

**Brunswick Hills Township
Zoning Commission Regular Meeting Minutes
April 7, 2022**

Call Meeting to Order

Chair Wetterman called the Brunswick Hills Township Zoning Commission March 3, 2022 regular meeting to order at 7:03 p.m.

A roll call of the board was executed.

- **Board Members in Attendance:** Patricia Wetterman; Robert Norton; Ed Kelly; Donald Kuenzer
- **Alternate Board Members in Attendance:** Barb Porter, Dean Collura
- **Board Members Not in Attendance:** Sy Mougrabi (Excused Absence)
- **Others in Attendance:** Trustee Trica Murphy, Zoning Liaison; Police Chief Tim Sopkovich; Fire Chief Anthony Strazzo; Mary Jean Milanko, Zoning Secretary

Mr. Collura was seated to represent a full board.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

APPROVAL OF THE MINUTES

1. Approval of the ZC March 3, 2022 Regular Meeting Minutes

Mr. Kelly noted an edit on page 3, third paragraph, last sentence to change rear yard to “rear yard”: *Mr. Humphrey said you can't take up more than 20% of your rear yard and you have to have 25 feet of a rear yard.*

MOTION: Mr. Norton moved to approve the meeting minutes of March 3, 2022 as amended. Mr. Kelly seconds. **Roll Call:** Mr. Norton-yes; Mr. Kelly-yes; Mr. Kuenzer-yes; Mr. Collura-yes; Mrs. Wetterman-yes.

New Business:

1. By request of the trustees - ZC discussion and review of Transient Vendors, Pop-up /Seasonal Businesses and Temporary Businesses (example Christmas trees; t-shirt businesses---temporary BBQ places, etc.)

Mrs. Wetterman stated we have a presentation tonight and asked board approval to hear the presentations first.

MOTION: Mr. Norton moved let the speakers speak on new business. Mr. Kelly seconds the motion. **Roll Call:** Mr. Collura-yes; Mr. Kelly-yes; Mr. Kuenzer-yes; Mr. Norton-yes; Mrs. Wetterman-yes.

PRESENTATION BY POLICE CHIEF TIM SOPKOVICH ON TRANSIENT VENDORS

Mrs. Wetterman asked Police Chief Tim Sopkovich to address the board. Chief Sopkovich thanked the board for inviting him to give a brief on transient vendors and the things that the police department has been doing over the years. He said it is a work in progress because just recently the Police Liaison, Christina Kusnerak, and Trustee Murphy had met with me to go over some of the things that have been happening over the last few months and a lot of it is with transient vendors and businesses that are setup on businesses and property within the township. He said we have had some complaints on some of them, some we haven't and some have been here for years. Chief Sopkovich said normally our transient vendors are going door-to-door in the developments selling pesticides, fertilizer, etc. and by Township Resolution, they have to resister with the police department and fill out an application. We run a background check on them and for \$75 per person we give them a 90-day Transient Vendor Permit. This allows our police officers to be familiar with who is out there in the community selling and distributing things within the township so we

have a record of that. He said most people are compliant like the ice cream trucks and the food trucks. Just recently the fire department has requested that some of these vendors get an inspection by Fire Prevention Officer Matt Payne. Chief Sopkovich said we try to keep safety in the township as far as who is coming in and what they are selling and what they are doing.

Chief Sopkovich said a lot of it is based on what the Ohio Revised Code says we can and cannot do. He said after speaking to the two Trustees, we are looking at updating our township resolution that was adopted in 1994 because there are some things in there that are outdated that I found over the years that we can tweak and make current with the law, but as of right now, we still stand on the township resolution from 1994.

Chief Sopkovich wanted to let the board know what gives the Trustees the right to set up transient vendor regulations is Ohio Revised Code Section 505.94 Registration and regulation of transient vendors. He read the following section of the code:

“A board of Township Trustees may, by resolution, to require the registration of all transient vendors within the unincorporated territory of the township and may regulate the time, place and manner in which these vendors may sell, offer for sale, or solicit orders for future delivery of goods. A board of township trustees also may, by resolution, prohibit solicitation at any residence in which the owner or tenant has posted a sign on the property prohibiting solicitation or for which the owner or tenant has filed a no solicitation registration form with the township.”

Chief Sopkovich said currently we don't have that in our township resolution and I would like the trustees to add that, so we are still working on that. He said right now, for residents who don't want vendors to come to their house, we individuals come in for their transient vendor permit, we will have a list with the street addresses that they are not allowed to go to. He said by law, they cannot do any solicitation there, so that is one update that I have asked the trustees to add to the resolution.

ORC 505.94 continued

“If the board requires the registration of all transient vendors, it may establish a reasonable registration fee, not to exceed one hundred fifty dollars for a registration period, and this registration shall be valid for a period of at least ninety days after the date of registration.”

Chief Sopkovich said currently we are at \$75 dollars and ninety days for permits, but we can go up to \$150 dollars and that is up to the trustees if they choose to do so. He said right now there is really no expense for us to run them. When the applicant comes in, we get their driver's license and check them. The cards that we give them are very inexpensive.

