

**Brunswick Hills Township Zoning Commission  
Regular Meeting Minutes  
May 6, 2021**

**CALL REGULAR MEETING TO ORDER**

Chair Wetterman called the Brunswick Hills Township Zoning Commission regular meeting to order at 7:00 p.m. A roll call of the board was executed.

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

**APPROVAL OF THE MINUTES**

**1. Approval of the ZC March 4, 2021 Regular Meeting Minutes**

**Motion:** Mr. Norton made a motion to accept the minutes of March 4, 2021 as written. Mr. Mougrabi seconds. **Roll Call:** Mrs. Murphy-yes; Mr. Mougrabi-yes; Mr. Norton-abstain; Mrs. Wetterman-yes.

**2. Approval of the ZC April 8, 2021 Public Hearing Minutes Zoning Map Amendment**

**Motion:** Mrs. Murphy made a motion to approve the public hearing minutes for April 8, 2021. Mr. Norton seconds. **Roll Call:** Mr. Kelly-yes; Mrs. Murphy-yes; Mr. Norton-yes; Mr. Mougrabi-yes; Mrs. Wetterman-yes.

**3. Approval of the ZC April 8, 2021 Regular Meeting Minutes**

**Motion:** Mr. Norton made a motion to accept the April 8, 2021 Regular Meeting Minutes. Mr. Mougrabi seconds. **Roll Call:** Mrs. Murphy-yes; Mr. Mougrabi-yes; Mr. Kelly -yes; Mr. Norton-yes; Mrs. Wetterman-yes.

**OLD BUSINESS:**

**1. Incomplete Zoning Applications**

Chair Wetterman said under old business we were having questions about incomplete applications with missing papers, signatures and maps, etc. She said in the training we had, we were told we had three choices we can make (1) accept it as is and work on it (2) we can deny the application and send it back, or (3) we can postpone the meeting until we have the papers.

**Discussion by the Board**

Mr. Mougrabi said I would accept it at the meeting and if it is incomplete, we deny it and move on. Mrs. Wetterman said that would have to be done at the meeting and we accept the application and then tell the applicant what they are missing and come back. Mrs. Wetterman said and we will postpone the meeting until the papers come in. Mr. Mougrabi asked if the applicant is filling out the application, do they know what they need to submit? Secretary Milanko stated there are several sections in our zoning book that detail what is to be included with their application. Mrs. Czyz said they get a list and that is why the board gets the application a month ahead of time so if there is anything missing, they can contact me or contact the applicant. Mrs. Wetterman asked if the board can contact the applicant. Mrs. Czyz said you can or you can contact me and tell me what is missing and I will contact the applicant. Mrs. Wetterman said we have some new board members and asked if we can see the checklist. Mrs. Czyz said it is listed in your zoning book on applications for site plan reviews.

**2. March 24, 2021 Zoning Training**

Board members said the training was very informative.

**3. Zoning Resolution Sec. 411 Conservation Development Overlay and the Comprehensive Land Use Plan**

Mrs. Wetterman asked Mr. Humphrey, Assistant Zoning Inspector, to give the board background information on why this section was written. Mr. Humphrey said it started with the Greenfields site on Substation Road. Initially we had RR, R-1 and C-1 and then the Arbors went up and we didn't like the way that turned out because it was C-1 property. He said we removed the C-1 and then we had the R-1 and RR. Then Autumnwood came in and we didn't like the way that turned out, so we put Conservation Development to RR-Rural Residential only. He said it gives the landowner an option and we took care of a lot of the problems we were having by removing it from certain zoning districts. Mr. Humphrey said that is the background on how the conservation started and that was over a period of years when those things changed. Mr. Humphrey said some of the things it helped by doing this is you have less roads to take care of, you disturb less land, and keeps the land use character as described in the Comprehensive Land Use Plan.

