

**Brunswick Hills Township Zoning Commission
Regular Meeting Minutes
August 5, 2021**

CALL REGULAR MEETING TO ORDER

Chair Wetterman called the Brunswick Hills Township Zoning Commission regular meeting to order at 7:03 p.m. Mr. Norton led the Pledge of Allegiance and a moment of silence for our men and women in the military and first responders.

A roll call of the board was executed.

- **Board Members in Attendance:** Patti Wetterman (Chair); Bob Norton (Vice Chair); Trica Murphy; Sy Mougrabi; Ed Kelly
- **Alternate Board Members in Attendance:** Barb Porter; Dean Collura
- **Others in Attendance:** Trustee Christina Kusnerak, Zoning Liaison; Wes Humphrey, Assistant Zoning Inspector; Mary Jean Milanko, Zoning Secretary

APPROVAL OF THE MINUTES

1. Approval of the ZC July 1, 2021 Regular Meeting Minutes

Discussion and Edits to the Minutes. Mrs. Wetterman noted page 3, under Old Business, 1. Ohio Revised Code (ORC) of the July 1st minutes and stated that Mrs. Czyz misquoted her: *Mrs. Czyz stated under old business discussed at the last meeting it was mentioned that Ohio Laws & Rules are taking the place of the ORC. Mrs. Czyz said I checked that and the Legislative Service Commission has assumed publication and all they have done is changed the vendor to who publishes what, but everything else stays the same, it is not taking the place of the ORC.*

Mrs. Wetterman said on June 3rd I made an announcement about an update on the Ohio Revised Code website and I referred the board to the new website that was given April 21, 2021 for Ohio Laws and Administrative Rules. She said I gave the code to get in there and also said you can type in “Ohio Revised Code” and the link will come up.

Mrs. Wetterman said that was not mentioned in the comment; it was just given as a link; I said nothing about changing anything in the ORC and asked if we have to correct that in the minutes, or can we put in a notation? Mrs. Milanko asked for clarification on which minutes she was correcting. Mrs. Wetterman said the July 1st minutes. I am not disagreeing with what she said, I am saying it was misquoted that I said that the Ohio Laws are taking place of the ORC. That’s not what I said. Secretary Milanko asked how the board would like to take care of that? Mrs. Murphy noted that is what Mrs. Czyz said, but she is not here tonight and we cannot change what she said, so maybe make a notation in the July 1st minutes and then refer back to the June 3rd minutes. Secretary Milanko made note that she will edit the minutes to state Mrs. Wetterman was misquoted and refer back to page one of the June 3, 2021 minutes.

MOTION TO APPROVE THE JULY 1ST MINUTES. Mr. Norton moved to approve the July 1, 2021 meeting minutes as just read. Mrs. Murphy seconds the motion. **Roll Call:** Mr. Kelly-yes; Mr. Mougrabi-yes; Mrs. Murphy-yes; Mr. Norton-yes; Mrs. Wetterman-yes.

OLD BUSINESS:

1. Disabled Motor Vehicle Discussion

Mrs. Wetterman noted that Trustee Kusnerak would like to address the board with a question on what constitutes a “vehicle” and a “disabled vehicle”. Trustee Kusnerak said there seems to be some confusion on the disabled motor vehicle section and referred the board to page 20, Sec. 303-5 (G):

G. Outdoor Storage of a Disabled Motor Vehicle - The parking of a disabled motor vehicle within a residential district for a period of more than 14 days in any calendar year shall be prohibited unless such vehicle is stored in an enclosed garage or other accessory building.

Trustee Kusnerak then referred the board to page 8, **Definition of Disabled Motor Vehicle:** *Any inoperable licensed or unlicensed motor propelled vehicle.*

Trustee Kusnerak stated as long as I can remember, we've been going by that particular definition, so if there is a vehicle in somebody's yard, in their driveway, or off to the side, and you know it hasn't been moved for say a month. The township may notify them and tell them they have to move this vehicle even though it is licensed or tagged, or it's legal. She said if they haven't moved it, to us, it doesn't meet our codes. She said there is another opinion that if it is licensed and the tags are current, it could sit there for a year and it's ok. My question to the board is, which way are we going on this? How do you interpret that section and that definition?