“Any board of township trustees that provides for the registration and regulation of transient vendors under this section shall notify the prosecuting attorney of the county in which the township is located of its registration and regulatory requirements.”

Chief Sopkovich said we've been in contact with former Prosecutor Dean Holman and our current Prosecutor, Forest Thompson and they are ok with us keeping our records because they don't want any more paperwork filed with them at the county. All of the transient vendor registrations are stored at the police department, so we don't have to give them notification. He said typically we will have a couple of hundred every summer, but it might be one business. He said we might have one business with 20 kids that come from out of town that are selling this pesticide and they may be here for a week and then they are gone. We really don't have that many transient vendors.

“No transient vendor shall fail to register or to comply with regulations established by a board of township trustees under this division.”

Chief Sopkovich read the definition of a transient vendor from the code:

“Transient vendor” means any person who opens a temporary place of business for the sale of goods or who, on the streets or while traveling about the township, sell or offers for sale goods, solicits orders for the future delivery of goods, or attempts to arrange an appointment for a future estimate or sales call. “Transient vendor” does not include any person who represents any entity exempted from taxation under section 5709.04 of the Revised Code, or any person licensed Chapter 4707 of the Revised Code.”

Chief Sopkovich said this section is Non-profit churches like the Jehovah Witness, the Catholic organizations, Battered Woman’s Shelter, etc. that are exempt from it so they do not have to file for a transient vendor permit. He said there is some caution on this because some townships have actually prohibited that and that falls under The Freedom of Speech and our Constitutional right to go out and talk about religion and different things. Some townships have decided, no, we don’t want them to go out there and have to file transient vendor permits and those entities have been sued. He said there is a lot of case law and Supreme Court cases that have already been overturned. People that want to go out and speak in the neighborhoods are lawfully allowed to and there are also Ohio Supreme Court rulings on the exempt vendor for the freedom of speech to allow people to go to your home and speak.

Chief Sopkovich said there is something that I think that has been confusing and has changed a little bit with some of these businesses like the tree farm, the guy operating his T-shirts out of the Red Onion, and read this part in the Ohio Revised Code which says:

“This division does not authorize a board of township trustees to apply a resolution it adopts under this division to any person invited by an owner or tenant to visit the owner’s or tenant’s premises to sell, offer for sale, or solicit orders for future delivery of goods.”

Chief Sopkovich said I am not a lawyer. I do a lot of ORC’s because this is where we get our elements of crime everyday if someone is doing something bad, we go to the ORC and find out if it fits. So, what this is telling us is that the trustees don’t have authorization to limit the sale of goods on a person’s property or a premises that they own. He said right now, with the business at the Red Onion or the business that is selling the Christmas trees, if that owner or tenant says it’s okay and they have my permission to sell whatever goods they want to sell on there. The trustees cannot use that and say no they can’t because it is not a transient vendor situation. Chief Sopkovich said that’s my interpretation of that. The trustees did have these individuals come in and they complied and filed for the transient vendors permits and paid their fees. I think the resolution needs to be updated to clarify some of this. Regarding the businesses themselves, I think it is up to you as a board as to how you regulate how they operate within the township and to look if there are separate buildings, etc. Right now, the police department is responsible, per the current resolution, to get everyone’s information, run background checks, house the records, give them their Id’s and regulate the transient vendors when they are out there.

Chief Sopkovich asked if there were any questions. Mrs. Wetterman said that explains what you have to do but if we cannot authorize anything governed by the owner as a visitor, I would like to know if that has been checked with our attorney? Trustee Murphy said a transient vendor is a door-to-door sales person, or anyone going door-to-door and I guess these types of businesses, as provided in ORC Section 505.94 Registration and regulation of transient vendors, is something that the township can regulate. Mrs. Wetterman asked if we can regulate the buildings? Trustee Murphy said we can regulate the time, place and manner and that will be covered under the resolution. Trustee Murphy said many of you may have watched the trustee meeting where they talked about the zoning if they wanted to restrict these businesses in any way to the zoning. Mr. Collura said when somebody is doing a remodeling or construction in their house, they have to get a signed permit that hangs in a window. If someone does not want door-to-door solicitation, is there any way to post a sign in their front window so they know not to come up to the house? Mr. Norton said yes, it says in the ORC that they can post a sign or go to the police department and put

themselves on a list. Chief Sopkovich said that is where the resolution needs to be updated, because I have no problem if we start collecting addresses of people that do not want soliciting and provide that list to the applicants stating they cannot go there. If they do go there, then we will seek criminal charges, if we can, on trespassing because they've already been notified they couldn't go there. Mr. Collura said I have dogs and I wouldn't want anyone in the yard and having to worry about what the dogs might do to somebody walking on our property. Chief Sopkovich said we don't have too many door-to-door on your street. Again, this is more for the Autumnwood / Westbury type developments where a lot of the transient vendors are doing their foot traffic.