Mr. Humphrey said you are allowed 5% of recreational, so if you have 20 acres, 5% would be 2 acres and it has to be "useable" open space. He said it is an option within the document, but you don't have to use that 5%. If you wanted to have a playground or walking paths, you can tell them whether it can be gravel, or no asphalt or no concrete. He said I think it is stone or mulch for the walking trails because you want the water to absorb. He said you can't use wetlands for the recreation area or encroach the riparian setbacks which could be 25 feet or 75 feet from the center, without permission. He said it took a long time for these changes to come about after the different developments that went in. He said the Arbors and Autumnwood were bad, but West Chase looks pretty good, except there are a lot of stormwater easements which causes problems with the landowner if they want to put in a pool or a fence. He said a number of residents there have a letter from Medina County Storm Water Management saying the resident is responsible for removing the fence if they have to come in there to work on something. Mrs. Wetterman said it is my understanding as a board, we can seek out or ask for help if we need it, correct? Mr. Humphrey said I would have to look that section up in the book, but if you need professional assistance, the applicant pays the cost. Mrs. Czyz confirmed it is in the book. Mr. Humphrey said Mr. Kelly would be the one with information on how the stormwater came up with center line and high-water mark. Mr. Kelly said we will be talking more about that at the next meeting.

Mr. Humphrey said if the board is considering removing Conservation Development from the resolution, I suggest that you read the purpose. He said it doesn't change density, but the lines for utilities are less to cover the same number of homes; streets are smaller and it is less of a burden on the Service Department to plow and maintain. He suggested the board also read the general standards, permitted uses, minimum lot sizes, etc. He also noted that a "pre-application" meeting is also required so if you read those sections, you will get the answers you need. He said it spells out exactly what they need to submit an application and all subdivision applications will have a list of what they need to submit with their application. He said the BZA applications also have a checklist and if the applicant chooses not to fill out everything, that is their problem. Mrs. Czyz said you can only advise them as to what they need to submit and if they don't give me everything, I cannot deny accepting that application. Mrs. Czyz reminded the board they have 30 days to look at applications and determine if there is information missing and let her know. She will then contact the applicant and tell them what is missing and they have seven days to submit it. Mrs. Wetterman said we can deny the application if they don't submit the information in seven days. Mrs. Czyz said yes if that is what the board wants to do, but it has to be a board decision.

Mr. Humphrey referenced the PMUOD (Planned-Mix Use Overlay District) and said there are only certain places where you can put that and asked if there is enough space left in the township for the requirement of it. He said we put a lot of time and effort into it, but maybe its use has ended. He said that is a decision when you read it, you'll find out because it has to be on a main road and Substation Road south of Rt. 303 is not a main road. He said Redwood was one of the corners under consideration for a main street, but that is not going to happen there.

Mr. Humphrey said Autumnwood is in the R-1 and it was adjacent to the city at one time and we could have lost that property. After it went in, we didn't like the way it looked, but we left it in for annexation reasons. The following development/subdivisions under Conservation Development in the township were noted: Green Fields, Autumnwood, Arbors, West Chase, Westbury, Eastbury, Southbury, Meadows of South Pointe, Estates of Sleepy Hollow and Wexford. Mrs. Wetterman suggested the board members take a ride around to see what these places look like. She said we can discuss as there are declining areas in the township that may be eligible for Conservation Development, and especially the PMUOD. Only main roads are eligible for Sec. 406-3 PMUOD which lists Center Road, Marks Road, Grafton Road, Pearl Road and West 130<sup>th</sup> Street. Mr. Humphrey suggests the board read Establishments of a PMUOD and the purpose of this section. Mrs. Czyz noted Sec. 406-3 (4. Are served by public water and sanitary sewer facilities.) and said not all of Grafton Road is serviced by public water and sanitary sewer facilities; there are portions that still have well water. Mrs. Wetterman asked if that is county water. Mrs. Czyz stated it is water from Lorain. Secretary Milanko noted parts of W. 130<sup>th</sup> are not serviced by water and sewer. Mrs. Czyz stated correct and so are parts of Marks Road and Pearl Road.