Mr. Mougrabi asked if she is saying the definition doesn't match what Sec. 303-5 (G) says? Trustee Kusnerak said that is my question. Mr. Mougrabi said when he reads Sec. 303-5 (G), if it's not operating in more than 14 days, it doesn't matter if it is licensed or unlicensed. If it sits there for more than 14 days, it doesn't matter if it has tags or not; that's how I read it.

Mrs. Murphy said I read that as inoperable, meaning it doesn't run. So, if it sits there, but it can run, it wouldn't apply. Trustee Kusnerak said so the question becomes how do we know if it runs or it doesn't run? Trustee Kusnerak said she talked to Mrs. Wetterman about this and she said, well if there is a tree growing out of it, it's probably not running. Trustee Kusnerak said we see this all the time and we do send letters to the homeowners. If there is grass growing around it even though they have a current tag, does that mean it's inoperable, or they haven't moved it; what are we supposed to do? Mr. Mougrabi said we aren't policing it are we? The only time we know about this is when there is a residential complaint. Trustee Kusnerak said correct and we get a lot of them.

Mrs. Porter said wouldn't the burden of proof be on us (township) to prove it was inoperable? Or, would the burden of proof be on the owner to prove it was operable? Mr. Collura said if you told him to move it and if he towed or pushed it if he couldn't start it when he moved it, obviously you would know at that point that it's inoperable. He said apparently, whether or not it is licensed isn't an issue if it is operable. Trustee Kusnerak agreed. Mr. Norton asked, what do you consider moving it? Moving it from one side of the yard to the other? One parking spot in the driveway to another? Mrs. Wetterman said we have that listed under junk vehicles. Mr. Norton said I know people that have moved it for 14 days and then move it back. Mr. Collura said the way I understand that, it's saying "in any calendar year". He said I'm thinking simply moving it within the same calendar year from one spot to another is still inoperable unless it drives under its own power.

Mrs. Murphy noted the definition of a junk vehicle: ***Junk Motor Vehicle:*** *Any vehicle which is extensively damaged, including but not limited to any of the following: missing wheels, tires, motor or any parts necessary for the operation of a motor vehicle, or which is apparently inoperable.* Mrs. Murphy said the question is for the first code, does the township want that to be "any vehicle", or only "junk motor vehicles"? Mr. Mougrabi said the definition of inoperable means something that cannot work as intended or something that cannot be fixed so we need to change the definition of 303-5 (G) to meet the disabled motor vehicle meaning. Mrs. Murphy said it eliminates one of the definitions.

Mr. Humphrey, Assistant Zoning Inspector, said my opinion is that it calls for an "inoperable" vehicle. The burden of proof is on the township to prove that it is not. If it has an updated sticker, every two years they have to get an E-Check for the sticker to be good. So, just because a car sits in one spot, there could be circumstances of illness in the family or maybe they went on a three-month vacation, etc., but the burden

of proof would be when I am inspecting to say that vehicle is not operable. He said for me to knock on the door I feel like I am harassing someone. He said if it has a valid tag on it for 12 months, they had to get a sticker. Mr. Collura said he would caution about the E-Check because he saw in the paper that they are talking about eliminating those. Mr. Humphrey said he got an E-Check, but what if he parks his truck in the same place in his driveway for six months, does that mean it's inoperable? He asked, if I park my vehicle on my front lawn, does it say in the book I can't? No. Mr. Humphrey said if I were to go to the door of a resident and ask them if that vehicle runs and they say yes, they don't have to go out to move it or prove anything. Mr. Mougrabi asked if there is a difference for R-1 or RR? Mr. Humphrey said this goes for all zoning districts, but with Covid, a lot of the service garages are not getting their parts, so how can you go around telling them to fix it when they don't have the parts? He said that is a business, but if your neighbor had it parked there, he or she might drive it once or twice a year, we don't know. Mr. Humphrey said if I feel like I am harassing a person, I probably am, but I have to prove it. So, what do I do, wait for an E-Check and the vehicle doesn't move?

