

**Brunswick Hills Township Zoning Commission
Regular Meeting Minutes
October 1, 2020**

CALL MEETING TO ORDER

Chair Murphy called the Brunswick Hills Township Zoning Commission October 1, 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,
- **Alternate Board Members in Attendance:** Robert Norton, Dean Collura
- **Board Members Not in Attendance:** Sy Mougrabi
- **Others in Attendance:** Evelyn Czyz (Zoning Inspector), Secretary Milanko

APPROVAL OF THE MINUTES

1. Approval of the June 4, 2020 Public Hearing Minutes/Developers Management

Edits: Chair Murphy noted page 2 under Chris Frank comments, second paragraph, to correct the first sentence to: “*Mr. Frank said secondly, I’d like to get some confirmation*”. Chair Murphy noted a correction on the last page, fourth line down on Mr. Norton’s comments to read: “*people could be shot directly or indirectly from fallout*”.

Discussion on the Minutes: Mrs. Wetterman noted that we still do not have a letter from Mr. James, Developer’s Management (Wexford Subdivision), on their conservation area. She said a letter was sent out by the Trustees and they have not provided an answer as to who is managing the conservation areas. Chair Murphy noted that is in the hands of the Trustees right now.

Motion: Mrs. Wetterman made a motion to accept the June 4, 2020 Brunswick Hills Township Regular Zoning Commission Meeting minutes as amended. Mrs. Porter seconds the motion. **Roll Call:** Mr. Norton-yes; Mr. Collura-yes; Mrs. Wetterman-yes; Mrs. Porter-yes; Mrs. Murphy-yes. Motion carries.

2. July 2, 2020 Regular Meeting Minutes

Edits: Mrs. Murphy noted an edit on page 7, second paragraph to change Chief Tim to “*Chief Sopkovich*”.

Motion: Mrs. Porter made a motion to accept the Brunswick Hills Township Zoning Commission Regular Meeting Minutes for July 2, 2020 with the correction. Mrs. Wetterman seconds the motion. **Roll Call:** Mr. Collura-yes; Mrs. Wetterman-yes; Mr. Norton-abstain, Mrs. Murphy-yes; Mrs. Porter-yes. Motion carries.

CONTINUED BUSINESS

1. Right-of-Way and Setbacks

Chair Murphy noted at the last meeting that Mr. Humphrey (Asst. Zoning Inspector) pointed out the definitions regarding the building line and building setback lines in our Zoning Resolution. Chair Murphy noted page 7 in the June 4th minutes on Right-of-Way and Setbacks which states the setback lines are set by the auditor. Mrs. Czyz said the reason the setbacks can vary is because no street is perfectly straight. She said the right-of-way is determined by the county and it is listed on the lot improvement plans as to where they start and how far they go back. Mr. Collura said since the center of the road can vary within the right-of-way width, would it make more sense just to refer the setback to the right-of-way line? Mrs. Czyz said that’s a good suggestion, but we just go by what the County Engineer’s Office says and how they state it. Mr. Collura said the distance from the setback to the right-of-way line would be more consistent than where the center line of the road is. Mrs. Czyz agreed. Chair Murphy asked if that is under the definition of Building Setback Line on page 7 in our Zoning Code? Mr. Collura said yes.

Building Setback Line, Minimum: *A line parallel to the street right-of-way line at a distance there from equal to the required depth of the front yard, extending across the full width of the lot. Where a major thoroughfare or collector thoroughfare is designated on the Comprehensive Land Use Plan, the minimum building setback line shall be measured from the proposed right-of-way line.*

The board agreed that the definition is sufficient and consistent and that no further changes were necessary. Chair Murphy stated we will close and remove this topic from further agendas.

2. Sporting Clay Shooting Regulations

Mr. Norton asked to table this topic as he has not had time to get in touch with other authorities on this. He said we talked about changing it to “clay target shooting” instead of “sporting clays”, but I’ll get more information. Mrs. Czyz stated she spoke to a gentleman at the NRA on this topic and he went into great depth and she may contact the DEA to see if they have a different version on this. Mr. Norton said the NRA will tell you don’t delete it because they support all shooting, but it comes to a point as to what is safe. Mrs. Czyz asked if we have much clay shooting in the township. Mr. Norton said I think there is one on W. 130th across from Sleepy Hollow (Hinckley Township) and Chatham and Strongsville also have ranges. The board tabled the topic to the next meeting.

