

**Brunswick Hills Township Zoning Commission
Regular Meeting Minutes
June 3, 2021**

CALL REGULAR MEETING TO ORDER

Chair Wetterman called the Brunswick Hills Township Zoning Commission regular meeting to order at 7:03 p.m. A roll call of the board was executed.

- **Board Members in Attendance:** Patti Wetterman (Chair), Trica Murphy, Sy Mougrabi, Ed Kelly
- **Alternate Board Members in Attendance:** Barb Porter, Dean Collura
- **Board Members Not in Attendance:** Robert Norton, Vice Chair (Excused Absence)
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Wes Humphrey, Assistant Zoning Inspector, Trustee Kusnerak, Mary Jean Milanko, Zoning Secretary

Alternate Dean Collura sat in for Robert Norton to represent a full board.

Ohio Revised Code Website Update: Chair Wetterman referred the board to the new website, effective April 21, 2021 for Ohio Laws and Administrative Rules: <https://codes.ohio.gov/ohio/revisedcode/>. She stated you can also type in Ohio Revised Code and the link will come up.

APPROVAL OF THE MINUTES

1. Approval of the ZC May 6, 2021 Regular Meeting Minutes

Mrs. Murphy noted a correction on page 5, second full paragraph, change several to “several”. **Motion:** Mrs. Murphy made a motion to approve the minutes of May 6, 2021 as amended. Mr. Collura seconds.

Roll Call: Mrs. Murphy-yes; Mr. Mougrabi-yes; Mr. Kelly-yes; Mr. Collura-yes; Mrs. Wetterman-yes.

OLD BUSINESS:

1. Zoning Resolution Amendments (Wes Humphrey)

Chair Wetterman asked Wes Humphrey to recap the suggested amendments of the Zoning Resolution that the board should get opinions on.

- **Sec. 303-5. General Regulation of Lots** (typo)
 - 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.*

Mr. Humphrey will call Medina County Planning Commission to see if the above amendment on Sec. 303-5 General Regulations of Lots (C.) Projections Into Yard Areas has to have a public hearing to change.

- **Sec. 303-6 (N.) Satellite Dishes.** Discussion on keeping in the book or removing. Mrs. Wetterman stated we were told that nothing has been issued on satellite dishes and this section no longer applies. Mr. Humphrey and Mrs. Czyz stated they haven’t issued a permit for large satellite dishes in 20 years and the language no longer applies as the new direct tv satellite dishes are small and mounted on the home. The board will seek an opinion on removing this section

Mr. Collura said it makes sense if no one is using them anymore. Mr. Kelly was ok with it; Mr. Mougrabi-said he thinks we should keep it in the book in case someone comes along and has to put a dish on the ground because they still allow that. Mr. Mougrabi said the technology is different and the satellite dishes

are much smaller now. Mr. Mougrabi said he was in Michigan recently and he saw a lot of larger dishes in the ground. Mrs. Wetterman said she thinks this language is for the real big ones that are no longer used and the people that have the large ones would be grandfathered in. Mrs. Porter stated she believes this section could relate to public utilities and neither the township or the HOA's can regulate a public utility. Mrs. Murphy said she thinks this section can be removed if it is just for the large dishes, but it does reference 303-5 (N.) (2) (h.) states *rooftop dishes are not to exceed 24" in diameter in any residential area*. Trustee Kusnerak these are the big dishes we are talking about and it may go back to before we had cable television.

Mr. Humphrey stated usually the government has the really huge ones and we cannot regulate those anyway. Mrs. Czyz agreed and stated we cannot regulate the large ones on towers, but she requires them to send her the schematics on how high they are and where they are going to put them and one copy stays in the zoning file and the other copy goes to the Fire Department. Mr. Humphrey said they are going to put the dish wherever the best reception will be and noted some homes have more than one dish because they get a new dish with a provider and they don't take the other one down.