Mr. Mougrabi asked what the consequences are if they don't abide by our rules? Trustee Kusnerak said the Zoning Office goes through the process of sending them letters giving them X-number of days to rectify it. Mr. Mougrabi asked what happens if they don't rectify it? Trustee Kusnerak and Mr. Humphrey said we make a folder with all of the correspondence, the pictures, etc. and it is sent to the Prosecutor's Office. Mr. Mougrabi stated I think we need to correct the definition and remove one of those two definitions then. Mrs. Murphy said there is a definition for a disabled motor vehicle and a junk motor vehicle which are actually two different things. Mr. Humphrey agreed and said the junk motor vehicle goes with junk yard, but we use that if we go out and there are tires off, doors missing, no motor, etc. and it is obviously sitting there for more than 14 days, so it gives us a guide.

Mr. Humphrey said where this all really comes into play is with Sec. 303-5 (G) Outdoor Storage of a Disabled Motor Vehicle – it has to be disabled. He said and it could be a licensed motor vehicle that is disabled and I can't question that unless there is obvious removal of parts or there is a tree growing through it. Trustee Kusnerak said so the question is what do we do in the meantime as it is written? Mr. Mougrabi said the only thing we can do now is review it, study it and add it to our list to review.

Mr. Collura said we need another definition that is not in our list and that is what is the definition of inoperable? He said it can be inoperable and maybe missing some components and that is where the hang up is because someone could make an argument on what is disabled? He said he doesn't know what the complaints are that people are writing in as to why they don't like it. He said if it has grass growing up around the vehicle, what is the difference between that and a mobile home that sits in one spot? It's operable but it may have three feet of grass growing around it. Trustee Kusnerak said right and we get those complaints too. She said the complaints usually are my neighbor has this car or this RV. It's been sitting in the same spot for a month and there is all kinds of weeds and stuff growing around it and they haven't driven it. Mr. Collura said and you can have that condition with an operable vehicle and that leaves the township in a very vulnerable position to enforce it.

Trustee Kusnerak, should the Zoning Office be writing a letter to the homeowner and ask them to clear the weeds, etc.? Mr. Mougrabi said isn't that standard procedure if we get a complaint and the Zoning Inspector goes out and takes pictures and sends a letter for the 14 days and gives our definition? Trustee Kusnerak said right and that is exactly what we've been doing, but then the question came up that if it is licensed..... Mr. Mougrabi interjected and said it says it right in the code whether it is licensed or unlicensed, so it says it right there in the code. Trustee Kusnerak stated that is why she was confused because she was reading the same thing; inoperable licensed or unlicensed. Mrs. Porter said if it unlicensed, legally it's inoperable. Kusnerak said correct and if it is sitting there unlicensed, the police can check that out. She said, but, if it has current tags on it and it is just sitting there, that's the issue. Mrs. Porter said I agree with Wes in that the township needs to prove that it's inoperable if they are going to request that it be moved. She said if it is licensed and just sitting there it could be waiting for a part or maybe someone only drives it once a month

and unless it is sitting in an area that is impeding the vision of on-coming traffic and it's within the boundaries of the person's lot, then I don't know how it could be considered illegal. Mrs. Wetterman said there are antique cars with antique plates that are legal because they are historical and they have trees growing up through the middle of them. Are they a disabled vehicle? Are they operable and they just haven't moved them? Mrs. Murphy asked if they are creating a nuisance? Trustee Kusnerak said yes, that is part of what the letter would be. Mr. Humphrey said a vehicle that has a tree growing out of it will attract rodents and mice, etc. and they end up eating the upholstery and everything around there.

Mr. Mougrabi referenced the definition of 303-5 (G) Disabled Motor Vehicle and said maybe we need to look at our definition and maybe remove the word "disabled" and just say "motor vehicle"; "disabled or non-disabled" or something like that. He said the definition looks fine but it is just G. saying disabled. He said that car or RV is sitting there with a license and getting weeds but it could be moved but it is just sitting there, that is where the definition could say disabled or non-disabled. Trustee Kusnerak said then the other question would be does it matter? If these residents have these vehicles and they just park them there, and maybe they do drive them only once a month, but there are weeds around them and they look inoperable and they are legal, so what does it matter to us as the township? Mr. Collura said I see motor homes being the biggest issue, meaning they are least apt to be moved frequently. So, they could move it out of that spot for a half hour, weed whack the spot and then move it right back into the same spot and the grass and everything around it looks ok, what's the problem? Mrs. Wetterman said with a motor vehicle and someone complains about it, can you send a letter asking them to move it and that would take care of the problem. Mrs. Wetterman asked if the board could work on this at the next meeting and asked Mr. Mougrabi to research the definitions for disabled and inoperable.

