about the mounds to the south us but we will not be blocking them in.

Discussion by the Board

Chair Murphy asked how the board would like to proceed. Mrs. Wetterman said with the promise that he will copy us on everything that is discussed, I can see no reason for not approving it. Mrs. Murphy referenced the legal letters the board received. Mrs. Sutcliffe said that is a civil issue between two parties

and is a separate issue from the board's administrative duty with the preliminary plan. He said you are a recommendation board, not a deciding board, so you make the recommendation to the Trustees will make the decision.

Mrs. Murphy stated she would like to see a legal opinion from our attorney on the letters from Richard Law Office LLC and Sammon & Bolmeyer before we vote. Mr. Mougrabi said those are regarding the oil wells and they are on a separate lot. Mrs. Murphy said no, there is one parcel here for consideration and that is the parcel with the wells on it. Mr. Sutcliffe stated it is a subdivision approval and we knew the wells were there but it is not part of the subdivision, those are in the shaded dark gray area on the map. Mrs. Porter said her understanding on the letter from Richard Law LLC was that they were concerned that the township would approve something that would limit their access to the wells. Mr. Sutcliffe stated we have clearly shown the access off Substation Road and showed on the map the 100-foot easement and all they have to do is provide a compacted gravel road. Mrs. Porter said that access off of Substation Road is also the frontage for this 12.68 acres, correct, because otherwise you would be land locked. Mr. Sutcliffe said correct but we did not want them to bring their oil trucks through the subdivision. Mrs. Porter said but you didn't create that access just for them, that had to be created to make that a saleable lot. Mr. Sutcliffe stated it solved two problems (1) not making it land locked and (2) creating an access road so a civil issue could be resolved peacefully. Mr. Sutcliffe said this is a civil issue and it shouldn't have even come up at this meeting and if you use that civil issue in an administrative hearing you are violating the seller's rights as he has the right to proceed with his land as he wants.

Mrs. Porter said she understands what he is saying about the letters, but she agreed with other board members that they should be sent to our legal counsel. Mr. Mougrabi said it is a separate issue and has nothing to do with moving forward with the preliminary plan. Chair Murphy stated the letters were sent to the Zoning Commission and my other issue is the application only lists one parcel number and they want two parcels on there, but we can't change the application. Mr. Sutcliffe said that he would update the application as it is clearly a clerical error and is not an intent to deceive.

Motion to Approve Drees Homes Preliminary Plan: Mrs. Wetterman made a motion that we approve with modification to go through as long as we get the other (parcel) number and forward legal documents to our attorney regarding the wells that is not part of this application request.

Discussion on the motion: Mrs. Porter stated she would like to add to the modifications evidence of approval by the Medina County Planning Commission of the variance request regarding Access Standards in the Medina County Subdivision Regulations. Mrs. Porter stated I would like to see that approval because we have never seen that. Secretary Milanko said we have a condition that the application be updated with the correct parcel numbers as only one was listed. Chair Murphy stated we can't change an application. Secretary Milanko noted there are two parcel numbers listed on the report from the Medina County Planning Commission. Chair Murphy said I don't know how the Medina County Planning Commission got those numbers. Secretary Milanko stated it is a separate application to the Medina County Planning Commission and a separate application for the township, so it could have been a clerical error to us. Mr. Sutcliff stated the drawing is part of the legal application and it does show two parcels which defines the clerical error and we all know that was not the intent. He said there is no mis-information, it was submitted with the two parcels. **Mrs. Wetterman withdrew her motion.**

Mrs. Porter stated all of the conditions/modifications stated in the Medina County Planning Commission report have to be met before a Final approval would be made. The board agreed. Mrs. Porter stated then board does not have to make those conditions part of our motion, but I still think we should have the evidence of the approval by the Medina County Planning Commission on that variance. She said that was in

their subdivision regulations so they obviously have the authority to make that variance, but we don't have the information of the approval of that. The board also discussed the legal documents on the civil issue for review by our attorney be one of the conditions in the motion. Mr. Sutcliffe said you can't condition a civil issue to an administrative issue, but I'm not your legal advisor, but you could say condition upon your legal advisor's opinion.

New Motion to Approve Drees Homes Preliminary Plan: Mrs. Porter made a motion to recommend approval of the Drees Homes Preliminary Plan with the following conditions upon:

1. **Evidence of approval by Medina County Planning Commission of Variance request regarding Access Standards in the Medina County Subdivision Regulations.**
2. **Advice from Township legal counsel on the civil matter of the oil and gas leases.**
3. **Clarification and update of Parcel Numbers for the application request.**

Mrs. Wetterman seconds the motion. **Roll Call:** Mr. Mougabi-yes; Mrs. Porter-yes; Mrs. Wetterman-yes; Mrs. Murphy-no. Motion carries by majority of board members present to approve Drees Homes Preliminary Plan with conditions and send to Trustees for their action. Chair Murphy stated the motion passes and the recommendation goes to the Board of Trustees with the conditions within five (5) days. Secretary Milanko stated she will submit the recommendation to the Trustees before their meeting on Tuesday. Trustee Kusnerak stated the Trustees will set a public hearing.

ADDITIONAL BUSINESS:

1. **New Zoning Language Request - Chief Anthony Strazzo, Brunswick Hills Township Fire Department**
Chief Strazzo stated he forwarded some recommended language from Seville for the board to look at for the future. He said it would write into the Zoning Resolution Fire Department recommendations for Zoning Certificates. He said there are a couple of reasons why this is being done, (1) Communication from the county about who is notified when certain things are coming along. He said it is the Fire Department's belief that if we are notified as early as possible within the township, it is better for everyone involved in a project from the starting point and moving forward; (2) While everyone thinks we just respond to calls, our main concern is community risk reduction. He said being involved with the township on projects is part of reducing the risks to the community. It lowers insurance costs for the residents, improves service to the resident and also lessens potential hazards within the community for the residents. Chief Strazzo said if you've been following the Trustees meetings over the last six months, we've been working with the board to reduce some of the blighted and abandoned properties in the township; that is community risk reduction. He said how this will all help is with our next ISO (Insurance Services Organization) visit. They will look at the community risk reduction programs that we have established. He said he would like the board to look at the language from Guilford & Seville and would be willing to meet with the board in a work session going through the language. He said Guilford & Seville adopted it on the village side and they are also looking to adopt it in the Guilford Township zoning (Guilford-Seville Fire) and that language is going to be universal. He said we are going to bring three different components, first being the zoning, second being the Fire Department and third being the Building Department all together so that we work collaboratively when something changes in the township regarding zoning, new buildings, or new occupancy so we are all on the same page. Chief Strazzo said he will allow the board to review the language and will check back and see if you want to set up a work session to go over the language. Mrs. Wetterman said Seville is a village. Chief Strazzo said that language has to be amended in a resolution format for the township. Mrs. Wetterman said the Trustees would have to make the resolution.

PUBLIC COMMENT

1. **Bill Thorne, Attorney** made a public record request to get a copy of the proposed text amendments on Agritourism and the existing Zoning Resolution. Secretary Milanko provided a copy to Mr. Thorne.

ADDITIONAL BUSINESS:

1. Redwood Apartment Neighborhoods Zoning Map Amendment Application.

Mrs. Murphy stated we received an application from Redwood Apartment Neighborhoods for a Zoning Map Amendment to rezone the corner of Sleepy Hollow and Pearl Road and the board needs to set a public hearing for next month. Secretary Milanko confirmed the application was sent to the Medina County Planning Commission to be heard at the MCPC meeting on Wednesday, February 5, 2020.

Motion to Set a public hearing for Redwood Apartment Map Amendment request: **Motion:** Mr. Mougrabi made a motion to set a public hearing on February 6, 2020 at 7 p.m. for Redwood Apartments. Mrs. Wetterman seconds. **Roll Call:** Mrs. Porter-yes; Mrs. Wetterman-yes; Mr. Mougrabi-yes; Mrs. Murphy-yes.

2. Trustee Christina Kusnerak (Zoning Liaison) said she asked the BZA at their meeting last evening to think about what types of training they would like to have this year. She said I've heard tonight about the procedures and something on the Comprehensive Land Use Plan. She said if you think of anything else that would be helpful let me know and we might schedule a joint session with the ZC and BZA.

ANNOUNCEMENT OF NEXT MEETING DATE: **Thursday, February 6, 2020 at 7 p.m.** (Continued public hearing on text amendments, Redwood Apartment new hearing and regular meeting).

MOTION TO ADJOURN: Mrs. Wetterman made a motion to adjourn. Mrs. Porter seconds. **Roll Call:** All in favor. Meeting officially adjourned at 8:54 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Trica Murphy, Chair

Date