Mrs. Wetterman referred back to the buildings and asked what would be a suggestion for the Zoning Commission on how to write how the buildings are to be regulated when they are an invited guest on the property. Chief Sopkovich said that would be something that I don't have to follow under the guidelines of the ORC. Law enforcement in this township is regulated by the Ohio Revised Code; the only resolutions that are adopted that I can enforce are the parking ban and current noise ordinance. Right now, there is no ordinance and I don't know of anyone that allows law enforcement to interact with building violations or building codes because that all falls under the zoning department, so I cannot speak on that. He suggested taking consideration on what you currently have setup for that business to abide by and make them (temporary businesses) abide by the same. Law enforcement would not have anything to do with that unless they are doing something that is a blatant danger, a fire or electrical hazard, or something that was endangering anyone and by all means we would be able to go there, warn them and shut it down or tell them to move it to keep the safety of others.

Mrs. Wetterman said that is my concern, because if they are a guest on the property and we write up something, then what about these people that have transient vendors coming to their home. Trustee Murphy said they would fall under the exemption of the Ohio Revised Code. Mrs. Wetterman said I read somewhere in the ORC that it was changed in 2017 that included stationary vendors. Chief Sopkovich said there may be something in the current resolution about stationary vendors. Fire Chief Anthony Strazzo said I agree with you. It does cover temporary businesses that would be stationary, but the difference being that the stationary business is at a property that is designed for that stationary business, it's not necessarily a residential home that invites an auto parts salesman to sell auto parts out of their property; that's the difference. Chief Strazzo said if you invite a vacuum salesman to your house, they can sell. Mrs. Wetterman said I'm talking about the businesses. Chief Sopkovich said you are getting that from our township resolution. A gentleman in the audience started interjecting and Mrs. Wetterman said we will have public comment if you can wait so hold your question. She said what I am asking about is you are saying that these businesses and these transient vendors need to be related to the business? Chief Strazzo said when you are inviting these businesses to your house, it is to sell goods. Mrs. Wetterman said no, I'm talking about the businesses. Chief Strazzo said yes, it is to sell to that business; not to sell product to anyone passing by.

Mr. Norton asked if she's talking about the T-shirt salesman and the things that come to the Red Onion? Mrs. Wetterman said yes. Mr. Norton said you are asking if that person (vendor) has to sell what that business has to do with. Mrs. Wetterman said that is what Chief Strazzo just said. Mr. Norton said that is if he has a transient vendor that goes to his business and wants to sell. He said you two are talking about two different things and said you (Mrs. Wetterman) are talking about a tent that sets up in a parking lot and wants to sell T-shirts and he (Chief Strazzo) is talking about a person that comes to the business selling things. Mr. Norton said he watched the trustee meeting and Evelyn (Czyz) brought up five locations of where these (temporary businesses) were. I asked for her notes and we didn't get them and she is not here tonight to present them to us, so we are spinning a little bit because we don't have those notes. Trustee Murphy asked the board not to focus on the transient vendors that go door-to-door; the focus is on anyone that wants to setup a business to sell to the general public.

Mr. Norton said if Tom Jones wants to sell T-shirts at the car wash and they invite him in, there is nothing we can do about it if I'm reading this right, correct? He said we have no control over that if he wants to sell to the public, unless it's for safety like too close to offsets from the street, covering up fire hydrants, etc. Chief Strazzo said that can't be regulated, but you can regulate that business through the paragraph Chief Sopkovich talked about where it says "*This division does not authorize the Board of Trustees to apply a resolution it adopts under this division to any person invited by an owner or tenant to visit the owner's or tenant's premises to sell, offer for sale, or solicit orders for future delivery of goods.*" and said I think that is what Trustee Murphy is referring to when she clarified that we, as a township, are able to regulate those. Trustee Murphy said this exemption would apply to the owner of the car wash if somebody comes in there and says I want to sell you car stuff and they sell to the business. She said but if they are using the general parking lot to sell to the public, that is something that can be regulated. Mr. Norton said thank you, I read it differently. Trustee Murphy said this mostly applies to your home where you can invite whoever you want to sell.

Mrs. Wetterman said that's not what it says. Mr. Norton said you can invite them to your house. Mrs. Wetterman said it says "*A transient vendor means any person who opens a temporary place of business fore the sale of goods or who, on the streets or while traveling about the township.*" Chief Strazzo said the Trustees received their opinion from the Prosecutor's Office. Mrs. Wetterman said it has to be dealing with a business and asked if you have a business and a vendor wants to come in and setup a temporary business, it has to deal with that type of business? Chief Strazzo said no, it has to be selling to the business. Trustee Murphy said this is getting confusing. If someone comes in to the Red Onion and says, I want to sell you onions; that falls under the exemption. She said if they go to the car wash and say I would like to come in here and sell whatever to the general public, that does not follow under the transient vendor regulations or the exemption. Mrs. Wetterman said I am trying to think on how we can regulate that. Trustee Murphy said zoning laws. Mrs. Porter said, so in other words, the people that setup are not transient vendors, they are temporary businesses. Trustee Murphy said yes and there are numerous parts to this. There is the transient vendor application that the police department does, there is the resolution by the trustees and now we are asking zoning if there is something that should be put in the zoning resolution relating to zoning that would be recommended to the trustees.