Mrs. Wetterman asked for final discussion on taking the whole thing out. Mr. Collura said my opinion would be if it no longer applies, we could take it out. Mr. Kelly said he is familiar with the direct tv dishes we have on roofs now, but is not sure why this section seems to be an issue now. Mr. Mougrabi said what if we get someone who wants to have a huge antenna, etc. and wants to put it in his front yard? Mrs. Murphy stated this section applies to satellite dishes more than one (1) meter. Mrs. Czyz stated Mr. Mougrabi has a good point because Direct TV has those now and if we are going to remove this whole section on dishes, then what about the people who have Direct TV and dishes? Trustee Kusnerak stated she thinks this section applies to those really big dishes. Mrs. Czyz asked if it specifically says something about large dishes. Mr. Humphrey and Mr. Mougrabi said there is a reference to no larger than 12 feet in diameter. Mr. Kelly said that is very large and asked how many of those are still around because most of the dishes today are within the 24 inches.

Mrs. Wetterman said she thinks this section relates to the really large ones, but we do have the smaller ones now and some Homeowner's Associations put regulations on them. Mrs. Czyz stated she did not believe that was enforceable by an HOA, nor would the Prosecutor's Office allow that. Trustee Kusnerak said she would not dispute the HOA's may have regulations in their documents, but the HOA cannot enforce that because the dishes will go in where they have to go for the signal. Mrs. Porter stated she believes this section could relate to public utilities and neither the township or the HOA's can regulate a public utility.

Mrs. Wetterman said maybe remove the whole thing because we have no control over it and said they are considered public utilities. Mrs. Murphy stated it applies to those over one (1) meter (which is 39 inches) or bigger. The Board agreed it can be sent for review to remove.

Motion to Recommend Removing Sec. 303-6 (N.) Satellite Dishes from the Zoning Resolution

Motion: Mrs. Murphy made a motion to remove Sec. 303-6 (N) Satellite Dishes completely and change Sec.303-6 (O.) Ponds to Sec. 303-6 (N.) Ponds. Mr. Mougrabi seconds. **Roll Call:** Mr. Collura-yes; Mr. Kelly-yes; Mr. Mougrabi-yes; Mrs. Murphy-yes; Mrs. Wetterman-yes.

- **Deck Definition:** *A structure without a roof which is directly adjacent to a principal building. ~~and has an average elevation of thirty (30) inches or greater from finished grade.~~ A platform supported by pillars or posts which may be either freestanding or attached to a building.*

Mr. Humphrey stated the elevation of 30 inches doesn't really matter and said a deck could be different elevations and still be considered a deck. Mr. Humphrey suggests removing the reference to 30 inches. Mrs. Wetterman agreed to remove the reference of thirty inches elevation and said it was explained to me that decks are made of wood and patios are concrete or pavers and said you can have a walk out deck that is less than the 30-inch elevation. Mr. Collura said instead of saying 30 inches, could the wording indicate

that it doesn't sit physically on the ground so there isn't any confusion between the rules that apply to decks vs. patios or brick pavers? He said that way you are not designating a height as it physically sits on the ground. Mr. Humphrey said when you put a deck up you usually have to put posts in the ground. Mr. Collura said correct, so the deck could be above the ground and an undefined distance. Mr. Kelly said without the reference of 30 inches, it still explains what a deck is meant to be because it still says a platform supported by pillars or posts. Mrs. Wetterman said the designation that a deck has an average of 30 inches elevation eliminates smaller decks. Mrs. Czyz and Mr. Humphrey stated that designation may have come from the Building Department and may have been a code at that time. Mr. Humphrey said we give permits for less than 30 inches so it could have been designated for a hand rail, which is a building code and not a zoning code. Mrs. Czyz said that Medina County does follow the Ohio Building Code and thinks that is where the language came from. Mrs. Czyz stated she would call next week to her source next week and check on this.

Procedure for Text Amendments. Mrs. Wetterman asked what the procedure is for proceeding with the text amendments. Mr. Humphrey and Mrs. Milanko explained the procedure which is the board puts in writing the proposed text amendments approved by board motion and that is sent to Medina County Planning Services for a public hearing and to the Prosecutor's Office for their opinion and recommendations. The Zoning Commission holds a public hearing on the proposed amendments and sends their final recommendations to the Board of Trustees for which they will schedule a public hearing and make the final decisions by resolution.

