

**Brunswick Hills Township Zoning Commission
Regular Meeting Minutes
June 4, 2020
(COVID LOCATION: Diamond Event Center, 1480 Pearl Road, Brunswick, OH)**

CALL MEETING TO ORDER

Chair Murphy called the Brunswick Hills Township Zoning Commission June 4, 2020 regular meeting to order at 7:00 p.m. A roll call of the board executed.

- **Board Members in Attendance:** Trica Murphy (Chair), Barb Porter, Patti Wetterman, Sy Mougrabi
- **Alternate Board Members in Attendance:** Robert Norton, Dean Collura
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Wes Humphrey, Assistant Zoning Inspector, Trustee Christina Kusnerak (Zoning Liaison), Matt Payne, Fire Prevention Officer, Secretary Milanko

A quorum was present. Alternate Board Member Robert Norton was seated to represent a full board.

APPROVAL OF MINUTES

1. Approval of the March 5, 2020 Continued Public Hearing Minutes

Edit on page 7 noted by Mrs. Porter and Secretary Milanko, fourth sentence down, under motion for Rezoning for 230 feet to the parcel number should say I “disapprove this” instead of disprove. **Motion to approve the minutes:** Mrs. Wetterman made a motion to accept the public meeting record of March 5, 2020 as amended. Mrs. Porter seconds the motion. Roll Call: Mr. Norton-yes; Mrs. Wetterman-yes; Mr. Mougrabi-yes; Mrs. Porter-yes; Mrs. Murphy-yes.

2. Approval of the March 5, 2020 Regular Meeting Minutes

Motion to Approve: Mrs. Porter made a motion to accept the March 5, 2020 as written. Mrs. Wetterman seconds the motion. Roll Call: Mr. Mougrabi-yes; Mr. Norton-yes; Mrs. Porter-yes; Mrs. Wetterman-yes; Mrs. Murphy-yes.

NEW BUSINESS: Final Site Plan Review

- 1. S&B 33 LLC (Developers Management, Brian James) Wexford (Formerly Southridge Subdivision) Conservation Development Final Site Plan Review** for property located on W. 130th Street, C.H. 17, PP#002-02D-14-013, Present Zoning: RR Rural Residential.

Brian James, Developers Management, approached the board and stated that they brought in a couple of other individuals, Spicer & Bridge McDowell, that they’ve partnered with. Spicer McDowell and Ron Shaw who works for the Engineer Greg Albers were in attendance.

The following individuals approached the microphone:

- 1. Brian James, Developers Management, 943 Wye Drive, Akron, OH 4303**
- 2. Spicer McDowell, S&B 33 LLC, PO Box 517, Bath, OH 44210**
- 3. Ronald Shaw, Alber & Rice, Consulting Engineers, 31913 Cook Rd, North Ridgeville, OH 44039**

Mr. James said we submitted the final development plan and prior elements per Sec. 411 Conservation Development of your zoning code. The approval process through the county authority is well under

way and we are just asking for a recommendation for approval to be sent on to the Trustees so we can finalize the zoning end of it. Mr. James stated that is all we have other than answering any questions.

Chair Murphy asked the board if they wished to ask questions or open it up to public comment. Mr. Mougrabi said open it to public comment.

PUBLIC COMMENT

1. Robert Murphy, 4041 Foskett Road, Medina, OH 44256 was sworn in. Mr. Murphy stated rumor has it that these guys are going to get the ok for this and they are going to annex to Brunswick. He said I don't know how much truth that is, but that really sticks with me. He said I just want to make you aware that I don't think they want any part of Brunswick Hills.

2. Christopher Frank, 1938 W. 130th Street, Brunswick Hills was sworn in. Mr. Frank said my comments correspond to the comments we've had since the beginning of this when the current plan that was made available for us to look at. He said we still don't understand how 19 of the 27 proposed lots could be on top of these waterways that are supposedly protected under this Conservation Development Overlay strategy that the township provides. He said that is the first question and how come he is actually allowed 19 of these lots of the proposed 27 be constructed and theoretically sold to people that aren't going to be able to use their property when there are protected waterways running through 19 of the lots.