Mr. Norton said a tent is a tent, a trailer is a trailer so they have to have fire suppression, first aid, clean water, etc. Chief Strazzo said even with tents there are regulations on how they are setup; how far they have to be setup from motorized vehicles, parking spots, etc. so there is a whole fire section on tents. Mr. Norton said he would be interested in looking up the fire codes because he thought they could setup in certain spots. Chief Strazzo noted **Ohio Fire Code 1301.7-7-3: Tents and Other Membrane Structures.**

Fire Chief Anthony Strazzo Addressed the Board

Chief Strazzo asked to address the board to provide some guidance on the direction the fire department thinks this should go. He said we feel there are three different areas that can be addressed by different groups, all within the township, but supporting each other.

(1) **The Transient Vendor** that is really that door-to-door sale that the police department already handles with their Transient Vendor Permit. Chief Strazzo said the fire department does not care about the fertilizer guy or the pesticide guy going door-to-door in a residential area. That can be handled by that Transient Vendor Permit.

(2) **The Mobile Food Units** falls under transient vendor, but is identified in the Ohio Fire Code and there is a whole section in the Ohio Fire Code on mobile food units. He said most people would be surprised at the amount of work that has to go in when a food truck comes into a township and sets up. He said they have to be inspected when they arrive.

In the county, the fire chiefs have actually come together and put together a two- step program. A lot of the inspections get done prior to the setup. We have a county sticker that goes on a trailer or a food truck

that says it's been inspected. They have to have the gas lines pressurized, brakes, fire extinguishers, smoke detectors, etc. which is step 1 of the process. He said they have to notify the jurisdiction they are coming to what day that they setup and we have a smaller on-site inspection by the fire department. We have to make sure the generators aren't within proximity of the unit; their brakes are set; they are on level ground; and they have fire extinguishers and basic things that are a lot less than an inspection of the entire vehicle. Chief Strazzo said with regard to the food trucks, zoning can step in or provide some guidance on is where and when you want those units to be utilized. Do you want to permit 15 food trucks to be parked in a parking lot every Saturday that's not regulated for that? It could be in the car wash parking lot when you get your car washed, etc., but a lot of municipalities have set legislation or regulations either through zoning, or adoption of some other rules, to regulate the food trucks as to how or when they can be out and about, etc.

(3) The Temporary Businesses. Chief Strazzo said the word temporary to me is broad. Is one day temporary? three days temporary? Three months temporary? He said I may say I'm going to open up a business for six months or a year, so is that a temporary business or is that a business that is closed six months out of the year?

Chief Strazzo said in Hinckley, they actually have regulations and theirs is three days. If it lasts more than three days then they need to get a zoning permit and they need to abide by the zoning regulations. They call it a "Special Event Permit" if it is three days or more. Mrs. Wetterman said we already have something in our book on special events. Chief Strazzo said they classify them as special events and the example their zoning person gave him was garage sales. He said garage sales are usually Friday, Saturday and Sunday, and that is the three days. However, if you go Thursday, Friday, Saturday and Sunday, you have to get a special event permit to have it for the four days, even though it is a garage sale, because it is a selling of goods. Chief Strazzo said with those businesses, even though they are a temporary business or a regular business, we as the fire department have obligations to inspect them via the fire code. He said that is where we are advocating for the safety that we know when there are food trucks coming and we have a process to make sure we know when a business is coming up. He said we want to make sure safety concerns are addressed through the zoning code and said right now, the zoning code addresses a lot of those which include the setback from the roadway, the number of buildings or if you are allowed to have a trailer. A lot of those are in the zoning code, so it addresses the safety already. Chief Strazzo said the question is do we want to enforce the codes that are already in the zoning code for a business that is temporary, or do we let them go and do their own thing?

Chief Strazzo said if it was a resident violating the zoning code, how long do we let them violate the zoning code before we do something like send a letter when we get a complaint. He said so if we are letting a business come in and violate the zoning code, why wouldn't we treat them the same way as we treat our own citizens and residents? Mrs. Wetterman asked for the Hinckley information and said we are looking at changes in our zoning book on things like accessory buildings. Chief Strazzo said he will email the information and the Ohio Fire Code to the board. Chief Strazzo said some of these businesses with temporary structures can fall in as an accessory building. If they are using a trailer, we have a trailer permit in zoning.

Discussion by the Board

Mr. Collura said what we want to be careful about this is that nothing in our zoning rules for setbacks from the street or sidelines, etc. on a property, violates anything that the fire department has as regulations for these temporary businesses. Mrs. Wetterman said the problem with going with the setbacks is they are different in the township. She said the setback up on Rt. 42 is deeper where the road is wider, but on the southern part of the township the road is narrower and the setback is less.

