

## **Zoning Commission**

Regular Meeting

April 5, 2007

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Ch. Kamps called the regular monthly meeting to order at 7:32 p.m.

Roll found: Pope, Walrath, Siarkowski, Powell and Ascherl present. Mrs. Pajk had an excused absence. Trustees Schulte and Garapick, Mr. John Slagter, attorney and Mrs. M. Catherwood, reporter, present.

### **Review of Minutes:**

The minutes of the March 1, 2007 regular meeting were reviewed. Mr. Pope made a motion to accept the minutes as submitted.

Ms. Ascherl second.

No further discussion.

**Vote: Ascherl – yes Siarkowski – yes Walrath – yes Pope – yes**

The minutes of the March 1, 2007 public hearing regarding text amendments for signage were reviewed. Mr. Pope made a motion to accept the minutes as submitted.

Ms. Ascherl second.

**Vote: Ascherl – yes Siarkowski – yes Walrath – yes Pope – yes**

### **Old Business:**

#### **Riparian Setbacks**

Mr. John Slagter distributed a draft of the riparian regulations being proposed.

Mr. Slagter reviewed a proposed ordinance that was created by NOACCA and further amended by Ch. Kamps that addressed some issues pertaining to townships in particular. There are some major points to consider: 1) whether or not the township has the legal authority to enact such legislation, 2) the pros and cons of the legislation itself, and 3) how to advise the township on the science and logic.

Mr. Slagter discussed the reasons to adopt a plan of this nature sooner rather than later. Adopting the ordinance now will be the best idea to get the process in place and to allow all concerned to become accustomed to its enforcement, and will allow for working out the bugs that may occur in any zoning resolution.

Other townships such as Bath and public entities such as Summit County have adopted an overall riparian ordinance that is enforced and controlled by the county. This is a charter county, the only one in Ohio that has enacted it through that power. At this time Medina County has not adopted riparian ordinances. Mr. Slagter explained that he modified the

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original NOACCA ordinance to coincide with Hinckley Township's needs. Townships have the authority under R.C. § 519.02 to regulate for health and safety purposes. He feels that the focus of this ordinance must be on health and safety. The purpose of a riparian ordinance is to protect the water quality and quantity. The lack of protection can cause problems in terms of flooding, storm water issues, damage to infrastructure (roadways, bridges), etc. These things do threaten health and safety within the community.

Mr. Slagter explained the changes made to the NOACCA plan with advice from Andy Vida. The enactment process was discussed, as was how it will be organized in the township's zoning code and how to insure that it is consistent with the Master Policy Plan of the township. He advised the Board to review the MMP and if there are inconsistencies they need to be worked out, paying special attention to the purpose for enacting a plan of this nature.

Mr. Slagter referred to a map that depicts areas that will be impacted by the legislation. This map will be a good tool for the zoning inspectors. He strongly advised that the Township avoid attempting to change the scientific aspect designed in the NOACCA version. The NOACCA representative explained at a previous work session that experts from many different agencies worked diligently to devise this plan. He recommends that relying on the scientific data from NOACCA is superior to hiring a private consultant. In general, this limits the township's liability and assists on complying with EPA regulations. There is a benefit to adopting a plan that has generally been accepted by others because of the ability to defend it. The areas where the Township can regulate are primarily the typical zoning issues, such as the procedures and/or the purposes behind the regulation.

Mr. Walrath added that Mr. Vidra reported that the NOACCA report is based on a compilation of more than 80 different reports from many organizations from around Ohio, and NOACCA took a summary or an average of those reports. Mr. Walrath felt that the board needs to direct the legislation toward the township's specific topography.

Mr. Powell asked if any of the adopted regulations have been challenged in court.

Mr. Slagter stated that he has no information at this time regarding any court challenges. He did say that the Township is proceeding in the right direction by meeting as a body, inviting the public and documenting the history and purpose. This careful planning helps to support the legislation.

Ch. Kamps described a meeting he had with Mr. Pope and Kirby Date from Cleveland State University. He reported that Ms. Date has emphasized repeatedly the superior quality of the NOACCA version of the legislation. Several communities in Cuyahoga County have adopted this version as well. Because there was no official letter requesting the adoption of this legislation, it is Ch. Kamps' recommendation to start the process with a motion from this board.

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Ch. Kamps stated that per R.C. § section 519, the action can be initiated by the zoning commission, a resident, or the trustees.

Trustee Schulte stated that the zoning commission should make a resolution to start the process of creating a riparian setback ordinance for the township.

Ch. Kamps moved to formally adopt this draft form of the riparian setback regulations so that the process can commence.

Mr. Pope second.

Mr. Walrath asked for clarification of the motion.

Ch. Kamps stated that this draft can still be modified to suit the township's needs.

Mr. Slagter explained the process of amending text and zoning maps to the Board. This is just a motion for a recommendation to begin the process to amend the zoning code. This is basically the application process for that; this is the proposal. Then it will be studied. The second step, when the board is comfortable with it, it is sent to the County Planning Department in Medina. They will give their recommendations and then this Board will recommend it or not. At this stage, if recommended, it will go on to the trustees or if it is not recommended it is done.

Ch. Kamps recommended that the Board formally accept this proposal to amend the Hinckley Township Zoning Resolution by inserting an amendment that relates to riparian setback requirements. He reiterated that this is starting point. Two weeks from tonight at a work session, this draft can be revisited and amended if needed.

Mr. Walrath stated that more specifics were needed for this resolution.

**At this time Ch. Kamps withdrew all previous motions.**

**Ch. Kamps moved to formally amend the Hinckley Twp Zoning Regulation by placing an amendment for a new section of the zoning code relating to controlling riparian setbacks and wetland setbacks based on the draft dated 4/05/2007.**

**Mr. Pope second.**

Mr. Powell stated that he felt it was a good idea to have Bath Township representatives share their experiences with their ordinance. He found some good points in their code and he would like to hear what they have to say. It would be helpful to find out where Bath got their information from. He felt that it related more to Hinckley Township than the one from NOACCA which is predominantly Cuyahoga County.

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Mr. Slagter explained that NOACCA is all of northeastern Ohio, not just Cuyahoga County. He reminded the board that this process must begin by proposed amendment.

There being no further discussion, the vote was called.

**Vote: Ascherl – yes Powell – yes Walrath – yes Pope – yes Kamps – yes**

Ch. Kamps scheduled a work session on Saturday April 21, 2007 at 9:00 am.

Discussion of Phase II Storm Water Management. Ch. Kamps explained that the regulations are quite lengthy. The Township is required by the Phase II to adopt riparian setback regulations.

Mr. Slagter commented that at least the ordinance is basically written and the Township can adjust it as needed. It need not be written from scratch. Some of the work is already done and this is a good start.

Mr. Schulte reiterated Mr. Slater's opinion that a balanced plan is important between existing residential and business and new development projects.

There is a seminar for wetlands and implementing riparian wetland setbacks and training communities in these topics on May 2, 2007 at the Land Farm Park in Kirtland. Ch. Kamps has the application form. Mr. Schulte stated that the township would cover the seminar fee.

Mr. John Slagter excused himself from the meeting at 9:45 pm.

### **New Business:**

Ch. Kamps explained that the Lutheran Church in town will be leasing out some rooms to a private entity that will be operating a pre-kindergarten school and will be church affiliated. Currently the Hinckley Zoning code does not permit private schools in this district. Ch. Kamps felt that this may have been overlooked in the zoning code. Copies of the zoning code pertaining to this district were distributed. It was further explained that Mr. Bennett, Medina County Asst. Prosecutor, recently stated that if a school is affiliated with a church, then that it is a permitted use. If it is a privately operated school, then it would need to be zoned and conditions may be set.

**Ch. Kamps made a motion to amend Section 6B.2, Schedule of Permitted Uses, by changing the listing under Hinckley Center Town District, 3. School, private or public, to either "C" Conditionally permitted, or to "P" permitted by right.**

**Mr. Pope second.**

It is Ch. Kamps' opinion that the schools should be made a conditionally permitted use so

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overnight schools can be regulated. A brief discussion occurred and board members were in agreement.

**Ch. Kamps amended the motion specifically to make schools a conditionally permitted use in the B2 Hinckley Center Town District.**

**Vote: Ascherl – yes Powell – yes Walrath – yes Pope – yes Kamps – yes**

Ch. Kamps stated that he would forward this to the county planning dept. for further review.

Discussion of the sign language proposal. Susan Hirsch of the Medina County Planning Department gave her opinion that 1) most of the current sign language in our code is illegal and it is not content neutral. We cannot give permission or prohibit the wording on a sign. Either it is a sign or it is not a sign. 2) Signs cannot have a time designation. Real estate signs would be an example of this.

Mr. Pope has written a new draft of sign legislation that will be reviewed and discussed at the May meeting. The board was requested to review it for the next meeting.

A conditional use permit was submitted to the Board of Zoning Appeals. Steve W. Sochacki of S-N-S Grounds Maintenance, Inc. has submitted a request for a Conditional Zoning Permit to operate a landscape business at 2714 Warner Rd., Hinckley Township. This property has a vacant concrete block building on it as well as a house. This type of operation is currently listed as a conditionally permitted use in the 6B.2.C.B district.

**Ch. Kamps made a motion to recommend approval of the requested permit subject to appropriate conditions being placed in the permit.**

**Mr. Walrath second.**

**No further discussion**

**Vote: Ascherl – yes Powell – yes Walrath – yes Pope – yes Kamps – yes**

Ch. Kamps will draft the letter to the Board of Zoning Appeals advising them of the recommendation.

### **Wind Powered Generators:**

A meeting to discuss wind powered generators has been scheduled by Trustee Rhodes and the Ohio Township Association Organization. It will be held April 26, 2007 @ 6:30 pm. The guest speaker will be an expert in this field.

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Chairman's Report:

Ch. Kamps and Mr. Pope attended the monthly meeting of the Medina County Planning Department. There was poor attendance at the meeting. Mr. Bill Thorn spoke on ethics and ethical procedures. It is recommended that if a member has a personal affiliation with an item on the agenda, one should recuse themselves and even leave the meeting. Secluded Highlands had a replat on the agenda, it was approved.

Board Member's Report:

Mr. Pope reported on the Board of Zoning Appeals recent variance hearing - Terry Building Ltd. requested a 120 ft. variance for a sideyard setback from the Lutheran Cemetery property. The BZA denied the request and the applicant may be taking it to they Medina County Courts for further action.

Mr. Walrath made a motion to adjourn at 9:25 pm

Mr. Powell second.

**Vote: Ascherl – yes   Powell – yes   Walrath – yes   Pope – yes   Kamps – yes**

Minutes Approved: \_\_\_\_\_, 2007

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Jim Kamps, Chairman

\_\_\_\_\_  
Chuck Pope, Vice-Chairman

\_\_\_\_\_ *absent* \_\_\_\_\_  
Diane Pajk, Member

\_\_\_\_\_  
Terry Walrath, Member

\_\_\_\_\_  
Calvin Powell, Member

\_\_\_\_\_  
Toni Ascherl, Alternate Member

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Karen Siarkowski, Alternate Member