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

Mrs. Wetterman said we are looking at the definition for days and calendar days and referenced "*303-5 (G.) Outdoor Storage of a Disabled Motor Vehicle - The parking of a disabled motor vehicle within a residential district for a period of more than 14 days in any calendar year shall be prohibited unless such vehicle is stored in an enclosed garage or other accessory building.*" and asked for interpretations. She said 14 calendar days in any calendar year and asked is that 14 consecutive days? They move it for a day and put it back for a day? She asked Mr. Collura to state his suggestion for definition of days from the previous meeting. Mr. Collura said I was suggesting that we consider the wording "*days are consecutive, unless otherwise indicated*" and for as otherwise noted, we would say either "business days" or "working days" as defined Monday through Friday, excluding holidays.

Mr. Norton said a business day is a work day and any business that is open is a work day. Mr. Collura said there are also other businesses like restaurants that work on the weekend. Mr. Collura said maybe the best thing to do is pick work day and define that as Monday through Friday. Mr. Collura said in a previous meeting it was discussed to see what the ORC definition of a day was. Mrs. Murphy stated she didn't find a definition of days in the ORC; it just says days. Mr. Humphrey reviewed the document with the listing of days in the resolution and said there are three or four that are business or working days and all of the rest of them out of 46 occurrences of days are listed as calendar days.

Suggested Definition of Day(s): days are consecutive unless otherwise noted or stated in the resolution because you have working days, business days and calendar days. Mr. Collura said if you use the word calendar days, isn't consecutive assumed in that situation? Mrs. Wetterman referenced the Planning Commission review at least 15 days prior to the meeting. Mrs. Murphy asked if the Planning Commission review is 15 business days or 15 calendar days? Mr. Norton said I think it's calendar days. Secretary Milanko stated she goes by Planning Commission days as calendar days. Trustee Kusnerak stated the Trustee's also follow calendar days.

Trustee Kusnerak looked up the definition of calendar days from Google: *The total amount of days including weekends and holidays.* Trustee Kusnerak said it is good that the board is looking at this and reminded the board that proposed text amendments will go to the Prosecutor's Office and they will be the ones with the final say as to yes, you can do that and no, you can't do that.

➤ **NEW DEFINITION OF DAY(S)**

DAY(S): The definition of day(s) is a calendar day unless otherwise noted.

3. Definition of Church and Church Building

Mrs. Wetterman found a definition for a church in the ORC Sec. 5709.07: *“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.*”

Mrs. Wetterman said I take this description of a church as being the people, not a church building. She said the reason we brought that up is because church buildings that are being used for the congregational uses like weddings, basketball games, etc. is a function of the church, not the building. According to the Federal Act passed in the 1970's, you can't govern the church, but you can have restrictions of the building. Mrs. Wetterman said we don't have a definition of a church in our book. She said a private home can be designated as a church as long as it's not used as a residence. If they have prayer meetings, etc. it can be designated as a building for religious purposes.

Mr. Norton looked up Church Building on Wikipedia: *“A **church building, church house, or simply church, is a building used for Christian worship services and other Christian religious activities. The term is usually used to refer to the physical buildings where Christian's worship**”* and said now we have a different definition of a church. Mr. Norton said the previous definition says the church is the people and this definition says the church is the building. Mr. Mougrabi asked about Buddhist because that says Christian. Mr. Norton said to me, church is the building you go to; congregation is the people that are in it. Mr. Collura said what started all of this a couple of meetings back was talking about the auxiliary buildings and what zoning you would have to comply with for the auxiliary buildings, which in my thoughts, are not for the services but for weddings, etc. and whatever else they want to do. Mr. Collura said I don't think either of the definitions just read conflicts with that. Mr. Mougrabi asked if it is up to us to have a definition of a church building? He asked what it matters and said we could have something that says church, temple or whatever as a church building to separate the two definitions. He said if I invite the congregation to come to my house, is that considered a church or a temple for just one day? Is it illegal? Mr. Collura said I don't think it can be a personal residence. Mr. Mougrabi stated I am just saying we have to be careful.