Chief Strazzo said this is a concern or an argument that could be made, and that is you allow a temporary business to have one setback, but if I were to put a permanent business in there, my setback is different. He asked if that would permit a business to have an argument in court to say, well if the setback is 50 feet on

this day and you're telling me I have to be 100 feet, shouldn't it be 50 feet all the time? Could you make that argument to a court when they say 50 feet is good for three months out of the year, then why do I have to do that at 100 feet?

Mrs. Wetterman said we would have to take a look at some of the setbacks on our buildings that are currently there and if they put a permanent building up there, that building would have to come under the new setback, but a temporary building does not follow under those setbacks. She said there is a grandfather clause on setbacks on buildings if they change the use of the building, if they add an addition on the building, then they come under the old setback. She said if that building has a setback it's called a non-conforming existence and that is controlled in our zoning book. Mrs. Wetterman said there are some businesses in here that run a grocery store; they have a vendor coming in to sell corn; it is a grocery store. Mrs. Wetterman asked if they would consider that a transient vendor. Chief Sopkovich said no. If they are setting up at a business and the business gives them permission to sell their goods there, we not considering that a transient vendor; it falls under that business. He said law enforcement is very limited on what they are doing ... if you have a business and you are invited to sell business stuff there, we are not going to interfere as a transient vendor because we are looking for the ones that go door-to-door.

Chief Sopkovich said you have the Family Tavern, Rico's Bar, Dave Goodyear's Barn, Skyview and said all of those places have vendors that are set up during the summer and fall. Those are not transient vendors. At Rico's that is his business at the bar where he is selling corn. The Family Tavern has people out there grilling and doing pig roasts. Chief Sopkovich said I think the main concern everyone has is the Christmas trees and the T-shirts which have been here for years. Those are the two complaints that the community has brought to our attention, so that would be the main focus on what your job is now as far as what you want to determine as the business setbacks.

Mrs. Wetterman asked about places that do promotions for their business and have people come in to prepare food. Chief Strazzo said if the business is paying the food vendor, that food vendor is not selling to you; that food vendor is contracted by the business. He said for example, let's say Hollo's wants to have burgers and hotdogs catered; they are paying that vendor to supply the burgers and dogs. They may be bringing them in chafing dishes or whatever. If that caterer brings a food truck in to supply that, they still have to get a food truck inspection, but that vendor is contracted by Hollo's. They are essentially selling their goods to Hollo's; they are not selling to you as a business.

Mrs. Porter referenced definitions on page 14 of the zoning book and said our definition on **Temporary Buildings/Structures** that says: *Temporary Buildings/Structures must meet all setback and other pertinent requirements*, but it doesn't say what they are, so it may go according to the zoning district. Mrs. Wetterman said yes, it goes by the zoning district. We have a general zoning districts: R-R district, R-1, Commercial districts: C-1, C-2 and C-3 and said I think we need to have a discussion on the districts because that has to change.

Mr. Collura referenced an issue with the sales of Christmas trees and said this isn't just in Brunswick Hills Township, it is Medina Township too. We have a couple of locations where these sales are done. The one on Hamilton Road has poor visibility because of the hill coming up from Plum Creek at a 50 MPH speed zone and people that come in from other areas to buy trees, pull in and out of those drives and many times come very close to getting hit. He said you almost need a traffic person at the street to guide folks in and out. He said we have a similar situation on Foskett Road with a tree farm that has traffic going in and out and they don't seem to be paying much attention to the speed limit on the road normal traffic is doing.

Mrs. Porter said the tree farms would be considered agricultural and you are allowed to have a roadside stand on agricultural. She asked if the tree business we are talking about in Brunswick Hills is a tree lot or a tree farm. The board said it is not a tree farm; they bring in the Christmas trees and sell the trees out of the parking lot of a real estate business on the corner of Grafton and Pearl Road. Mrs. Porter said that would not be considered agricultural then.

Additional Discussions / Questions by the Board

Mr. Norton said in the winter time we have three little kids going door-to-door shoveling snow. Chief Sopkovich said I am not going to make those kids come in for a permit. Mr. Norton said, but they are transient vendors and when his wife read the ORC, she said Girl Scouts fall under 501 C-3. Chief Sopkovich said we are not getting involved all of the kid things or special events at the schools. He said we are looking for those contractors that come into the township and rip people off with shotty roofs, etc.

Chief Strazzo said we also discovered under review of the application, is that we should have proof of liability insurance for that temporary business; proof that they are a registered business with the state and they are paying taxes in the county before a permit is issued by zoning. Chief Sopkovich said we do get their Tax ID number, but some of these businesses don't have one. Chief Sopkovich said we will meet with the trustees and tweak the 1994 Resolution and Transient Vendor Application with the concerns we have on some of these businesses. He said we have had no issues or reports of any crimes from the operators of these businesses that are set up, but we will update the application and get a no soliciting list going that will be housed at the police department.

A gentleman in the audience interrupted the meeting to ask Chief Sopkovich how you are going to police this? Mrs. Wetterman asked him to come up to the podium and give his name and address to address the board. He would not give his name. Trustee Murphy explained how the meetings are run and said after the board's discussion, we ask for public comment. The gentleman said I want to know how you are going to police this. Chief Sopkovich explained again that the transient vendors come in, fill out the application and get their photo ID. They are out in our neighborhoods, so we pay special attention to who is out there with a 90-day permit. We don't know when they are coming in so we give them a badge for the residents to see. Chief Sopkovich said if you see someone out there that doesn't have the badge, then they should contact the police department and we go out to check these individuals. The gentleman said so it's not going to be by the zoning board, it's going to be by the police department, so we can get our permits from the police department? Chief Sopkovich said yes. Secretary Milanko confirmed for the public comment record that the gentleman speaking is William Fonseca.

Public Comment on Temporary Business and Transient Vendors

1. **Linda Kuenzer, 1805 Marks Road**, stated after the last trustee meeting when they talked about all of this, I talked to Paul Jeffers in Montville Township to ask how they handle the temporary businesses. She said in Montville, it has to be within a commercial area and they have the landowner of the business where the temporary business will be going on, and the temporary business coming in, sign a lease or an agreement which gives them permission to do it and authority to use that property. This alleviates someone just showing up on a corner or an empty lot.

Mrs. Kuenzer said Montville, requires them to pay a fee for a permit and get a Commercial Certificate of Occupancy and Change in Occupancy Permit (Attachment 1) that gives the information on that property. She said Paul Jeffers said they don't get a lot of Christmas trees or T-shirt places. The majority of theirs are the food trucks, so they have to make sure there is electric, water, fire and safety needs are met from the fire department and police. She said they also have to get their permits from the proper places. If there are any type of temporary signs, they have to get permits for those, and do have to follow the commercial setbacks from the parking right-away and everything. She said they do have different setbacks in different areas because of RT 3, RT 57 and RT 18, but they do have to follow whatever those setbacks are.

Mrs. Porter asked if the township has a permit or a fee for the food trucks that come in because they have to have fire inspections? Chief Sopkovich said we only have a couple that come in and some of them we waive their fees if they are having something for kids at a block party or a school event. He said we don't charge for the township parties at Plum Creek, but we are getting fees for the individuals going door-to-door. Mrs. Porter asked about the trucks setting up at Skyview and the other trucks that come in for the weekend because she wondered if we are collecting enough fees for all of the inspections we have to go through. Chair Wetterman tabled the discussion to the next meeting.

Additional Business: Fire Chief Anthony Strazzo / Law Change in Ohio on Fireworks

Chief Strazzo informed the board that the laws in Ohio on fireworks will change on July 1, 2022 and said we will be discussing this at the next Board of Trustee meeting on various things the board can do to regulate the “use” of fireworks in the township, but that doesn’t apply to this board. He said what does apply to this board is some of the concerns I have on the sale and production of fireworks. It was very limited in the State of Ohio on the number of permits issued to do both of those things and it is now a free for all. Chief Strazzo said if you didn’t hear in the news, the Rinky Dink center on Rt. 18 in Sharon Township is in the processes of being turned into a fireworks store. He said the City of Brunswick has already been approached to put in a fireworks store and said I don’t know whether they will approve it or not approve it. There is a concern that if they say no in the city, they will just come next door and I want to make sure our zoning has their ducks in a row not to have a manufacturing facility or a distribution vendor store such as is going in at Sharon.

Chief Strazzo said what they approved in the Fire Code for sales is that they can have 7,500 square feet of fireworks under one roof and if that goes, it will be a long night for the Fire Chief. Chief Strazzo asked the board to look through our zoning in our commercial districts and make sure we have language in those areas to prevent the sale and manufacturing of fireworks. Mrs. Wetterman said to add something to our zoning books takes about three to six months. Chief Strazzo said he doesn’t expect anyone to apply within the next three to six months, but the state has advocated that if you do not want these facilities in your jurisdictions, make sure your zoning has language to prevent them from coming in here. He said Hinckley Township has a language that says *manufacturing or distribution of fireworks or explosives is prohibited*. He said it is up to the board, but recommends that we don’t have one of those places for the protection of our residents and firefighters.

OLD / CONTINUED BUSINESS:

1. Discussion and recommendations on handout from March 3, 2022- Zoning Sections marked in books on "Churches and other buildings for the purpose of worship"

Mrs. Wetterman asked the board to look at page 35, Sec. 402-2, B(4) of the zoning book and said since we changed the definition of a church to be the congregation, we discussed removing “churches and other” and just leave buildings for the purpose of worship because those buildings, under the building code, are considered commercial buildings. Our township resolution has nothing to do with deciding that it is an accessory building or whatever. She said it is a place for worship and churches use their buildings for other things and that comes under a commercial building.

Board comments: Mr. Norton said if we take out “churches and other” and a church puts up a building and they turned it into a gymnasium and we want to call that a commercial building, even though it belongs to the church – if we can’t say churches, then what are we going to say? Mrs. Wetterman said it belongs to the congregation. Mr. Norton feels there is a fine line between congregation and church because the church is the congregation of the people, but the buildings belong to a church, not the congregation. The congregation does not own the buildings, the church does. He said if a church closes their doors, they have to sell the building and the money does not go to the congregation. If we are taking churches out, are we hurting the churches for being non-profit and non-taxed by putting them as commercial buildings? He said on taking the word church out, I understand it’s the congregation, but for the buildings we cannot say they belong to the congregation; it belongs to that church or that religion. Mr. Norton questioned whether we can take churches out of this or takes churches to “church”. Mrs. Wetterman said that will apply to everything we are doing. Mr. Norton said I am hesitant on doing all of this because if we turn it into a commercial building, now the congregation is going to have to pay some sort of real estate tax. Mrs. Wetterman said they are non-taxable because the building department says they are part of what the congregation.

Mr. Collura said I thought when we talked about this at our last meeting, a building that is used for religious worship, even if we call it a commercial building, if it is used for religious worship, it cannot be taxed; it's only when it's used for some other function. Mr. Norton said like a gymnasium or a restaurant that they have their dinners in, but that still belongs to the church or the religion. He said if they are not using it to do service in, it is then a commercial thing they are doing in it. If the state really wants to, they could charge them a tax. Mr. Collura said they may have to keep separate records for when it is used for worship. Mr. Norton said so if we take out "churches", are we hurting them from doing what they want to do with all of their buildings? He said sometimes I think we are thinking about some of these things too in-depth and said St. Ambrose has many different buildings. Mr. Collura asked if they are legally required now to track separately the buildings and what they are used for to pay taxes on a portion of them? Mrs. Wetterman said no, they are scott-free. Mr. Collura said so then they would be penalized. Mr. Norton said I think before we do all of this and take churches out, I think it is going to hurt the other churches we have that have additional buildings. He said the churches are having a hard enough time as it is and if we take this away from them, I don't know if we are helping them or hurting them, so I think we need a legal opinion.

Public Comment: Linda Kuenzer said if you ask people, you will have a hundred different ways on the definition of a church. She said personally, I don't feel as though you really need to take church out of it if you say "churches or other buildings for worship". When you first started talking about a church as the people, yes, a lot of the churches in the Christian faith say we are the people, we are the church and that to me is getting into the religion aspect of it. If you are talking about buildings and churches with different religions, you can have a service anywhere and when they go, they are going to a building. She said as zoning, we don't regulate the religion aspect of it, so sometimes I think when we are getting into these things and start taking the churches out, we are getting into an area where we shouldn't go into. She said particularly when the comment was made that churches are in a decline, it can be a slippery slope and I would not want to be one to poke into this. She said also, they are using that in other ways instead of just a church and that is not our responsibility if the IRS comes in; that is not for this board to regulate.

Mr. Norton said our job is just to make sure that when they build a building it follows code and I don't care if it is a church, a school or a house. There is a building code that each building has to follow and that is what we should govern; not taking church out. I'm sure some lawyer will find a loop hole and put something else in and then we are stuck because we changed it. He said when you go to church you are going to the building, you don't say we are going to the congregation.

Mrs. Porter asked, why are we talking about taking this out in the first place? Mrs. Wetterman said because there has been discussion with several of the churches because if you are building a building where you are having different functions in there, they have to meet building code and our building code says nothing about church buildings. Mr. Norton said it doesn't have to because that is a building used by the public with certain things in it. They have to get permits and follow the codes whether it is a church or not. Mrs. Porter said so why do we have to take churches out if they all have to follow the same code? Mrs. Wetterman said we were asked to discuss it. Mr. Norton said I really don't feel we should be taking the churches out. Mrs. Porter asked, then why are we wasting our time on something we don't have to do.

Public Comment: Ron Wetterman, 1085 Substation Road, said I originally came before the board to try to help the church. He said we had a case where zoning was trying to classify an additional church building as an accessory building limiting the height and area of the building. He said I don't think the name is as important as maybe defining when an accessory building just an accessory building and when is it a commercial building. What is its purpose, a barn a tool shed, a garage? They are all different purposes, but zoning classifies them all as accessories and I don't think that is right. We need a better definition of accessory buildings.

Mr. Norton said when you bring your plans to the building department, 99.9% of the time they know what that building is being used for. If they are building a garage to house lawn mowers or to store stuff, that is a garage, so they might need a permit for lights. Mr. Norton said a garage, a barn or a shed are considered an accessory building. Mr. Wetterman said a gymnasium can be 35 feet high and our accessory rules say 15 feet. Mr. Norton said a gymnasium is not an accessory building, that is a commercial used building. Mrs. Wetterman said exactly, but it's on a church facility to be used for religious worship. Mr. Norton said they still have to follow the codes and they have to adhere to that unless the BZA allows it. Mr. Collura said what if we think about taking the sentence that reoccurs on different pages regarding churches and other buildings and consider leaving "churches and other buildings for the purpose of religious worship" and then add "are subject to Sec. 804-5 and Medina County Building Department". Mr. Norton said a lot of churches build the buildings so they can stay afloat and said at my church we cannot accept any money for anything we use the rooms for, so we are self-contained. He said if they are putting on weddings and receptions, then now you are talking about taxable income. Mr. Collura said that brings up questions about function. If they are holding a wedding for a member that goes to that church, it shouldn't be taxable, but if they rent that hall to outside members to hold the wedding, that ought to be taxed.