OLD Business Continued

2. Riparian Setbacks – Ed Kelly

Mrs. Wetterman said Mr. Kelly will give us information on Riparian Setbacks and the reason for that is because Brunswick Hills Township is in a valley and most of the land around the township has riparian areas. The townships have to go with the water districts on this, but we need to know about them and how they are cared for because we deal with them.

Riparian presentation highlights. Mr. Kelly provided a brief presentation on Riparian Setbacks and their importance. *Riparian refers to things that exist alongside a river (such as riparian wetlands, habitats, trees, etc.). A riparian zone or riparian area is the interface between land and a river or stream. Riparian is also the proper nomenclature for one of the terrestrial biomes of the Earth. Plant habitats and communities along the river margins and banks are called riparian vegetation, characterized by hydrophilic plants. Why is it important? By acting as buffers between upland areas and open water, they help filter pollutants such as nutrients and sediment. Healthy riparian vegetation helps to reduce stream bank erosion and maintain stable stream channel geomorphology. Vegetation also provides shade, which works to lower water temperatures. Relating to water quality, the ecological benefits of riparian areas are numerous. Healthy riparian vegetation helps to reduce stream bank erosion and maintain stable stream channel geomorphology.* (See Exhibit 1 Riparian for complete presentation).

Mrs. Wetterman stated the reason we are discussing this is because we have many developments with riparian areas in them and when we look at the building rights, etc. we should take into consideration where they are in the development. She said those areas fall under the Army Corps of Engineers; we cannot control that but we can make recommendations to the Planning Commission on those. Mrs. Czyz stated when a home is being built, the lot improvement plan has to indicate where the riparian areas are and those areas have to be inspected and measured. Mrs. Czyz distributed township riparian maps to each board member.

3. Conservation Development Overlay (Rural Residential) – Barb Porter

Mrs. Porter presented reasons for retaining Conservation Development Overlay in the RR (Rural Residential District).

- 1. To allow a viable option to property owners who wish to develop their land, thereby retaining the RR density of (1) home per (2) acres while allowing them to reduce the cost of infrastructure to service smaller than (2) acre lots surrounded by large open spaces. This type of development perpetuates the rural character of Brunswick Hills.*
- 2. Mrs. Porter believes with this alternative to standard (2) acre lots, property owners are not as likely to apply for rezoning to higher density nor as likely to file litigation against the township if rezoning is not approved.*
- 3. There is also a possibility this might be a deterrent to annexation of a property where applicable.*
- 4. Our existing Conservation Developments in the RR district do seem to be built out with very attractive higher end homes which are adding nicely to our tax base and are not adding undue stress to our township services.*

Mrs. Porter said the Zoning Commission should review the regulations pertaining to Conservation Developments, make changes they deem necessary including possible increase of minimum lot size from $\frac{3}{4}$ to 1 acre and revisit what uses open spaces can be put to, if any.

Discussion: Mrs. Wetterman asked for discussion on consideration on reasons for retaining Conservation Development Overlay vs. removing from the Zoning Resolution.

Mrs. Wetterman asked if the Conservation Development Overlay area is in our Comprehensive Plan? Mrs. Porter asked if she was referring to the OC Open Space Conversation District? Mrs. Wetterman said yes. Mrs. Porter said that is completely different than the Conservation Development Overlay as it is a district itself whereas the Conservation Development Overlay is just a portion of the RR Rural Residential and can only be developed in RR. Mrs. Wetterman said that explains why we kept it because it deals with the smaller land people that may want to split off their district. Mr. Humphrey stated the minimum acreage is 20 acres now, but used to be 40 acres.

Mrs. Wetterman said if she remembered correctly, Conservation Development Overlay can combine the use of the land and put more houses on the land because they are using open districts as land use. Mr. Humphrey said no; you cannot go more than one (1) house per two (2) acres in the Conservation Development Overlay. He said if it is 40 acres you can have 20 homes. He said now you reduce the size of the lots to one acre and the rest is open space. He said you still have 20 homes and the rest of the open space can never be sold. Mr. Humphrey referred the board to read over the Conservation Development Overlay purpose (not disturbing the land) and permitted uses. Mr. Humphrey said only 5% of that open space can be used for recreational purposes. Mrs. Czyz stated usually that 5% is a walking trail which is passive recreation.