Mrs. Wetterman said according to the definition that Mr. Norton read, if you are having a bible study there, you are having a congregation. Mr. Mougrabi said that is correct, in a home. Is a home a temple every Tuesday night at my house when I have 25 people over for bible study? Mrs. Wetterman said this is what we are trying to bring out and that is you cannot restrict the use of a building. Mr. Norton said further on the Wikipedia page for definition of a church building it says: *“The word church in Christian doctrine is used to describe the religious community as a whole; a body and assemble of Christian believers”* so they have two definitions for a church. Mr. Norton said this whole thing started because somebody wanted to build an auxiliary building? Mrs. Wetterman said what happened was a church wanted to put up a new building to have basketball games, weddings, receptions, revivals, prayer meetings, potlucks, etc. Mr. Norton said that is a fellowship hall. Mrs. Wetterman said according to the building codes, it would be considered a commercial building because it is a congregation. If you are going to have people in the building, not the church, buildings for congregations are regulated differently than for other buildings and that is the same for institutions.

Mr. Collura said I think we are over complicating this, meaning the whole thing is if that building is used for something other than just worship services, it has a stricter set of building codes that it has to follow. Mrs. Wetterman said yes. Mr. Norton said a church still has to follow the building code. Mr. Collura said but if it is just worship, they're not as strict as they are for a commercial type building. Mr. Norton said they are still strict on buildings for congregations because they still have to follow fire marshal laws and Ohio State Building Codes. Just because it is a church, it does not give them the right to do what they want; they have to follow the codes. They may not have to pay taxes or do a lot of other things but they still have to follow the building codes. Mr. Norton said and if they are going to have a kitchen, that is food service and they have to follow another whole set of codes. Mrs. Wetterman said this is why we are looking at a definition for a congregation and a church building, because the building is part of the congregational services. Mr. Norton said a lot of church fellowship buildings have kitchens and serve lunch in them. They have basketball and they use it for overflow services or for when the church is being renovated, etc., but they still have to follow the building codes whichever is stricter. Mr. Norton said it is a commercial building until the building is turned over and then it is a church.

Mrs. Wetterman asked if there were comments about adding a definition for a church. Mr. Humphrey referenced the definition in our book on Institutions. ***Institution:*** *A building occupied by a non-profit corporation or a non-profit establishment for public use.*

Mr. Humphrey suggested the board add “places of worship” because the word church is associated with Christian. A Temple could be Jewish and Mosque is another, etc. but they are all places of worship. He said you may wish to add worship to the institution definition and that way you are not leaving out or singling out any religion. The board agreed on the following revised definition for Institution:

- **Revised definition of Institution:** *A building occupied by a non-profit corporation or a non-profit establishment for public use, including places of worship.*

4. Riparian Areas

Mrs. Wetterman said we have riparian areas in Brunswick and Brunswick Hills and said we don't have a definition in our book. Mr. Humphrey referred the board to the definition of Riparian Areas on page 12 of the book: ***Riparian Area:*** *A naturally vegetated area located adjacent to a watercourse that stabilizes the bank, limits erosion, reduces flood size flows, filters and settles out runoff pollutants, or performs other environmentally valuable functions.*

Mrs. Wetterman said one of the definitions was to govern real estate and discuss adding riparian rights to land owners whose property is located along a river stream or lake. Land owners have the right to use the water as long as such does not harm upstream or downstream neighbors. Mrs. Wetterman said the zoning boards get variances for houses that cannot build on the riparian areas. Mr. Humphrey referenced Riparian Areas Sec. 303-11 (B) (3) *No zoning certificate or conditional zoning certificate shall be issued for any building, structure or use on a lot containing, wholly or partly, a designated watercourse except in conformity with the regulations set forth herein.*