**NEW BUSINESS:**

**1. Swimming Pools.** Mrs. Czyz noted Sec. 303-6 (G) page 21 in the zoning book:

G. Swimming Pools - Public or private swimming pools containing over one and one-half (1½) feet of water depth, shall not be located to the front or side of a dwelling, and shall conform to all required yard setback lines, except that in-ground pools shall be located not closer than ten (10) feet to the rear or side property line. Every in-ground pool shall be completely surrounded by a fence or wall not less than four (4) feet in height. Doors or gates shall be equipped with suitable locking devices to prevent unauthorized intrusion. An accessory building may be used in or as part of such enclosure. Any above ground pool that requires steps or ladder for access must have a fence or gate at point of access with suitable locking device.

Mrs. Czyz read: *Every in-ground pool shall be completely surrounded by a fence or wall not less than four (4) feet in height.* Mrs. Czyz said I think we need to add “and, or a locking cover for the pool”. She said that is what new technology is going to as opposed to a fence around a body of water. She said a locking cover over an in-ground pool is safer and over 90% of people with an in-ground pool will put that cover on. She said if they don't put the cover on, they will get algae and constantly have to treat it. If you have a fence around that pool with open water, what's going to prevent an intruder from jumping over the fence and going into that pool. With a locking cover, you can get to the water's edge, but you are not going to get into that pool. These covers hold a car in weight. She said maybe not eliminate a fence but add “or a locking cover”. Mr. Norton said I don't agree. Mrs. Murphy asked what the Ohio Safety Code says? Mrs. Czyz did not know. Mrs. Murphy said I don't think that is safe without a fence around it and I think it is against the Ohio Safety Code or whatever code regulates that. Mrs. Czyz said, but how is it safe when you can jump that fence and go in there. Mrs. Murphy said well, how is it safe when they can be up late swimming in the pool and then they go to bed and forget to put the cover back on and now the pool is open and there is no fence. Mrs. Czyz said I'm saying either fence or locking cover. Mrs. Murphy said no, I don't think it should be either or. Mrs. Murphy said she will look up the safety codes.

Mr. Norton agreed with Mrs. Murphy on safety and fences and said I have an in-ground swimming pool and to put a locking cover on it you have to remove the ladders. He said what is a locking cover, do I have to put locks on it, bolt it to the concrete deck, etc.? He said do you know what it takes to put one on and take one off? He said it's like putting the winter cover on and that cover is heavy. He said they do have covers that disappear under the concrete floor, but for around here with our winters it doesn't work. Mr. Norton said it's the same if you have a lake, what stops someone from jumping in that lake and drowning? Mr. Norton said we put a four-foot fence around our pool and across the street on Marks Road in Valley City there are in-ground swimming pools there with no fences around them. Mr. Norton said I know we have to have closing and locking gates on our pools, but I would have to research the locking covers. Mrs. Czyz we are seeing more of the homeowners putting locking covers on their pools in the township and noted an increase in applications for in-ground pools.

**2. Definition of Days vs. Calendar Days.** Mr. Humphrey said he had a note in his book in Definitions questioning the definition of days and he couldn't remember why it's in there. Secretary Milanko said we've had past discussions on "business days" vs. "calendar days". Mr. Humphrey said there is not a definition in the book for days. Mrs. Murphy said the board was talking about calendar days because places in our Zoning Resolution it says different types of days, or it doesn't specify the days. She said if you are talking 30-45 days you are talking calendar days. Mr. Norton said working days are considered Monday-Friday and asked if 45 days is Monday-Friday or Monday-Sunday, so that is probably why the question was asked. Mr. Humphrey said that explains it; 45 days is calendar days and for a permit of 15 days I think it would be working days. Mrs. Czyz agreed. Mrs. Murphy asked if working days includes holidays and said I think it should all be one standard of calendar days and then if you want the 15 days to be working days you change it to 21 working days. Mrs. Czyz noted there are also government holidays.