Mr. Frank said secondly, I'd like to get some confirmation on the destruction of the properties or the surrounded wooded areas, specifically all the way to the back where there is major waterflow and creeks are and how that is going to be impacted by the construction. Theoretically, this conflicts with the Conservation Development Overlay that says that area will not be in anyway damaged or constructed upon, altered other than the variances that are in the construction zone. Mr. Frank said how is that going to be guaranteed that the portion of land for Conservation Overlay will dictate and is preserved. Who is going to verify that it is preserved and who is going to enforce it and when it's not preserved, who's going to step in and compensate and put it back the way it was?

Discussion by the Board

Mrs. Wetterman referenced Mr. Frank's comments about putting the areas back and noted Sec. 411-1 (G) stating that conservation of natural areas and the landscape for lawns need to be adhered to and asked how that would be dealt with regarding the riparian areas. She noted that the woods are being used as part of the land area and asked if the HOA will be in charge of that or the conservation company that they plan to hire.

411-1 (G) Reduce the amount of disturbed land, the conversion of natural areas to landscaped areas for lawns, and the use of invasive vegetation.

Mr. Brian James stated the riparian corridors are a county requirement and a township requirement and they cannot be disturbed. He said many of those are within the dedicated open space and would be managed by I'm not sure exactly who, but another entity is going to manage that which is 50% open space conservation district per the requirements of the zoning code. Mr. James said that will not be on the people's property, that will be permanent open space that will be managed by someone else in perpetuity. As far as some of the riparian corridors that go through some of the properties, those are not to be disturbed by the homeowner. He said it is spelled out specifically on what we need to do in Sec. 411 of the zoning code and we are following all of the rules so those areas in the 50% open space will be protected forever.

Mrs. Wetterman asked who they are using to protect those areas? Mr. James stated that Western Reserve Land Conservancy will be in charge of the conservation land. Mrs. Wetterman noted that was a change from their preliminary application. Mr. James said preliminarily we were looking at the Ohio Stream Group and as we worked through those details, we decided that the Western Reserve group would be managing those areas on the property. Mr. Mougabi asked if they have a signed contract with the company that will manage those areas. Mr. James said I'm not totally sure as Spicer, McDowell is handling those details and we will not be able to report the plat until all of those details are in order. Mr. McDowell said we do not have a formal contract yet, but we will get one.

Mrs. Porter asked what type of landscaping will the proposed buffer zone consist of? Mr. James asked which buffer zone? Mrs. Porter stated the buffer zone on W. 130th and the southern side of the street. Mr. McDowell said we will have topsoil there and rolling mounds with pine trees and mulch bed areas to be maintained by the HOA. Mrs. Porter noted there is a requirement that a detailed landscaping plan, including a listing of all plant material by type, size and number, be included in the submission of the Final Development Plan and she read the requirement:

411- 5 Application Requirements and Procedures

(G) Final Development Plan Requirements: (3) A detailed landscaping plan including a listing of all plant material by type, size, and number.

Mr. McDowell stated we do propose an initial plan and a part B plan and it should be in the application. Mrs. Porter looked for the plan. Mrs. Murphy said I looked at this too and all I saw was that the proposed lawn was going to be planted with grass. Mr. McDowell said the landscaping plan was two separate sheets. Mrs. Murphy said it is actually that last two sheets. Mrs. Porter said it appears to be only grass. Mr. McDowell said we identified landscaping beds, but we don't have plants called out yet. Mrs. Porter said that should be included as part of the final plan for approval and I wanted to call that to your attention.

Mrs. Porter said I also have a question on the buffer zone along W. 130th and asked if that will impact the drainage at all? She said there appears to be about a seven (7) foot drop from the east side of W. 130th to the west side and would this buffer zone which you say would be mounds of topsoil and asked if that would affect the drainage so there would be water backed up along W. 130th – would there be a possibility of that? Mr. McDowell said it is graded to ensure positive drainage to maintain the spirit of the existing drainage. He said the County is requiring roadway improvements along W. 130th so there will be a sanitary sewer there and there is a culvert that we are going to extend to maintain the drainage across the road. He said to answer your question, no, there won't be any impact of drainage. Mrs. Porter said the township does require that there will not be an open ditch, so that will be filled is that correct? Mr. McDowell said I'm hesitant to call it a ditch, it's a swale, but it's not deep enough to pipe or anything because it is such a small area and it satisfies the county requirement.

Mrs. Porter asked about the drainage management fund that was required by the Highway Engineer at the Medina County Planning Commission meeting. Mr. James said that will have to be put in place before everything is finalized and those goes without saying for anything regarding the county, there is no getting around that and it is part of the final approval project with the county. Mrs. Porter referenced the drainage with the storm water management basins and said the western most one looks to be roughly 15 feet deep and the southern one looks to be approximately eight (8) feet. She asked if they are to be wet or dry ponds? Ronald Shaw, Alber & Rice Consulting Engineering said they will be wet ponds. Mrs. Porter referenced safety issues and stated our Fire Department recently recommended fencing around attractive nuisances such as ponds. Mr. Shaw said if it's a requirement we can probably consider it. He said as far as safety, we put what we call an aquatic bench which means when the water level extends about 10 or 12 feet before it drops. Mr. Shaw said if it was a

concern, they could put some type of fencing around it. Mrs. Porter stated it should be run past the Fire Department to see if they think it's a requirement.

Mrs. Porter stated there is a requirement that the applicant needs to provide copies of correspondence with the Army Corps of Engineers and asked if the township got that? Mr. James said I believe correspondence is either sent to you or the County Engineer. Mr. James said I believe our initial correspondence report you have in your files; if not, we can get those to you. Secretary Milanko asked to forward that question to Evelyn Czyz, Zoning Inspector, and Wes Humphrey, Assistant Zoning Inspector, and asked if to their knowledge they received those reports and I have not on behalf of the Zoning Commission. Mrs. Czyz stated she did not have the file with her tonight to check. Mr. James said it was our initial correspondence with the Corps asking them to come out and look at the property and we've had further correspondence with them. Mrs. Czyz stated she believes those reports are sent to the county. Mrs. Porter stated it is required on the Concept Plan review on September 18, 2019. Mr. James said by September, I don't believe we had any correspondence with them by then. Mr. James said he would check his emails and noted it is available and will forward. Mrs. Porter stated again it is one of the criteria on the list for us to approve the plans.

Mrs. Wetterman asked if the township has received a copy of the Homeowners Association documents. Mr. James said we provided a draft of the Homeowners Covenants and Restrictions which is over 100 pages and I also provided it electronically. Secretary Milanko held up a copy of the document and said we did receive it. Secretary Milanko stated it was sent to the Prosecutor's Office and there were a couple of minor edits from Mr. Richter.

Robert Norton referenced the catch basin on the plan and said I noticed you have it coming along the roadway and the cul-de-sac. Mr. Shaw said that structure is actually a catch basin. Mr. Norton referenced silt fences and asked who is going to maintain those during construction. Mr. Shaw said I believe that is the responsibility of the Medina County Engineer and Storm Water Management. Mr. Norton asked if they are going to come out and check them to make sure they are all up and not down? Mr. Shaw said I am assuming they will do a monthly visit and also one after any serious rain event. Mr. Norton said during the construction of the houses, I noticed you've got them going around each lot; who's responsibility for that? Mr. Shaw stated that would be the home builder. Mrs. Czyz, Zoning Inspector, said Medina County Engineer's Stormwater Management will also be managing the silt fencing around the properties as part of their obligation.