Mr. Humphrey said in Fox Village there were lots laid out in the site plan with riparian areas and it went through Planning Services and it was approved. He said whether they missed that at the time, I don't know. He said that Wexford Development has riparian area and that was also recently approved. He said for you to touch those, (1) it says you are not supposed to do it; (2) is you can't touch it unless Storm Water and the county are involved. He said if you wanted to put a bridge over it or put a culvert pipe through, you have to get written permission to do that. Trustee Kusnerak said that is correct and we send them to the county to get permission. Mr. Collura said the Wexford Development on W. 130th definitely had riparian setbacks on the individual lots and they were not allowed to build on that, but their lot encompassed part of the riparian setback. Mrs. Wetterman said there were three lots in there that they decided they couldn't build

on because the riparian area was in the middle of the lot. Mr. Kelly said riparian areas are for the safety of the waterways and nothing should disrupt them. [End of discussion]

NEW BUSINESS: None

ADDITIONAL BUSINESS:

1. Comprehensive Land Use Plan. Mrs. Wetterman asked Trustee Kusnerak to speak to the board about the Comprehensive Land Use Plan. Trustee Kusnerak said our Comprehensive Land Use Plan was adopted in 2005 and it is time for us to think about sending out questionnaires out to the residents to update the plan. She said as you review the plan, the most important part are the questions in the back of the book. She said those are the kind of questions that will drive what we put in the plan. The survey questions will be mailed to each household in the township and they will come back from the residents telling us how they would like the township to look in years to come. She said last time we received 25% of them back, which is a very good return. Trustee Kusnerak asked the board to review the survey questions in the back of the plan and to come up with new questions or look at rewording some of the old questions.

Trustee Kusnerak stated it is a long process and we will look into a professional firm that can help us document the process and update the plan. She said Mrs. Porter gave her information that Planning Services is offering a grant for townships that are rewriting their Comprehensive Plan. It cost about \$30,000 last time, so it is very expensive to do this. Mrs. Wetterman asked about the process. Trustee Kusnerak said the Trustees have to move forward by resolution to revise the Comprehensive Land Use Plan. She said there was a bidding process to hire a professional, and she will look into that. Mr. Humphrey said it is a lot of work and last time the Zoning Commission was the steering committee. Trustee Kusnerak agreed and said we will need to form a citizens group to volunteer their time to be involved in this and have the BZA involved.

PUBLIC COMMENT:

1. Ron Wetterman, 1085 Substation Road, Brunswick Hills (BZA Member). Mr. Wetterman said the BZA was involved in a case recently and asked the board to come up with a definition of “residential lots” vs. “buildable lots”. He said we have real estate agents selling lots as residential with riparian areas in the middle and they have to move the houses forward or build smaller houses than allowable.

Mr. Collura said we have definitions for the R-1, R-2, R-3, Commercial Districts and so forth and they have lot sizes and setbacks defined. He said if somebody is trying to sell a lot that doesn’t fit that because it has a riparian area in the middle of that, it simply isn’t a buildable lot in my mind, and I don’t think we have to redefine anything outside of the definitions we currently have. Mrs. Porter agreed that the district areas are already defined. Mr. Humphrey said we have a definition for a non-conforming lot and lot, substandard in the book (pages 10 and 11):

***Nonconforming Lot:** A lot which does not conform with the area, width, depth or other requirements of the district in which it is located. (see also Lot, Substandard)*

***Lot, Substandard:** A lot which does not conform in every respect to the area and width regulations of this Resolution.*

Mr. Humphrey said we have definitions in the book. If a lot meets the size, but riparians are an issue, you have to petition Storm Water Management and the Army Corps of Engineers. He said you may be able to find wetlands somewhere else if it’s not in a stream a swamp or something of that nature. You just can’t fill it in, but we have definitions in the book. [End of discussion]

ANNOUNCEMENT OF NEXT MEETING DATE: Thursday, September 2, 2021 @ 7 p.m.

MOTION TO ADJOURN: Mr. Norton moved to adjourn. Mr. Kelly seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:40 p.m.

Respectfully Submitted,
Mary Jean Milanko, Zoning Secretary

Patricia Wetterman, Chair

Date