3. ZC Recommendation on Addendum of New Language to be added to all Zoning Applications

Mrs. Wetterman suggested the board table this and really look at some of our applications and how they are submitted. Mrs. Wetterman said some of them do not say “by owner only” and if we do zoning permits, that zoning permit...Mrs. Czyz interjected and said you don’t do zoning permits. Mrs. Wetterman said I’m talking about the zoning applications. Mrs. Czyz said, but you guys don’t do zoning applications. Chair Murphy referenced the BHT Zoning Resolution – Article VIII- Conditional Zoning Certificates on page 93 and said this may be new business, but 802-1 talks about Submission of Applications. Chair Murphy asked to table agenda item #3 and talked about Article VII as new business.

NEW BUSINESS: BHT Zoning Resolution, Article VII – Conditional Zoning Certificates 802-1

ARTICLE VIII- Conditional Zoning Certificates

Sect. 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 agent in seeking the Conditional Zoning Certificate.*

Chair Murphy said this section talks about submission of applications and what is needed and asked if the township requires applications to be notarized now. Mrs. Czyz said yes. Chair Murphy said we should add that in all of these sections where it says signed by the applicant and asked if we should specify if it has to be notarized? Mrs. Czyz stated the application does say “by the owner” and does specify a space for the Notary. Chair Murphy asked if it should be added to the zoning book stating it should be notarized. Mrs. Czyz said it also says if the applicant is not the property owner, they need a signed statement from the owner authorizing the applicant to serve as his or her agent. Chair Murphy said that should be notarized too. Mrs. Wetterman said notarized and numbered with an identifying number like the date and page 1 that is initialed or something. Chair Murphy said you are talking about the zoning application itself where page 1 states that I am the owner and page 2 states I authorize such-and-such to act on my behalf. Mrs. Wetterman said that depends on what they are asking for and said we can only make recommendations to the Trustees. She said however, if they approve it and it’s sold, or it changes, it can open up a problem for the Trustees if it’s not under the owner’s name.

Mrs. Czyz says under a conditional, the conditional goes with the person that applies for it; that property owner, it does not go with the property. A variance goes with the property but a conditional goes with the applicant.

Chair Murphy referenced Sec.802 as an example and said we have certain sections in the zoning resolution about submitting zoning applications. Mrs. Czyz asked for a hard copy example from the Zoning Commission on what they would like to see on the application. Chair Murphy said the application already says that it has to be notarized and I'm suggesting that it should be in the book. Mr. Collura said at a previous meeting we had an example form of what the language was we could add. Mrs. Czyz said I would like to see how it would fit on that application. Chair Murphy clarified that we are talking about the Zoning Resolution not the application and we would assume the applications would be reformatted down the road. Mrs. Czyz said it can't hurt to put it in the book. Mrs. Wetterman said it would help, but it has to be authorized by the property owner because we had someone in here applying for a swimming pool applicant and it was not the owner applying for the variance, it was the pool developer.

Chair Murphy asked if anyone can fill out a zoning application? Mrs. Czyz said at this time anyone can, but we suggest that the owner fill it out. She said with swimming pools, accessory buildings or any type of construction the applicant is the one who fills the application out. She said a developer doesn't build a house until it's sold other than the spec house. – is that owner going to be signing and having that application signed and notarized and not being given the opportunity to have the developer's or the builder's permit person handle it? Mr. Collura asked who is legally responsible for it? Mrs. Czyz said the person who gets the permit. Mr. Collura stated you are saying that could be anyone, it could be the owner or a developer or contractor? Mrs. Czyz said there are many times where the person who is taking out the permit is the property owner. Mr. Collura said my only thought is if it isn't the owner, doesn't that put the owner on the hook for being required to follow something that he may not even be aware of because he didn't submit the application? Mrs. Czyz said she understands that and would just like to see how new language approved for the book is going to be on the application.

Mrs. Porter referred to Sec. 802 (1) (A) and asked if that covered what we are discussing? Chair Murphy stated that she was trying to bring up the notarization. Mrs. Porter asked if that section would be the place to add that. The board agreed. Chair Murphy said regarding the applicant and the property owner she would like to get an opinion from the Prosecutor and find out who is legally responsible. Mr. Norton said when I built my swimming pool, I didn't have to do anything because all of the permits were pulled by the builder.

