

Ch. Kalina called the June 4, 2020 Zoning Commission Regular Meeting to order at 7:00 p.m.

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

Also in the audience: Alternates Manley and Fischer, Zoning Inspector Wilson, Trustee Schulte, Mr. George Smerigan, Planner and three residents.

Ch. Kalina stated there are no minutes to approve so they will begin New Business discussion. Ch. Kalina explained that a conference call took place between himself, Suzanne Peterlin, Trustee Schulte and Mr. George Smerigan. They discussed some of the challenges with the current Chapter 15 language in the Zoning Regulations dealing with Temporary Sales and Special Events. The Township has continued to research the applications of these types of events in the community and explained to the Zoning Commission that Chapter 15 and Buzzard Cove are two separate discussions. Based on the testimony that this Commission received at the February 6, 2020 meeting of the Board, Mr. Petry who is the current contract holder for the Haunted Barn, shared that they are expanding their operation in order to make it work. Their goal was to maintain the majority of the event indoors. During the Township's discussion with George Smerigan, it became clear that the activities taking place at that location were evolving from initially a special event into a continual change in their operations. Since they are expanding their business, that changes how the Township views the activities happening at that location, meaning all changes taking place have to come back to the Township to be presented in front of the Board of Zoning Appeals, who will appropriately address the change in use taking place there. They will have to hold a conditional review regardless. Ch. Kalina stated that what has transpired over the past year has really brought to light some of the things that need to be addressed with Temporary Sales and Special Events. Ch. Kalina stated that the timeline for working on the proposed language will not have a bearing on anything that happens with the Haunted Barn organization this year. They will be treated as a conditional use. The Board of Zoning Appeals has a much broader authority to address the issues. Ch. Kalina stated they are here tonight to hear Mr. Smerigan's review of the proposed Chapter 15 language. A lot of the language didn't change, but Mr. Smerigan provided much needed definitions which were lacking.

Ch. Kalina introduced Mr. Smerigan who has decades of experience as a planner and served many communities. Mr. Smerigan was in attendance to present and discuss his proposed updated Chapter 15 language regarding Temporary Sales and Special Events.

Mr. Smerigan stated the issue that struck him most immediately with the current Chapter 15 language is there are no standards or discretion in the current language, for example, if someone wants to have a battle of the bands the Zoning Inspector has no basis to deny, so that is an essential flaw. The idea of the Zoning Code is to have control of the use of language. So the first issue is to have some standards and criteria. Also, there was essentially a one size fits all language so the same set of rules was applied to many things. Mr. Smerigan stated he essentially tried to separate different events. There are residential events, for example, a yard sale or garage sale. This is a simple straight forward event and

can be handled easily with the Zoning Inspector. Then there are community events, sponsored by the Township or another public entity or a non-profit, for example, a local fundraiser. The third thing is commercial events and the way this is addressed needs to be separate. With commercial events, you have a differentiation in scale, it might happen once a year, for example a grand opening, a limited event that takes place over a short time period. If there is an event that happens over a day or two and happens regularly this is something that is an ongoing part of the business and has to be looked at in a different way. Mr. Smerigan divided the events as those that occur in a residential district and community events and, separate from that are commercial events. These are events that take place in a non-residential district, the purpose of which is to attract customers and make money. Mr. Smerigan further divided this into two separate groups, a temporary sales event lasting no longer than 3 calendar days, which are typically the type of thing that occur over a weekend, and events lasting longer than 3 days. The type of event lasting longer than 3 calendar days has impacts that go beyond the short duration events and this needs to be reviewed in front of the Board of Zoning Appeals, because depending on the scale of the event there could be many issues. Mr. Smerigan stated that basically the event-holder's focus is always attracting customers and making money, are concerned about food and ticket sales, they are not concerned about enough first aid facilities, trash receptacles and adequate sanitation facilities, typically what happens is a mess. Mr. Smerigan stated what he has proposed is a set of criteria so when events occur it occurs properly. Parking is always an issue - people shouldn't be parking in places they shouldn't be parking. If someone wants to have this type of event, they need to show the Board of Zoning Appeals that they have taken adequate measures to assure that everything is covered. Mr. Smerigan stated he tried to define each of the type of events so they are not treated the same, he divided the commercial events depending on their potential impact and create different permitting structures for each one. Mr. Smerigan has listed criteria for the larger commercial events that the Board of Zoning Appeals can follow when reviewing, for example, parking, hours, noise, etc. These are items that need to be vetted out as part of the review, and the whole idea is to protect the Township and the neighbors. Mr. Smerigan stated he took the current language and separated out the types of events and their impact level and made different permit categories so not everything was treated the same.