Mr. Mougrabi asked how Pulte and Autumnwood got built on only $\frac{3}{4}$ of acre lots? Mr. Humphrey explained how the conservation areas were developed and said one of the first ones built was the Greenfields. He said we had C-1 and R-1 and RR in there with the Arbors and then that community with Autumnwood was R-1, so you were allowed 2.9 homes per acre and we didn't like the way that turned out, so we removed it from the R-1 and left it strictly in the RR Rural Residential District. Mr. Mougrabi asked if the conservation development on W. 130th Street we approved is being built under today's rules. Mr. Humphrey said yes.

Mrs. Porter noted the W. 130th Street Conservation Development Overlay and said the ZC did recommend approval to the Trustees without having all of our ducks in a row, meaning not all of the regulation requirements were satisfied, and we must make sure we do not do that again. Mrs. Porter said it should be spelled out in the Zoning Resolution that the commission **WILL NOT** recommend approval of any Conservation Development Plan to the Trustees until each and every regulation and requirement has been satisfied. Mrs. Porter stated we did not have a complete landscaping plan or the conservation easement

documents or the conservation company who would be handling the conservation area. Mrs. Czyz stated the Trustees were very prudent in that they would not sign off on any final approval for that development until those documents were received. Trustee Kusnerak confirmed it took a while for them to submit the documents and the Trustees held off signing approval for them until it was received.

4. Sec. 303-6 Swimming Pools. Discussion of fences and locking pool covers.

Mrs. Murphy said it was brought up at the last meeting that maybe the code for swimming pools should be changed to read “fences and or locking covers” and said there is an International Building Code Sec. 305 that talks about pool barriers and they do talk specifically about fences around pools. Mrs. Murphy said the fences try to keep out trespassers and prevent accidental drownings and related injuries. Mrs. Murphy said a pool is an attractive nuisance to a child, so my opinion is the language should remain a pool barrier or a fence. Mrs. Czyz said my only point was you could put up a four-foot fence and have that pool open and you could still scale that fence. Mrs. Murphy said that is an intentional choice, but if there is no fence, you could just walk right up to the pool. Mrs. Czyz said you could have a pool cover. Mrs. Murphy said people still drown with pool covers.

Discussion: Mr. Collura said my personal opinion is that the fence should stay in there and if someone wants to add a pool cover on top of that, they are more than welcome to do it. He said if you change it to fence or a cover, then we would have to be specific on what type of a cover would be permissible, so I think the fence wording should stay. Mr. Kelly said the fence is already in there and I don’t know of any examples of someone who has drown with a pool cover; has that happened? Mrs. Wetterman said yes. Mr. Kelly said whether or not an incident happens, is it more of a safety measure to add the pool cover? Mr. Humphrey stated there is no way for us (Zoning) to enforce a pool cover, however, the fence has to be there. Mr. Mougrabi had no comment. Mrs. Porter agreed the fence should be mandatory and a pool cover could be added at their discretion. She said I think the fence is more of a permanent thing, whereas a pool cover could be left open accidentally or forgotten to be closed and it doesn’t do any good then. Mrs. Wetterman stated we will leave Sec. 303-6 Swimming Pools as stated with a fence required.

5. Definition of Days: Working days vs. calendar days and the ORC definition

Mrs. Murphy said she went through the Ohio Revised Code and could not find a definition on how they define days. Mrs. Murphy said in our book there are places where we call it working days and some that call it calendar days and other places days, so we would have to look at each place where we use the word individually. Mrs. Wetterman said we have to go by what the Ohio Revised Code says. Trustee Kusnerak said suggested if the board is considering a definition for days for the different areas in the book that they keep it as simple as possible because the definition of days is defined by the Ohio Revised Code. Mrs. Czyz stated that Trina Devanney explained in our training session that days are “calendar days”. Trustee Kusnerak sometimes it is calendar days and working days or just days.