Chair Murphy asked what about Zoning Map Amendments? Mrs. Czyz said that would have to be the owner because if it doesn't pass, nine times out of ten there is something that is written in the purchasing agreement between the perspective buyer and the owner so the owner has to sign it for a Map Amendment. Chair Murphy said we will have to look in the book for that language to get the resolution up-to-date on required notarizations. Chair Murphy said with Map Amendments she thinks we should change the resolution wherever it is going to be in the book that we also require an "electronic copy" of the applications because we are required to send electronic copies to the Medina County Planning Commission. Secretary Milanko confirmed that the Medina County Planning Commission now requires both paper and electronic copies of applications. Chair Murphy said and if we don't have it in our resolution, we can't tell them we need it because they will say it's not in your resolution. Mrs. Czyz suggested adding that and a line for emails to the Zoning Map Amendment applications. Chair Murphy said having an electronic copy of the application emailed to us is not too much to ask of an applicant.

NEW BUSINESS (Continued)

2. Nominations for Vacant Vice Chair Officer

Secretary Milanko stated we've had a vacant Vice Chair since January. Mrs. Porter stated the longest person serving on the board that is here tonight is Mrs. Wetterman if she would be interested in taking the position for the last two meetings (November and December). **Motion:** Mrs. Porter nominated Mrs.

Wetterman to fill the Vice Chair position. Chair Murphy asked Mrs. Wetterman if she would be willing to serve in the position and Mrs. Wetterman said yes. Mr. Norton seconds the motion. **Roll Call:** Mr. Norton-yes; Mr. Collura-yes; Mrs. Porter-yes; Mrs. Murphy-yes. Motion carries to elect Patti Wetterman to Vice Chair.

3. Review Zoning Regulations

A. Sec. 1108 Decisions By Board of Trustees vs. ORC (Ohio Revised Code) 519.12

Chair Murphy stated this section came about from a recent Map Amendment decision unanimous vs. majority by the Trustees. Secretary Milanko distributed ORC 519.12 to the board and they reviewed ORC 519.12 (H) which states:

ORC 519.12 (H)

Within twenty days after its public hearing, the board of township trustees shall either adopt or deny the recommendations of the township zoning commission or adopt some modification of them. If the board denies or modifies the commission's recommendations, a majority vote of the board shall be required.

Chair Murphy said our zoning book says unanimous vote and the ORC says a majority vote of the board shall be required. Mr. Norton asked if the ORC is the governing body or can we go above what they recommend? Mr. Norton said OSHA sets regulations and general contractors have to follow that or better. Mrs. Czyz said it is the more stringent of the two is it not? Chair Murphy said we are more stringent, but the ORC took precedence when two Trustees voted yes and one Trustee voted no. Chair Murphy said all the case law says if your resolution forbids something the ORC allows there's a conflict and the Ohio Revised Code controls rather than our Zoning Resolution. Chair Murphy asked if we should take our Article XI out of the book and say "see ORC Sec. 519.12". She said if there are updates to the ORC and we have to figure out every time they do that, we shouldn't have to do that if the ORC always governs. Mr. Collura said I think that interpretation should be challenged. Chair Murphy said that was the opinion of the township attorney. Mr. Collura said just because it is an opinion that does not necessarily mean its law. Several board members agreed. Mrs. Wetterman said the ORC sets the minimum and unless it's challenged, that is what you go by. She said if it is challenged and your regulations are stricter, then you can challenge the ORC. Mr. Collura said if we change our writing to match with what the lawyer is recommending then it would never be challenged because we would never have a conflict, but I don't necessarily agree with it. Mrs. Czyz said when you read our code in Sec. 1108 it says "the unanimous vote of the board shall be required", where here the ORC says the "majority of the board shall be required". Chair Murphy said yes, that is the issue because ours is more stringent. Mrs. Porter said if we left it the way it is and we were challenged and went to court on it, what is going to stand up in court the ORC Code or our resolution? Mr. Norton said then we should just throw our book away and go by the ORC. Mrs. Wetterman stated that is the question because what's our sense in going against what the ORC when it says that townships have some self-regulation. She said the problem is with just three Trustees when one has to abstain, that's a majority. Mrs. Wetterman said you can have a meeting of Trustees with only two people and have a majority. She said where that really hurts us is with annexations and conflict, especially if one has to abstain.