Ch. Kalina stated the items for the Township to look at are the description of the proposed event, including all activities, the name and address of the sponsor and emergency contact information, if there is adequate and safe parking provisions, adequate sanitation, Health Department approval for food service, sufficient provisions for first aid, proposed hours of operation and provisions to control noise and light trespass on adjoining properties. Ch. Kalina stated the Board doesn't want to make things any harder for residents, they don't want to change language for garage sales or Buzzard Day or the Boy Scout Garage Sale fundraiser and Ch. Kalina stated he feels Mr. Smerigan covered everything that was requested.

Ms. Dermody asked why not specify the days in the commercial event definition that it has to be 3 days or less.

Mr. Smerigan stated there are 2 types of commercial events addressed, there is a 3 day or less event, which only requires a permit from the Zoning Inspector and one that lasts longer that has to go through the Board of Zoning Appeals process.

Ms. Dermody stated that when she read the definitions it was clear with the other categories, but under the commercial events it wasn't clear.

Mr. Smerigan stated it is not possible to state the number of days in the definition because the commercial event has more flexibility, they don't know how many days it will last.

Zoning Inspector Wilson stated that from an administrative standpoint, he believes a form could be created for a Commercial Event so they can gather information more efficiently.

Mr. Smerigan stated it's important to have emergency contact information. There needs to be some consideration that an event is creating a demand of some sort and that has to be addressed.

Mr. Manley asked if there should be some language or guidelines for the Board of Zoning Appeals regarding the Commercial language.

Mr. Smerigan stated they set forth what information has to be supplied to the Board of Zoning Appeals. Any applicant coming in to seek approval has the burden of providing the Board of Zoning Appeals with enough information to make the Board of Zoning Appeals comfortable with the event.

Mr. Manley stated he agreed but that there should be standards set.

Mr. Smerigan stated the difficulty with the standards is the magnitude of the event. The Board cannot be unreasonable, standards can be set, but the idea of all of this is to have a plan. This proposed language gives the Board of Zoning Appeals ammunition to be able to require the applicant to do the right thing. We need to make sure the event is planned in a way to be the most successful.

Ch. Kalina stated he doesn't disagree with what Mr. Manley is sharing. There are some communities with multiple pages of regulations, however, historically we have tried to keep regulations simple and to the point and not over-regulate. The residents have made it clear to the Board that the residents don't want to be over-regulated. Ch. Kalina stated he likes the language because it keeps things simple. It's left in control of the Board of Zoning Appeals because they are the Board that has the authority.

Mr. Manley stated he was not asking for regulations.

Mr. Smerigan stated if there's a permit the Township is on notice that there is an event and the Township can plan accordingly. Mr. Smerigan stated they don't want to go from no regulations to too many regulations, and he suggests they start out as simple as possible.

Mr. Smerigan stated things change, a business may start selling snacks and then they want to start selling Christmas trees and that works well, so now you want to start selling mulch, pretty soon you have outdoor sales all year around. This means the business has gone from convenience store to outdoor sales, that is not what was approved, that change in business needs to be documented, vetted and approved. Many things could create parking and safety issues and that need to be addressed. There has to be some sense to what happens. Mr. Smerigan stated that the language is not saying the business can't have it, but it needs to be done in a consistent way with how things are regulated. If it goes beyond what was anticipated it needs to get a new approval.

Ms. Dermody stated there are proposed hours of operation, but not dates.

Mr. Smerigan stated that could be better stated to clarify.

Zoning Inspector Wilson stated that permits are kept numerically, the thought is they could get basic information and they can use a system to trace the permits and keep track of them.

Ch. Kalina stated this is similar to what was discussed for agritourism. The Township should know what the event plans are so the Township and safety forces know what's going on.

Mr. Schneider thanked Mr. Smerigan and stated he did a great job breaking things out. Mr. Schneider stated it gives the Board of Zoning Appeals something they can use. Also, this tells the applicant what is expected. Mr. Schneider stated his question is regarding the existing Section 15.3, the way it is written public property has nothing to do with residential property.

Mr. Smerigan stated that is correct. Public property would be a park or land owned by a public entity.

Mr. Marzullo asked about community events. Mr. Marzullo stated he understands the difference between community and commercial event, and asked if it be prudent to request a plan for the community event also. There could also be first aid issues with this type of event.

Mr. Smerigan stated he thinks that is right, the 3 day festivals can be huge, it can impact the entire neighborhood. It would be beneficial to know the circumstances of any event.

Mr. Marzullo stated they could give a list of items for the organizers to think about to make sure they have covered everything. This is a community event and the Township doesn't want to be onerous but we want to be certain everything is in order. Mr. Marzullo asked about Section 15.3.1 where it states "shall be permitted" and under proposed language for Section 15.3.2 it says "may be permitted" -- is there a difference?

Mr. Smerigan stated that the "shall" can be changed to "may" in Section 15.3.1 to be consistent.