Mr. Collura said to keep the definition somewhat consistent, why can we state “*days are calendar days unless otherwise designated*”. He said and then if something says working days in the code, we can state that number of days. Mr. Kelly and Mr. Mougrabi agreed. Mrs. Murphy said if you change it to that definition, “calendar days unless otherwise designated” you better make sure every place is correct in the book, or you can just take calendar days out and just say days. Wetterman and the reason why it comes under discussion is because there are rules under the applications we receive that state working days or calendar days. Trustee Kusnerak said that any changes you suggest will be vetted by Planning Services and the Prosecutor’s Office. Mrs. Czyz said this came up when we were talking about 30-45 days for the map amendments and in training, Trina said you specify 30 calendar days and then you can continue it if you need to. Mrs. Czyz said when she writes a violation letter it says 15 days and that includes Saturday and Sunday, so it’s calendar days.

Mr. Humphrey said he found one place where it says seven (7) business days and everything else says 10 days prior, 45 days from the date of receipt, etc., so those count weekends and are calendar days. Mrs. Murphy noted Sec.1104 Appeals talks about 20 calendar days; and Sec. 804-1 Special Events talks about seven (7) consecutive days in any one-month period.

Mrs. Wetterman liked Mr. Collura's suggestion to just put in a general description definition saying "*days are calendar days unless otherwise designated*". Mr. Collura said that will take care of it because you will find far less area where you have to say business days specifically if it is not a calendar day event. Secretary Milanko agreed and said the other days are already designated in the book, i.e., business days and consecutive days, etc.

Mrs. Wetterman asked the board to go through the book to see where it says days and calendar days, etc. Mrs. Murphy volunteered to go through the book and put a list together for the board.

NEW BUSINESS:

1. Sec. 804-5 Churches And Other Buildings For The Purpose Of Religious Worship and Sec. 804-6 Public and Parochial Schools

Mrs. Wetterman stated this has been brought up because churches and public schools come under different recognitions in R-1 Zoning. They are a conditional use in R-1 and the problem comes in because we do not have a definition of a church or a building. Under the Federal Religious Land Use Protection (FRLUP), I think we need to consider some kind of definition of what a church building is. She said under FRLUP, there is a difference between a church building and a religious organization. A religious organization is the congregation and I would like the board to review it and come up with some consideration on this, because there are restrictions on what the church congregation can do with these buildings that make it more of a commercial building than an accessory building.

Mrs. Wetterman asked for input because an accessory building is in conjunction with the primary building and when you go to change where your services are held, it changes the use of the building from an accessory building to a primary building. She said you are allowed to have places where you can have basketball games, youth groups in there, etc., but when you start having religious services it changes the building to a public use. Mrs. Wetterman said it can cause some problems because when you start holding weddings and receptions in there, the receptions are not part of a religious service; weddings come under a separate function. She said you cannot prohibit religious services and churches could be considered two people in a meeting and that is considered a church because they are discussing religion. A church building cannot be considered a "religion" it is a facility, according to the FRLUP.

Discussion: Mr. Humphrey asked if she is looking to put in five or six definitions? An accessory building that is supportive to a religious organization; the primary principal building of worship, but then there are some churches that don't have pews, they just take chairs down and then utilize it as a gym. Mrs. Wetterman said that is exactly the question of what we are talking about. Mr. Humphrey is wondering what kind of definition we can have and how you can control what is going on inside that building. He said we can't walk in the door and ask what they are doing.

Mrs. Porter said if the church was going to be using it for a gym, they wouldn't be using it for a commercial gym, they would be using it for their own parishioners, youth groups, etc. Mrs. Czyz said what would prevent them from renting it out for weddings or use of the gym and as Wes said, not every church has pews. Mrs. Wetterman said then it becomes a rental that is being a commercial building. Mr. Humphrey said it is hard to control that because we don't know if they are renting it for a reception or bible study. He said you might try to put some definitions in, but for a multi-use building? Mrs. Wetterman said and those have building codes we can't control, and the building department said that becomes a commercial building. Mr. Humphrey said it has to be built to commercial standards with electrical and fire codes, etc. because you have people in it, and asked again, how can we control what goes on inside that building? Trustee Kusnerak said we may not have the authority to do what you are suggesting to do, because it is a church.