Mr. Humphrey noted page 107 902-2 (D) and 902-2 (E) Submission of Applications and said they mention 15 days and 10 days so just change 15 to 21 and the 10 days to 14 days. Mrs. Murphy said the term days is listed many places in the book so we have to look at that and maybe we should create a definition for days. Mrs. Wetterman said maybe we should have both, a definition of days and go through the book to change each section that refers to days. Mr. Collura said either way you still have to go through the whole book to eliminate any confusion. Mr. Norton said we should also specify calendar days and working days to avoid confusion. Trustee Kusnerak said you have to be careful with changing the days because a lot of the information in the code is from the Ohio Revised Code (ORC) and the ORC states whether it is calendar days, days, etc. She said whatever you are looking at in our code, you have to make sure it complies with the ORC, so it really can't be a blanket change for the whole book. She said you can't just change it because some of the language is directly out of the ORC. Mr. Collura said that means that for each direct application and where ever we say days in our book we will have to indicate whether that is working days or calendar days so we are not in conflict with the ORC. Ms. Czyz said look up definition in ORC for days if they have one. Mrs. Murphy stated she would look it up for the next meeting.

**ADDITIONAL BUSINESS:**

Chair Wetterman noted at the next meeting, Mr. Kelly will present on Riparian Setbacks and Mrs. Porter may have additional information on Conservation Development and Open Space.

**PUBLIC COMMENT:**

**1. Ron Wetterman, 1085 Substation Road, Brunswick Hills, Ohio.** Mr. Wetterman asked the board to think about the wording in our zoning book, especially under definitions. He said in Brunswick Hills we have several churches and a lot of them are in residential areas and most of them have at least two buildings on them. A recent application came before the BZA that filed for an accessory building. He said unfortunately, the size and the use of the building did not meet the standards of an accessory building as defined in our zoning book. Mr. Wetterman said he personally did some research with the Medina County Building Department and asked them if there is a difference in the rules and regulations of residences, accessory buildings, churches, schools, etc. and the answer was there are a lot of differences. Churches fall under the designation of commercial uses so I would like to see churches in our definitions as to what they are, how they are designated whether they be in a Residential District, Commercial or Industrial District.

Mrs. Wetterman asked if we need to put in the definition, at the discretion of the Trustees and board, that churches in residential areas are allowed to have commercial buildings? Mr. Wetterman said I think under the definition of churches, schools and institutional buildings that they are allowed more than one building per lot that are not necessarily designated as accessories. He said if it is a tool shed or something of that nature that would meet the definition of an accessory building. If it is larger building with 27-35 feet tall, that does not meet the designation of an accessory building. If it is going to be used as a secondary religious building for services, classes or in some cases recreational gymnasium, that does not fall under the classification of an accessory building. Trustee Kusnerak asked are you talking about rezoning that particular parcel to commercial? Mr. Wetterman said no; on their initial building permit, it would be designated as a commercial building in a Residential District. Trustee Kusnerak stated you have to watch

out for spot zoning. Mrs. Czyz said and you are trying to determine a definition just by size of the building? She said if I have a 10x30, 300 square foot accessory building and I decide to have Sunday school in there, would that be permitted because now you are giving up my freedom to worship. She said so we have to be careful on the size. Mr. Wetterman said but at the same time, Sunday school classes would be considered a church. He said if you are having Sunday worship in your own home, that might be different, but if you are having a separate building for that purpose, it becomes a church.

Mr. Humphrey referred the board to page 98 Zoning Regulations for Sec. 804-5 Churches And Other Buildings For The Purpose Of Religious Worship and Sec. 804-6 Public and Parochial Schools. He said the building department may consider those buildings as commercial for buildings in their regulations because if you have a congregation, or something of that nature, they may consider that as commercial code to build those buildings. He said it may not be a commercial building, but under their code it is, but under our code it falls as a structure or a building. He said they determined under their code that is commercial so that is something to think about when you are looking over this. He said I'm not saying Mr. Wetterman is wrong, I'm just saying that the building department may consider it differently. Mr. Wetterman said they also looked under the definitions of institutional buildings, because institutional buildings can be considered purposely for schools, churches and other non-profit organizations. The problem was in the sizes and divided uses such as weddings, gymnasiums and other services.