Mr. Marzullo asked if the language in Section 15.3.2b could be changed so that it just says "exceed 3 calendar days".

Mr. Smerigan stated yes.

Mr. Marzullo stated he thinks the language is great and he felt this is something that needed to be addressed.

Ms. Dermody questioned the language regarding “may” and “shall” in 15.3.1 and 15.3.2.

Ch. Kalina stated he agrees one is for community event and one is for commercial event.

Mr. Fischer asked why it wouldn't be “shall”. They are both conditioned on meeting all criteria.

Discussion followed.

Lisa Rushworth, 1006 Bellus Road, Hinckley, Ohio

Ms. Rushworth stated she feels the use of the word “may” gives more flexibility. She is wondering if there is a process for notification for residents and the Fire Department so they know what is going on at these events before they take place.

Ch. Kalina stated the Board of Zoning Appeals has a process for notifying neighboring properties when there is a public hearing. There is a fee structure for this because research is done to determine who gets notified and there is a publication of the public hearing notice.

Ms. Rushworth stated she knows the Board of Zoning Appeals has a process, but should the 3 day event have a notice requirement also. She feels this is something that might want to be included.

Ch. Kalina stated that they will take that into consideration.

Ms. Crew stated that the current, existing language in Section 15 references temporary outdoor retail sales and community events so it seems the temporary sales are limited to an outdoor activity and the proposed, new language does not reference this. Does this mean if a store has an annual sale, for example a garden center or a golf course, will they have to come in and get a special permit?

Mr. Smerigan stated that if the business is authorized to do outdoor sales then they are not doing anything different than what they are authorized to do.

Ms. Crew stated she doesn't see the reference to outdoor sales in the new language, so does this mean it's not emphasizing temporary outdoor retail sales.

Mr. Smerigan stated if a business does permanent outdoor sales and yes they are always outside, it's not a special event. When someone is doing something different then their standard operation they have to be authorized. A garden center is authorized to do outside sales, so it doesn't matter if that business is having a special sale. They aren't doing anything different than what they are authorized. This language is to be used when someone is doing something different than what they were originally authorized to do.

Ms. Crew stated the only examples she had were outdoor sales, but if there is an indoor business that holds a big event, that is different from what they usually do, they would have to apply for a permit for an outdoor sale because their business is normally inside. Ms. Crew stated she would recommend keeping the current language to distinguish outdoor sales.

Mr. Fischer asked Ms. Crew if her concern with the new language is that it's not limited to outdoor sales and the current existing language is limited to outdoor sales.

Mr. Smerigan stated that, as an example, if there is a building intended to be a manufacturing facility and they want to have an event in that building that's not what it was originally planned for, this should be handled as a special event even though it's taking place in the building.

Ms. Crew stated that she understands, but if she's a business owner she might not want to keep getting a permit if she wants to have a grand opening or a mid-year sale. People don't want to have a lot of permits. The way it is currently written emphasizes outdoor sales and events.

Mr. Smerigan stated that what the language says is temporary sales that last longer than 3 days have to get authorization from the Township, it doesn't say if it's outside. The difference is if it's something that's part of your normal course of business, no different than the regular business, the fact something is on sale doesn't matter if it is the same operation. If there's a battle of the bands in the parking lot that's completely different. If you want to limit to only outdoor things they can do that.

Ch. Kalina stated he likes the broader definition.

Mr. Fischer stated in Section 15.1.a we say under community event an institutional or nonprofit organization recognized by the Township. Mr. Fischer stated he searched in the Zoning Book and there's nothing written regarding the idea of "recognized by the Township", what does this mean? Does the Township have to keep a listing of recognized organizations? Mr. Fischer stated that everything listed is a public entity, institution or nonprofit organization and are all non-human organizations so there is nothing that says a person can have a community event. Mr. Fischer suggested the language could say non-commercial entity instead of community event and that should take care of the concern. Non-commercial would include both non-profits and a person who wants to have an event in a commercial district who gets the approval of a business owner.

Mr. Marzullo asked if a 501.c3 is a non-commercial entity even though they can operate in a commercial manner. Discussion followed.

Mr. Smerigan stated it must be an organization that the Township recognizes. As far as an individual, the way this is written an individual could not hold a community event. Discussion followed.

Ms. Dermody asked what Mr. Fischer is looking for and Mr. Fischer stated every event should fall within one of the three categories and some of the events discussed don't fall into one of the categories and he would like to see language fixed so that all bases are covered.

Ch. Kalina asked if he would recommend saying “sponsored by the Township, another public or non-public entity or institutional or non-profit organization”.

Mr. Fischer stated the language would have to somehow exclude a commercial entity because the next definition is commercial, so a non-commercial entity would work.

Mr. Fischer then stated he knows 4H comes in often. If 4H were to host an event, is that a community event or a residential event? Previous residential events were limited to garage sales, etc. and the proposed language is broader, so if an individual wants to host riding lessons on their residential property, are they limited to 4 times a year. Does this mean 4H can only hold 4 events?

Ch. Kalina stated he tried to look at some of the different applications, at the end of the day the Township is not policing things of this nature. If there would be a definition, how does that fit in? Ch. Kalina stated the Zoning Inspector would have to look at it and make the determinations.

Ms. Dermody stated that she believes the language is saying 4H could have the event 3 times a year.

Mr. Marzullo stated unless it’s done by an individual person.

Ms. Dermody stated if it’s a person that opens it up, but if it’s a group they are limited to a certain number of times a year. Discussion followed.

Ch. Kalina stated that as a Township, they have some common sense, but there needs to be regulations.

Mr. Smerigan stated that the language is allowing people to do things, but setting limits.

Mr. Marzullo stated that, as an example, in Richfield there’s a ranch that was purchased by a pastor and every weekend the Pastor invited people to the ranch and it turned into a carnival, it was a huge thing. Mr. Marzullo asked if this is an event or not because it’s at a private residence. Discussion followed.

Richard Pearl, 1785 King Road, Hinckley, OH

Mr. Pearl stated he is having difficulty with “special event”, what is the definition?

Mr. Smerigan stated he feels there is some confusion on what can be done on private property and what would raise it to the level of a special event.

Ms. Dermody stated there is a definition of Special Event which she read.

Mr. Marzullo stated that the crux of it is there is money involved. Mr. Marzullo asked what to do with an event on private property where money is not involved.

Mr. Fischer stated that the use of special event and temporary special event should be defined.

Mr. Fischer then asked about an HOA, and if they are limited to 3 events per year, does the proposed language apply to HOA's? Mr. Fischer stated he doesn't know what the definition should be, but there should be an opportunity to obtain more than 3 events per year. Discussion followed regarding HOA's and what is open to the public.

Ms. Dermody stated that she is concerned, they don't want to regulate too much. People don't want to have to come to the Township every time they want to get together.

Mr. Smerigan stated that if having something where only members are invited, how is that different than a church service? If the event is limited to only the members then it's not a public event. That wouldn't rise to the level of a community event because the community is not invited. We are not trying to regulate every gathering of individuals in the community. This is not the intent. We can try to provide some clarification language. We want to do the minimum amount of regulation necessary to make sure the Township has sufficient control. Mr. Smerigan stated that he can change the proposed language to clarify.

Mr. Fischer stated language needs to be cleaned up a bit in 15.5.

Ch. Kalina asked Mr. Smerigan if he has sufficient feedback and Mr. Smerigan stated he has a lot of good feedback.

Gary Jennrich - 1672 Skyline Drive, Hinckley, OH

Mr. Jennrich thanked the Board for working on the language. Mr. Jennrich stated that the residents don't want a lot of restrictions and they also want to make it clear they don't want to live in the City they want a rural atmosphere. Using the word "may" could give the Township some discretion.

Ch. Kalina thanked the Board of Trustees for their willingness to bring in Mr. Smerigan. Ch. Kalina asked if Mr. Smerigan could review comments and come back with updated language. The County will also have to review the language.

Ms. Dermody stated that to Mr. Pearl's point it would be good to define Special Events.

Ch. Kalina tabled the remaining subject matter due to lack of time. Ch. Kalina stated that business continues in the Township regardless of the pandemic. Ch. Kalina stated he attended a meeting with County Planning Services regarding Pine Hills. Ch. Kalina spoke at that meeting and made comments in support of the master plan – the County was trying to connect the streets in the proposed development, and the County was pushing stub streets. Ch. Kalina explained to them why that shouldn't happen, due to the bad intersection with bad vision sightlines due to topography. The County Planning Commission voted unanimously to override the Department of Planning Services recommendations, and the plan was approved with the cul-de-sac. Trustee Schulte thanked Mr. Kalina for his presentation and for representing the Township at this meeting.

Mr. Fischer stated that Zoning Inspector Wilson had requested at a prior meeting the possible amendment to the Zoning Regulations requiring a zoning permit be limited to a certain amount of time and the Board might want to prioritize this as a safety concern. Mr. Fischer began discussion regarding noise as a nuisance and discussion followed regarding the difficulty of measuring noise levels.

Ch. Kalina asked if there was anything else. There was nothing.

Ch. Kalina entertained a motion to adjourn the June 4, 2020 Zoning Commission Regular Meeting.

- Mr. Schneider moved and Ms. Dermody 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 8:58 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2020

Christopher Kalina, Chairman

Diane Dermody, Vice-Chairman

Bruce Schneider, Member

Matt Marzullo, Member

Michelle Crew, Member