Mrs. Wetterman said St. Emilian Church has an accessory building that was formerly their church, and they rent it out for wedding receptions, showers and sell bakery in there, etc., but not to members of the church. Mr. Norton said I consider that a commercial building for business, not an accessory building on church property. Mr. Norton said maybe we should look into accessory buildings on sizes, shapes, etc. so it makes it easier when someone comes into the zoning office and wants to build a building. Mr. Wetterman said the definition of an accessory building is *secondary to the primary building*. He noted storage facilities and said they've got how many units dedicated for self-storage and asked, which one is the primary building? Mr. Norton said it's usually the one with the office in it. Mrs. Wetterman said we have accessory buildings in the township with no offices in them. She said they were allowed to build one building and now there are six of them in there, so what is the primary building? Mr. Wetterman said they were approved for one storage building and all of a sudden there are eight of them in there. Mr. Norton said if they built seven more buildings, then shame on us because they got past our building department and we could have stopped it. If there are eight buildings in there now, there is nothing we can do about now.

Public Comment: Dave Goodyear, 691 Pearl Road, said when they built the second building wherever Ron Wetterman is talking about, wouldn't they have had to come up to get a building permit? He said if our Zoning Inspector is allowing something going on that is wrong, then our Township Trustees should be told about it.

Additional Board Discussion

Mrs. Wetterman stated I think our primary business needs to be the fireworks for our next meeting and asked for board comment. Mrs. Porter agreed and it should be relatively simple because we did it with the Medical Marijuana.

Mr. Norton cautioned the board and said you've got gun stores with gun powder and ammunition, and if you're going to start regulating gun powder and fireworks, now you are going to hurt the gun stores. Mr. Norton said I am not against the fire chief, but we have to be very careful how we word it because they do sell components to make bullets. Mr. Norton said do we want to push

businesses away from us when are trying to bring small businesses in? They said they can have 7,500 square feet, so can we restrict them to a certain size and make it smaller? Mrs. Porter asked if we can restrict it to certain districts like the Industrial District which we did with our Sexually Oriented Businesses? Board members agreed we could.

Public Comment: Dave Goodyear, 691 Pearl Road, asked to address the board on road rights-of-way and setbacks and his concern on the widening of Rt. 42 by the State of Ohio in the future. He said the state has to pay for the right-of-way if we were to widen Pearl Road. He said there are places in the township and the City of Brunswick where they widen the road 12-15 feet on each side. Think of what that would do to places like the Honey Hut ice cream stand on the north end of town; they would lose several parking spaces in their front lot. He mentioned the nursing facility on Pearl and Laurel Road and said the taxpayers will have to pay for a very large concrete wall and still make it look fancy to the residents living there. I believe our zoning board should be proactive and check this out no matter what district it is in. He said we are saving money for the future and it doesn't cost us anything today other to be a little more bold than other communities. He said it won't happen for another 20 years, but be a step ahead and let the other townships follow our lead. I am asking you to widen the setback so nobody, including me, can add on to the front of my house and pay my kids for taking down part of my house.

OLD / CONTINUED BUSINESS:

2. Zoning Resolution Definition of Accessory Building, Page 6

TABLED OLD / CONTINUED BUSINESS

3. Tabled: Comprehensive Land Use Plan--until notified from Trustees

4. Tabled: Discussion on new definition of deck for text amendment

5. Tabled: Discussion on Zoning Resolution Page 8. Definition of "Living Area" of 1250 minimum sq. feet per unit to first line of Dwelling section

Mrs. Wetterman asked for a motion to postpone the other agenda items under old and continued business.

Motion to Postpone old/continued agenda items

Motion: Mr. Collura moved to postpone agenda items #2-5 to next meeting and continue with the discussion of item #1 next meeting.

Mr. Norton asked to amend that to three months, because it will take us two months to go through what the trustees have asked us to do. He said we can amend it to say if there is an item we can fit in, then we will fit it in. Secretary Milanko said we don't have to put dates on tabled items, we can just table them.

Amended Motion on the floor by Mr. Collura to postpone agenda items #1-5 and continue discussion on temporary businesses and regulation regulations of fireworks.

Mr. Norton seconds. **Roll Call:** Mr. Kelly-yes; Mr. Kuenzer-yes; Mr. Collura-yes; Mr. Norton-yes; Mrs. Wetterman-yes.

Announcement of Next Meeting: Thursday, May 5, 2022

Motion to Adjourn: Mr. Norton moved to adjourn the meeting. Mr. Collura seconds. **Roll Call:** All in favor. Meeting officially adjourned at 9:05 p.m.

Respectfully Submitted,
Mary Jean Milanko, Zoning Secretary

Patricia Wetterman, Chair

Date