Dean Collura referenced the very first page of the Improvement Plan on general notes, the first general note says all utilities should be constructed, inspected and tested in accordance of "Village" County and ODOT standards. Mr. Collura said "Village" does not apply here. He said and the next sentence says the proposed drive aprons shall be inspected and approved by the "Village of Spencer". Mr. McDonald said that was clearly an oversight.

Chair Murphy referenced the public comment about possibly annexing the property to Brunswick and asked if there have been any documents filed? Mr. James stated that's the first I've heard about it. Mr. McDowell stated we have no intention in that.

Public Comment Continued

1. **Mr. Frank** returned to the podium and said I'd like to follow up once more. Mr. James said the riparian corridors will be unaffected and he said it again tonight. Mr. Frank said this plan is up for some sort of vote today and said again, 19 of the 27 lots are affected or impacting the riparian setback. He said so this zoning loophole Conservation Development Overlay is supposed to leave some of the land undamaged and unimpacted. He asked how can we excavate these drainage ponds inside the conservation area? He said two different ponds being excavated and constructed in what is supposed

to be the protected open space according to the Conservation Overlay District, so how can we have all of this going on in the open space and how can we have 19 lots out of 27 on top of the riparian setbacks and waterways?

Mr. Frank said when we are asking questions on what kind of grass seed we are going to use on the mounds, I think its diluting the potential impact of this design and of this plan impacting these waterways. Mr. Frank said I think it has to be justified to accurately build on top of all of this water.

Chair Murphy asked if the Zoning Inspector or Assistant Zoning Inspector had any questions or comments. End of discussion and comments.

Chair Murphy stated I want to point out in section 411-5 (I) Approval of Final Development Plans, we must come up with a decision within sixty (60) days from the date we first heard it.

411-5 Approval of Final Development Plans

(I) The Zoning Commission shall review each final development plan and shall make a recommendation to the Board of Township Trustees regarding same within sixty (60) days of the date at which such final development plan is first heard by the Zoning Commission unless such time is extended with the consent of the applicant. The Zoning Commission may suggest, and the Board of Township Trustees may attach, such conditions to the approval of a final development plan as may be reasonably required by the public health, safety and welfare, deemed appropriate to carry out the purposes and intent of this Zoning Resolution, and consistent with the implementation of the Township's Land Use Plan. The Board of Township Trustees shall act upon each final development plan referred by the Zoning Commission within sixty (60) days of receipt of the Zoning Commission's recommendation provided, however, that said time period may be extended by the Board of Township Trustees with the consent of the applicant.

Chair Murphy asked the board how they would like to proceed tonight. Mr. Mougrabi said I'd like to know about these 19 homes on top of the setbacks that Mr. Frank referenced. Mr. Mougrabi asked if Mr. James or the applicants can explain in more detail. Mr. James said the riparian setback rules are with the township and the county. He said with most of the streams we are required to stay back 25 feet from the stream, which makes for a 50-foot-wide riparian area; 25 feet on each side of the stream. Mr. James said the larger stream on the northwestern corner is not on a lot. He said that is a 75-foot setback, so that is a 150-foot riparian setback; 75 feet on each side. Mr. James said the whole concept of the riparian setback is where a 25-foot side of each stream is to make sure any activity is setback that far from the stream so people aren't building houses at the edge of the stream, etc. Mr. James said those are all shown on the plans and they are setbacks that cannot be encroached upon and there are streams, possibly, on 19 of the lots. He said these are not babbling brooks, these are streams when it rains hard and drains some water. He said I don't know how much watershed drains into each one, but those rules were given and we are required to keep 25 feet from those streams. Mr. James said everything on those plans shows us staying back out of those riparian setbacks. He said the houses are out of the setbacks, we can encroach on those setbacks. He said they are shown on the drawings and we are not trying to slide something through here. Mr. James said over 50% of the site is permanent forever conservation so nothing can be done back there. Mr. James said granted, two of those retention ponds may be in the open space, but that is allowed in the rules that were given by you. Mr. James emphasized that they are following the book, no one will be building on the stream or encroaching on any of the wetlands. He said the two drainage ways going through the north end and

the south, we can run the street right down the middle. He said the riparian setbacks are all there, they are all identified as well as the wetlands on the plans, and there will be no encroachment.

Ms. Czyz asked if the wetlands and riparian areas or any water that extends onto an individual lot, will be shown to a potential lot purchaser on their lot improvement plan? Mr. James said it should be on the lot improvement plan. Ms. Czyz but what about someone who purchases the property? Mr. James said the wetlands and riparian areas are shown on the plat. Ms. Czyz said if I want to purchase subplot 33, will I be made aware of the wetlands, riparian areas and a stream, and that area will always be wet? Mr. James said those areas are on the plan (deed?) which is a legal document. She said if I want to buy the property, are you going to show me the plat and show me where these areas are? Mr. James said it is part of the document. Mr. Mougrabi said I understand Evelyn's point because when I bought my house in 2004, there was a stream right behind my house and I never saw anything on the plot. Mr. James said I don't think that can happen in this day and age. Ms. Czyz said the reason I was asking is because it does happen. Mr. James said all I can say is riparian setbacks and wetlands are shown on the plat and it is a legal descriptor of the size of the lot and what's there. Mr. James said if somewhere down the road someone purchases the house and doesn't do their due diligence, I cannot speak for that. He said we can't make it any clearer on these documents and they are recorded at the County Recorder office.

Mrs. Wetterman asked how the migration of the streams will be controlled because those will meander. Mr. James said rivers meander and streams meander over time and as far as the streams going through the lots, they are fairly well-defined streams and there is not enough flow in any of those to really meander. He said in the northwest corner of the property it's low and it is all on the conservation space back there and it would not surprise me at all if the big streams that go through the northwest corner from time to time meander. Mr. James said I'm sure it does, but that is way into the conservation area. Mr. James said the small streams that go through the lots with the 25-foot riparian setback, they should move more than a couple of feet over many years.

PUBLIC COMMENT CONTINUED

Chair Murphy opened the meeting back up for public comment.

3. Dean Papay, 2065 W. 130th Street was sworn in. Mr. Papay questioned the Army Corp of Engineers documents that were discussed. Chair Murphy stated that we have requested them. Ms. Czyz asked Mr. James to forward those documents to her attention and she will forward them to Mrs. Milanko. Mr. James said he would send them later tonight.

Chair Murphy asked if there were additional comments from the board. She said according to our code we have 60 days to make a decision and I will leave that up to the board to decide. Mr. Mougrabi stated he would recommend moving forward with it. Mrs. Wetterman stated she would like to see the report from the Army Corps of Engineers. Chair Murphy said I need a motion.

Motion to Approve the Preliminary Plan for the Final Site Plan for Wexford Subdivision (Formerly named Southbridge)/ Brian James Development

Motion: Mr. Mougrabi made a motion to move forward to make a recommendation of approval to the Board of Trustees. Mr. Norton seconds the motion. **Roll Call:** Mr. Norton-yes; Mrs. Wetterman-abstain; **Discussion on the Motion:** Mrs. Porter stated she would vote yes on the following stipulations:

1. The ZC and the Trustees will receive and see the letter from the Army Corps of Engineers before they make their decision.
2. We receive a detailed landscaping plan for the landscaped area and buffer zone.

Mrs. Wetterman stated she would vote yes with those stipulations. **Roll Call on the motion with conditions:** Mr. Norton-yes; Mrs. Wetterman yes, with stipulations; Mrs. Porter-yes, with stipulations; Mr. Mougrabi-yes; Mrs. Murphy yes, with the stipulations. Secretary Milanko stated the motion carries to make a recommendation to the Trustees and the Trustees will schedule a public hearing for their decision on the Final Plan.