She said the board can submit a letter of question on this to the Prosecutor's Office for his opinion before you move forward. Mrs. Wetterman said we have a particular area in the hills where the church built a sanctuary for worship and they built it as an accessory building first. They were holding their services in that particular building and then they built their sanctuary which made the accessory building first and then they built their main church and that can be confusing because a definition for an accessory building for a church is different than for a regular use.

Mr. Collura said I suppose you can require a church to build their main building prior to the accessory building. Mrs. Czyz said just like you would for a house. Mr. Collura said I am having difficulty understanding why the code would be different for the accessory building if the church was using it for their own parishioners vs. renting it out. Why wouldn't the safety features, the electrical, water and everything else have to be the same? Mr. Humphrey referenced St. Emilian's Church on Substation Road and said the church started out in the hall that they rent out before they built the big church. He said they rent the hall out for weddings, showers, elections, etc. and said they have a full kitchen in it. He said that was the principal building at first and then they put up the church and said I believe that is all on one lot. Mrs. Wetterman said the question is when does that become an accessory building if they already have their church? Mr. Humphrey asked if the scenario that happened there is harmful or detrimental to the township or the neighbors and the answer is no.

Mrs. Porter asked what the issue is so she could understand why we are discussing an accessory building as opposed to the church. Mrs. Wetterman said a case came before the BZA on this issue and when it was checked out about the building, the Medina County Building Department said that because they wanted a kitchen, offices, etc. it would make it a commercial building which requires fire codes, etc.; it was not an accessory building because there was already a church on the property. Mrs. Porter said then they would want to comply with all of those codes. Mrs. Czyz said it was applied for as an accessory building, but the use was presented differently. End of discussion.

ADDITIONAL BUSINESS: None

PUBLIC COMMENT:

1. Ron Wetterman, 1085 Substation Road, Brunswick Hills stated he was sorry if he stirred up a bee's nest with the church business. He said in a Residential District, you are allowed one home per lot. Since the churches are designated differently, can we add the allowance that they can have more than one building per lot, but they have to maintain their required setbacks and that way you don't have a misconception on what the building is and as Wes said you can't regulate the use for a church.

Mrs. Wetterman thought that was a good suggestion to remove the language where you are only allowed one accessory building on the lot. Mrs. Czyz said not just the accessory building, you have to have the main dominical. Mr. Humphrey said but it doesn't say you can't have two; it says you cannot exceed 20% of your rear land, so if they have five acres it would take a lot to use up that 20%. He said you can have more than one building as long as you don't exceed the 20% and that would include decks, patios, gazebos, pools, and any other structure(s).

Mr. Wetterman said we don't have a lot of areas in the township considered Commercial Districts, correct? Mrs. Czyz stated all along Rt. 42. Mr. Wetterman said my point is that I think the church wants to be where the people live. Mrs. Czyz said thus, it is a conditionally permitted use. Mr. Wetterman said many of the churches have Sunday school buildings, a meeting hall, the main sanctuary, so they have multiple buildings and to try to classify all of these extra buildings as accessories, just call them church buildings. Mrs. Czyz said you will find that opposed to the township, the city wants them (churches) on a main throughfare. She said townships want churches as a place of congregation and the only places they have are within a Residential District; you will find that within all of the townships in Medina County and within the State of Ohio.

ANNOUNCEMENT OF NEXT MEETING DATE: Thursday, July 1, 2021 @ 7 p.m.

Trustee Kusnerak stated the allowance of Zoom meetings may end on June 30th, but State of Ohio is looking into extending that until the end of the year, so we won't know anything until the end of the month.

MOTION TO ADJOURN

Motion: Mr. Mougrabi motions to adjourn. Mr. Kelly seconds. **Roll Call:** All in favor. Meeting officially adjourned at 8:46 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Patricia Wetterman, Chair

Date