Mrs. Porter asked if the Prosecutor is recommending that we change our book to "majority"? Mrs. Wetterman said he offered an opinion. Mrs. Porter said if we don't change it and retain it the way it is, we may or may not be challenged on it. Mrs. Wetterman said we were challenged and according to our book, which is not worded the same as the ORC, you have 30 days to get a petition together to challenge that decision and then that has to go on the ballot. Chair Murphy said not if the decision was invalid. Mrs. Wetterman said she thinks it needs to be total compliance (unanimous). Mrs. Porter said I don't think we have any choice but to change it to majority if the Trustees are going to disagree with us. She said if they don't stand behind our resolution and they are going by the ORC, what choice do we have but the change it? Mr. Collura and several board members said we can challenge the Trustees. Mrs. Czyz said if

challenged, then the Prosecutor’s Office may not back you if you go against their opinion/recommendation. Chair Murphy said the Trustees can do a Resolution and change the zoning code if they want and referred to Sec. 1102 Initiation of Amendments (A) (2):

SEC. 1102 INITIATION OF AMENDMENTS

A. *Amendments to the Zoning Resolution may be initiated by:*

1. *Motion of the Township Zoning Commission, or*
2. *Passage of a resolution by the Board of Township Trustees and certification to the Township Zoning Commission, or*

Chair Murphy said if it is true that ORC 519.12 controls and it is “majority”, then we shouldn’t even have this section in our book because it is too difficult to figure out what changes the ORC makes every year and then keep updating our book. Mrs. Wetterman agreed. Chair Murphy said if we always have to follow the ORC then we can just state “refer to Sec. 519.12 of the Ohio Revised Code (ORC)” and noted other townships do that. Mr. Collura said I agree with what Mr. Norton said and if we go this route, what function does this board have? He said we have a Land Use Plan that was developed years ago that polled every resident in the township at that time the plan was written so do I interpret that to say that if a developer comes in and wants to do something and our zoning book says no - they can overturn that? Then what good is the Land Use Plan? Chair Murphy said that is what happened with Redwood so this is all the same issue. Mr. Collura said the 30 days comes fast if you had to do something. The board decided they weren’t going to solve it tonight and moved on to the next agenda item.

B. Sec. 303- 8 Home Occupations

Chair Murphy stated she is the one who brought this up and she’s not ready to talk about it tonight and asked to table it.

C. Sec. 303-5 General Regulations (C) (6) Projections into Yards (pg. 19)

Secretary Milanko stated Mr. Humphrey (Assistant Zoning Inspector) brought this up at the last meeting and he thought there was a typo in the book in regard to the rear yard. Chair Murphy said it is in the July 2, 2020 minutes where we talked about front or rear yard.

C. Projections Into Yard Areas - Every part of a required yard shall be open to the sky, unobstructed, except for the following:

6. *Terraces, unenclosed porches, decks, uncovered platforms, and similar unenclosed ornamental and architectural features may project a maximum of ten (10) feet into a required front or rear yard.*

Ms. Czyz reviewed the section and stated “or rear” should be removed because if you put a deck behind your house it says you can’t go more than 10 feet into the rear yard.

➤ **Proposed Zoning Resolution Amendment to Sec. 303-5 General Regulations (C) (6):**

6. *Terraces, unenclosed porches, decks, uncovered platforms, and similar unenclosed ornamental and architectural features may project a maximum of ten (10) feet into a required front ~~or rear~~ yard.*

ADDITIONAL BUSINESS:

1. Redwood Apartments Preliminary Plan: Secretary Milanko distributed a copy of the Medina County Planning Commission Preliminary Plan Staff Report for Redwood Apartments and noted Redwood has submitted a Conditional Zoning Request for the BZA to hear in November.

2. **Zoning Training:** Mrs. Wetterman asked how many were participating in the training session for October 8th. Secretary Milanko stated we have 100% participation by both boards.

PUBLIC COMMENT:

1. **Ron Wetterman, 1085 Substation Road, Brunswick Hills** said he is relatively new to the BZA Board and said when we get requests in, some applications can be 2-3 pages and some 8-10 pages long and asked if there was any way that each page could have a case number or receipt number on them so we know they all go together. Mr. Wetterman noted that the very first line on the application is for the name of the applicant and questioned whether should be the owner, not a developer? Chair Murphy stated we have been talking about that and suggested we get a legal opinion on that. Chair Murphy said we discussed the example of putting a pool in and the property owner doesn't do anything, the contractor pulls the permits, etc. Chair Murphy noted for Map Amendments, you might be the owner but the question is whether you do or you don't need the property owner. Ms. Czyz stated the applications are stapled and the application number is listed on the first page. Mr. Wetterman said but staples can come out when you are working through multiple pages and it would be nice if all the pages were numbered or referenced. End of discussion.

ANNOUNCEMENT OF NEXT MEETING DATE: November 5, 2020 @ 7 p.m. (Town Hall)

MOTION TO ADJOURN

Mr. Norton made a motion to adjourn. Mrs. Wetterman seconds. **Roll Call:** All in favor. Meeting officially adjourned at 8:16 p.m.

Respectfully Submitted,
Mary Jean Milanko, Zoning Secretary

Trica Murphy, Chair

Date