Mrs. Czyz said the problem with the church the BZA heard last night was that the application was for an accessory building; never was it mentioned that it would be used for religious services. She said it was strictly recreation or to put stuff in for storage. Mrs. Wetterman said definitions might help as we consider this. Mr. Collura said Mr. Humphrey referred to two sections and it would be one thing if they were using this additional building for storing things. He said but if they are going to hold weddings, other church services, now you have an issue with how many cars, how many entrances and exits, what size is the parking lot so it is getting bigger than the concept of a church sitting on a residential parcel, particularly if they increase the services that you would typically have thought the church was going to have. Mr. Mougrabi said if they say it is an accessory, you can't assume it will be used for XYZ, or for church or prayer service because we don't know that. Mr. Collura said maybe in our code we can define what they can or can't use it for. Mrs. Czyz said the applicant came in for a height variance and I discussed with him several times (A) what is the height of the building and (B) what are you going to use the building for and never did the Pastor state that he was going to have religious services in there. She said it was strictly going to be an accessory building and I had no choice but to take him for his word.

Mrs. Wetterman asked the board and zoning inspectors to bring ideas/suggestions on this topic to the next meeting under Old Business. Mr. Mougrabi asked if this is a big issue in Brunswick Hills or are we just looking at definitions. Mrs. Wetterman said we are just looking at definitions; it is not a big issue but it was brought up by a member of the public so it must be considered. Mrs. Murphy said we can look at the Ohio Revised Code for a definition of a church. Mr. Mougrabi asked if there is an accessory building definition in our book. Mr. Humphrey read the following definitions in the Zoning Resolution:

**Accessory Building or Use:** A subordinate building or use located upon the same lot occupied by the principal building or use and which is customarily incidental to said principal building or use. A tool shed, detached garage, carport, gazebo, pergola, and similar permanent and semi-permanent structures shall be considered as accessory uses and/or buildings.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels.

**Institution:** A building occupied by a non-profit corporation or a non-profit establishment for public use.

Mr. Mougrabi asked when it says housing people, does that mean it has plumbing, sinks and a bathroom? Mr. Humphrey said when you have an accessory building and you put electrical in it you have to get a permit from the county. He said now if they are going to use it as a church there are standards for electrical

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and plumbing with the county. Mr. Mougrabi asked if they have electrical and plumbing in it, is it considered an accessory building? Mr. Wetterman said there are also height limitations to the building. Several board members said the height depends on which district it is in. Mrs. Czyz said a house can go 35 feet and an accessory building in a Rural Residential is 25 feet and in R-1 it is 15 feet. Mr. Humphrey referred the board to Sec. 303-6 General Regulation of Lots which describes the maximum height limit of structures in each district.

Mrs. Czyz said regarding the church application, how the applicant applied and how they presented the use were two different things. She said if he would have stated that the building would be the carry over for the church, she would have encouraged him to build it up to the church and have a common wall so then it would have been just an addition of the church. Mr. Collura asked if the application requires a definition as to what they are using the building for? Mrs. Czyz said there is a place on the application for a description of use. End of discussion.

**New Business Continued:** Mr. Humphrey suggested an amendment to the definition of a deck and said I don't know if this came out of an old book, but it really doesn't apply.

**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.

Mrs. Czyz said you can have a deck that is away from the principal building and it is still a deck; it doesn't have to be directly adjacent.

**ANNOUNCEMENT OF NEXT MEETING DATE:** Thursday, June 3, 2021 @ 7 p.m.

**MOTION TO ADJOURN:** Mr. Norton made a motion to adjourn. Mrs. Murphy seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:21 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

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Patricia Wetterman, Chair

Date: