

Ch. Kalina called the Zoning Commission Regular Meeting on May 2, 2019 to order at 7:01 p.m.

Roll found: Kalina, Dermody, Powell, Schneider, Marzullo

Also in the audience: Trustee Schulte, Zoning Inspector Wilson, Alternates Crew and McCarthy, and Mr. George Smerigan with Tactical Planning.

Ch. Kalina asked if everyone had received and read the minutes from the Regular Meeting held on April 4, 2019. He asked if there were any comments. No comments were noted.

Ch. Kalina stated he would entertain a motion to accept the April 4, 2019 Regular Meeting Minutes as written.

- Mr. Powell moved and Mr. Schneider second.
- No further discussion.
- Ch. Kalina called for vote to approve by saying Aye and/or if any abstained/opposed.
- All were in favor.

OLD BUSINESS

Ch. Kalina recognized Mr. George Smerigan of Tactical Planning and began discussion regarding language for Agritourism and Agricultural. Language used by other Townships is being reviewed by the staff from the Medina County Department of Planning Services who provides feedback with regard to how the language fits into the Ohio Revised Code and provides recommendations for the Township to consider. Ch. Kalina explained to audience that in 2016 a new law passed in Ohio addressing some of these issues and this spurred the Townships to look into this matter. Ch. Kalina then turned the discussion to Mr. Smerigan regarding the language he drafted for the Board to consider.

George Smerigan provided the Board with sample language regarding agriculture and agritourism. Mr. Smerigan explained that based on previous conversations it is his understanding that the Township has authority to regulate agriculture in recorded subdivisions – presently the Township does not do that. The State Statute is set up so that if there's no language regarding the matter, then there's no authority, unless language is included in the resolution it cannot be regulated.

Mr. Smerigan stated it was his understanding that the Board is not interested in regulations regarding crops, but talked about limiting both poultry and livestock from the standpoint of not prohibiting or limiting what someone can have just keeping it on the property. Mr. Smerigan explained that the language he drafted doesn't restrict growing crops. The language requires any agriculture buildings or structures must be behind the main dwelling. Additionally, there are limitations on keeping farm animals and livestock, horses, cattle sheep, etc. – in a recorded subdivision of lots less than 1 acre. The language does not provide limits outside of recorded subdivisions and not on property more than 1 acre.

Mr. Smerigan stated that Ms. Crew raised the issue of roosters, the Township has the authority to regulate, but since we are taking minimal approach he did not include language, but it can be included to limit poultry.

Mr. Smerigan discussed the drafted language for agritourism. The way he approached the issue is you cannot, under the code, prohibit agritourism, but the code does not say you cannot require a permit so he took the approach of requiring a permit so the Township knows it is going on. Required that it has to be on a parcel of at least 5 acres, the Township has authority for this, also, language requires submittal for a zoning certificate, and the submittal of a site plan to identify what is associated with agritourism, and requires the submittal of location, size and height. Also, show the setbacks for all those structures and buildings. Mr. Smerigan explained that the Code states you can establish minimum setbacks for buildings and structures used for agritourism, but not general farming.

Mr. Smerigan discussed language for establishing location and size of parking to accommodate general public. He explained that under state statute there is no authority to require anything for parking, but a plan should be submitted to show evidence that there was thought given to parking to get cars off the street.

Mr. Smerigan discussed language for proposed uses of buildings and structures, the location and design of ingress and egress drive and evidence they are providing for emergency services— when bringing public in, emergency services has to have a way to get on property. The problem is that most likely the location would be on county and state routes and the Township has no authority, so we can tell them they need to indicate that they are providing some emergency access, forcing them to address and make provision for this, as part of the permit. If the plan is not adequate it would be a basis for denying permit. Mr. Smerigan stated it doesn't make sense to put minimum standards because we can't control that, but if the Fire Chief reviews the plan and determines he cannot get his truck in then that's a legitimate reason to say it is inadequate.

Mr. Smerigan stated that a description of the operation and how it complies with the definition of agritourism should be provided so they are not using it for something other than what is consistent with state statutes. Also, as part of the permit they should provide name and address for emergency contact.

Mr. Smerigan summarized by saying his reading of the state statute put severe limits on everything, but agriculture uses in subdivisions is pretty clear, in recorded subdivisions of lots less than 1 acre - you can prohibit agriculture. His understanding is the Board doesn't want to do that so he drafted language saying you can grow anything, you can have chickens, but must be kept in the yard and cannot have large farm animal and large livestock on lots less than 1 acre. Over 1 acre not regulating, can regulate between 1 and 5 acres, and if Board wants that he will have to add language.

Mr. Smerigan then asked if there were questions.

Ch. Kalina thanked Mr. Smerigan for listening to the Board's concerns and thoughts and for coming up with easy to understand language which is not limiting. Mr. Kalina asked if they need to address medicinal marijuana in this language. Mr. Smerigan stated there is a disconnect between state and federal law – if someone growing for retail sale off site they'd be in violation of state law, Ch. Kalina indicated that the Township already prohibit the cultivation of medicinal marijuana and Mr. Smerigan indicated they shouldn't do anything regarding that.

Ch. Kalina stated that the Township was notified that the homeowner with the issue regarding the large solar array located 15 feet off property line is going in different direction, they will put the solar array on top of building. Concern is if we have a homeowner that wants to put in an agriculture building 15 foot off property line, they can put there because between 1-5 acres, not meeting setbacks. This could be an easy way for people to put in buildings and say it's an agriculture use.

Discussion followed regarding people with 1 acre or more putting agriculture buildings on property lines.

Ch. Kalina discussed the language that Liverpool Township uses regarding setbacks. Mr. Smerigan stated they don't need that language, the state statute provides that you can regulate setback and heights for buildings used for agriculture on 1-5 acres in subdivisions, but in a subdivision on lots between 1-5 acres you have authority to regulate setbacks and height for agriculture structures.

Mr. Smerigan stated he can add language to clarify that any structure has to meet the standard set back for a district and add a provision that in a subdivision with lots between 1-5 acres, any agriculture buildings has to have normal setbacks for the district.

Discussion followed agriculture buildings and setbacks.

Mr. Schneider stated an agriculture building should have setbacks for safety and fire reasons. Further discussion followed regarding placing buildings on property lines.

Mrs. Dermody asked if someone wants bees does that need to be addressed. Mr. Smerigan said as it is written now they would not be prohibited.

Mrs. Dermody referred to Montville Township language regarding existing structures should be located to limit the impact to adjoining properties. Mrs. Dermody stated she likes the language, is there some way to incorporate into our language.

Ch. Kalina stated he liked the language but it would be difficult to define because it is so subjective.

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Ch. Kalina stated he felt the more minimal the language, the better.

Mr. Powell asked if language can be added regarding controlling traffic and Mr. Smerigan stated no, but the Township can require an area be provided for parking off-street. Mr. Smerigan further stated that there is no authority under the Code for traffic, can have control on a Township Road, but no control on a County or State road.

Mr. Marzullo asked to keep in mind that the Board is trying to put together a foundation in the Code for the future, and the future will be built on what the Board is creating. Discussion followed.

Mr. McCarthy asked how to determine if access to fire and safety is not acceptable. Mr. Smerigan suggested that the Zoning Inspector could check with the Fire Chief to find out if the proposed driveway can be used by the Fire Department. Zoning Inspector Wilson stated that as part of the site plan review process, police and fire review the plan. Mr. Smerigan then stated that under law Township can deny because of safety, emergency vehicles must be able to have room to turn around.

Discussion followed regarding poultry and the possibility of having the Homeowners associations regulating.

Ms. Peterlin asked if an agriculture building, which can be built without a permit, has a change of use to agritourism, is there anything the Zoning Department can do about that. Mr. Smerigan stated that unfortunately if the change is from agriculture to agritourism, nothing can be done requiring them to meet code. Mr. Smerigan pointed out the real problem is safety issues, if the building was not originally built to hold a lot of people and you bring a lot of people in there are safety concerns. Discussion followed.

Ms. Peterlin then inquired about definitions in sample text

Mr. Smerigan indicated that they should not define terms, but should rely on state statute to avoid numerous amendments to definitions.

Ch. Kalina then opened up to the floor.

Kevin Kosik, 2020 Ridge Road

Mr. Kosik stated that he felt language regarding impact to neighbor's house is vague and subject to interpretation and it would be a good idea if the Board stayed away from that. Mr. Kosik then stated he thought there were setbacks for agriculture buildings and Ch. Kalina stated there are setbacks for accessory buildings, not agriculture buildings. Mr. Kosik stated he felt a 15' setback is reasonable.

Ms. Peterlin stated there is a reference to "impact on neighbors" in Chapter 4, General Regulations under Nuisances Prohibited relative to odor, dust, noise, etc. Discussion followed.

Mr. Marzullo asked Zoning Inspector Wilson if someone puts in an agriculture building does that count toward the total square footage of a property owner, Zoning Inspector Wilson stated no.

Mr. Smerigan stated he would put together another draft of the language.

Ch. Kalina recommended the Board move past In-Law Suite discussion.

New Business

There was no new business.

Chairman's Report:

- Spoke with Board liaison Trustee Schulte regarding zoning interpretation, procedures and upcoming board business.
- Communicated with Medina County Department of Planning Services regarding zoning amendment change reporting requirements for Medina County Recorder.
- Requested Agriculture/Agritourism text amendment staff comments from the Medina County Department of Planning Services – provided to board members.
- Regular communications and consultation with Suzanne Peterlin, administrative and Zoning Office Manager regarding minutes, agenda items, procedures and proposed text language.
- Prepared written response re: community member concern about zoning procedures
- Zoning Commission meeting preparation:
 - Review and amendment of drafted Text Amendment Changes pages 155-158
 - Review and amendment of drafted work session minutes
 - Review of drafted Zoning Agenda and items
 - Preparation for New Board Business.

Nothing else from the floor.

Ms. Peterlin stated that the recent definition change to "Structure" affects the language for fences in Section 4. Discussion followed regarding various housekeeping issues in Code.

Trustee Schulte asked if the Board wanted to consider a pond a structure. Discussion followed regarding this matter.

Board Members' Reports

Nothing to report.

Ch. Kalina stated the next meeting is Thursday, June 6, 2019 at 7:00 p.m.

Ch. Kalina entertained a motion to adjourn the May 2, 2019 Zoning Commission Regular meeting.

- Mrs. Dermody moved and Mr. Powell second.
- No further discussion
- Ch. Kalina called for vote to approve by saying Aye and/or if any abstained/opposed.
- All were in favor.

The Zoning Commission Regular Meeting was adjourned at 8:45 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2019

Christopher Kalina, Chairman

Diane Dermody, Vice-Chairman

Calvin Powell, Member

Bruce Schneider, Member

Matt Marzullo, Member