CONTINUED BUSINESS

- 1. Right-of-Way and Setbacks**
- 2. Sporting Clay Shooting Regulations**
- 3. Fire Safety Regulations**
- 4. ZC Recommendation on Addendum of New Language to be added to all Zoning Applications**

Fire Safety Regulations

Chair Murphy asked if the board had prepared anything for the continued business. Mrs. Wetterman stated she had requested that we get information from the Fire Chief on fire safety regulations because there are new rules coming out that need to be incorporated. Mrs. Wetterman said she would like to have a presentation done by the Fire Chief to educate us on the changes that have taken place with regard to safety that would have to be added to our zoning applications. Mrs. Wetterman stated there are new rules on how barns have to be constructed and dedicated. Ms. Czyz stated when it comes to how a building has to be constructed, zoning has nothing to do with that; it has to go through the Medina County Building Department and they oversee it so that it follows code; I have nothing to do with that. Chair Murphy said with regard to fire safety regulations, is there anything from the Fire Department tonight? Fire Prevention Officer stated I don't have anything tonight, and I am not sure what you are referring to. Ms. Czyz stated she thinks Mrs. Wetterman is referring to the fire regulation with regard to Agritourism. Mrs. Wetterman said there are new regulations with regard to barns and they require fire doors. Ms. Czyz stated we have no control with the doors, that is a Fire Department issue.

Right-of-Ways and Setbacks: Mr. Wes Humphrey, Assistant Zoning Inspector, stated on the Right-of-ways, I think a definition would be appropriate. He said the auditor sets the setback lines and they are different everywhere. He said if you put a generic definition in, it will cover it and you won't have to list it throughout the whole book. Mr. Humphrey said I believe I gave the board a copy of the Medina County Subdivision Regulations. Chair Murphy stated that board had questions as to where it actually starts at. Mr. Humphrey said it varies and said for example, I own from the center of the street on half of my lot and on the other half I own from the curb. Mr. Humphrey returned to the microphone and noted page 7 of the Zoning Resolution under **Definitions** it lists "Building Line" and "Building Setback Line, Minimum" and on page 14 it lists "Street Right-of-Way Lines". Mr. Humphrey said if you read all of those, it encompasses the right-of-way. Chair Murphy stated we will postpone this for the next meeting.

Sporting Clay Shooting Regulations: Mrs. Porter stated this has been referenced by Mr. Norton and I think we need to look to him to guide us on that. Mr. Norton said we are allowed shooting on land, but clay shooting is a form of trap shooting where they use an entire lot and shoot in different directions. He said they shoot at different heights, they shoot down, they shoot straight up so the shots can be continuously flying in different directions. He said since we are not allowing to trap shooting, which is fired in one direction on one area of the property, I don't know why we would have to consult the NRA to tell us if we can or cannot allow shooting of sporting clays if they don't have an ample amount of room. Ms. Czyz said I have also consulted with one of the zoning attorney's down in Columbus and that is what he recommended the Zoning Inspectors of the State of Ohio do. Mr. Norton said we could reword it to include "all clay shooting" and that includes traps, skeets and sporting clays.

Mr. Norton said I used to shoot professionally sporting clays and I have nothing against the sport, but if we do not allow trap shooting, we can't allow sporting clays because the others are conducted in a more contained area. Sporting clays can go over 100 acres. He said so depending on the size of the property, people could be shot directly or indirectly from fallout. Mr. Norton said so maybe we can reword it to say "all clay shooting". Mr. Mougabi said maybe would should consult with the NRA just to see what they say. Mr. Norton said they will say no because they are fighting every day for our gun rights. He said I could try to contact the Ohio Sporting Clays and see what they would recommend.

ADDITIONAL BUSINESS:

1. Ms. Czyz and Secretary Milanko confirmed there are no formal business requests for the Zoning Commission July, 2, 2020 meeting.

PUBLIC COMMENT: None

ANNOUNCEMENT OF NEXT MEETING DATE: July 2, 2020 @ 7 p.m.

Motion to Adjourn

Motion: Mrs. Wetterman made a motion to adjourn. Mrs. Porter seconds the motion. **Roll Call:** All in favor. Meeting officially adjourned at 8:11 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Trica Murphy, Chair

Date