

Ch. Kman called the June 2, 2016 Regular Hinckley Township Zoning Commission meeting to order at 7:03 p.m.

Roll Found: Kman, Powell, Dermody, Schneider and Kamps present. Kamps stepped up in member position to fill vacancy due to V. Ch. Spellman's excused absence. Recording Secretary made note that Trustees Catherwood and Schulte, Zoning Inspector Tom Wilson, Retired Zoning Inspector Bill Schaefer, two BZA members (*J. Hoop and B. Budd,*) and two residents (*Mr. Jim and Mrs. Thoma Zedella*) were present in the audience. (*J. Calabro arrived after start of meeting*). Susan Hirsch from Medina County Planning Services was also present.

Ch. Kman asked if everyone received a copy of the minutes from the May 5, 2016 meeting and if so, were there any corrections to be made to the minutes? There were no comments.

Ch. Kman asked for a motion to approve the minutes of the Regular Zoning Commission Meeting held on May 5, 2016. Ms. Dermody moved to accept as submitted, and Mr. Powell seconded. No further discussion.

Ch Kman polled the board and asked if everyone was in favor of approval. All in favor. Ch. Kman and Mr. Kamps abstained.

Ch. Kman commented that before reviewing the old business on the agenda, that he would open the floor up to the visitors and asked that they introduce themselves and provide their address.

Mr. Jim Zedella introduced himself and his wife Mrs. Thoma Zedella who are 17 year residents at 2323 Brookhaven Lane in Brookside Estates. He explained that they were present to speak about a friendly neighbor who has decided to raise chickens with a rooster that crows all day long. He stated that Mrs. Zedella had called public safety to inquire about rules and regulations and zoning; and how much property is required to raise agricultural animals. The basic answer received was that because the property is located in a township, one can pretty much do what they want to, as agriculture is allowed on any size lot. Mr. Zedella also commented that he has heard rumor that the neighbor may be adding pigs.

Mr. Zedella stated that the serious matter is through the proliferation of the neighborhoods, and as they have developed in Hinckley, there should be a review on how we allow neighborhoods to operate. He stated that it needs to be recognized that people would like to move into Hinckley, and would like to live in a neighborhood like Brookside or any of the other neighborhoods, particularly the neighborhood on the far east side over by Broadview. He commented on the competing neighborhoods in North Royalton, Strongsville and Broadview that of course have different laws and rules.

Mr. Zedella commented that the open ended rule for raising agriculture makes grand sense for the rank and file farmer in Hinckley, but really doesn't make sense for a neighborhood.

Mr. Zedella stated that they came to the Zoning Commission to express their concerns and that by allowing agricultural animals in their neighborhood, which have less than one acre lots, may be potentially reducing the value of the homes in the neighborhood. He added, whether it was ever the intention of the Zoning of this township to allow those rules to exist in the neighborhood format, or whether it was even a thought back when, the reality is, that they act and look like neighborhoods in other areas and consideration should be made to regulate agriculture within the neighborhood setting with small acre lots.

Mr. Kman asked if any buildings had been built that may be infringing on the zoning code itself, such as location? Mr. Schaefer commented that if there is an Agricultural permit, they can build as close to the property line as they want. Mrs. Zedella stated that there is a shed that has been added to, as tall as the dwelling, and is being used for beehives. Mrs. Zedella questioned if a permit would be required for that type of structure.

Mr. Zedella asked what the process was to obtain an Agricultural permit and Mr. Schaefer responded that the applicant is asked what the agricultural use is, and if for the purpose of raising i.e. chickens, and not for the purpose of i.e. storing tractors, the Agriculture permit is issued.

Mr. Zedella asked if there was anything that the Zoning Commission could do to change the rules. Mr. Schaefer responded that the Zoning Commission could for example, ban agriculture totally, regulate the type and number of animals, or specify the size of property where it would be permitted or prohibited.

Mr. Schaefer suggested that Mr. Zedella contact the Medina County Recorder's office to see what documents are on file for Brookside, i.e. deed restrictions or HOA bylaws. Further discussion ensued regarding HOA and inactive status, age of development and how to obtain deed restrictions through the Recorder's Office or on line through the Recorder's website.

Mr. Zedella asked that if in the event there are no deed restrictions would this be an item that the Zoning Board has the authority to review and change, if they chose to do so? Mr. Schaefer responded yes to the question.

Mr. Zedella asked that if there are deed restrictions, what the next step would be? Trustee Catherwood responded that he would have evidence to bring to Zoning to help assist with the matter or he can try and form an HOA. Mr. Schaefer commented that the Zoning Department cannot enforce the HOA rules and regulations and it would really be a civil matter.

Mrs. Zedella made the point that it is not just the isolated issue with her neighbor, but for future increase of agricultural use in the neighborhood.

Ch. Kman suggested that the Zedellas do their research and see what they find. Ch. Kman stated that the Zoning Commission would be more than glad for them to come back and share their findings. Ch. Kman stated that the community is for ever changing, and that the Commission is constantly reviewing the Zoning Code for issues. Ch. Kman stated he appreciated the Zedellas bringing this idea to the Commissions attention, adding that these people who have chickens would be grandfathered if any changes to the code occurred. Ch. Kman thanked the Zedellas for their comments.

Ch. Kman stated the next item on the agenda is Old Business. He welcomed Susan Hirsch from the Medina County Planning Services who was asked to provide insight and explanation to some of the Zoning Code definitions and text and Site Plan Review process. Ch. Kman added that Ms. Peterlin had put together a packet categorizing items of the Zoning Code that needed reviewed. Ch. Kman commented that tonight would be a great opportunity to interact, as there were Trustees, Zoning Inspectors, and Members from the Board of Zoning Appeals present to give feedback to the items to address.

Ms.Hirsch began with offering an overview of the sub-division process from the Medina County Planning Commission and how the Zoning Commission fits in.

Ms. Hirsch explained that a developer of a new subdivision may come to them (Medina County Planning Commission) very informally with the developer providing an overview of what the preliminary plans may be for the proposed development. This allows for comments from the Medina County Planning Commission if any upfront concerns are identified, and if the development needs to be changed or modified.

Ms. Hirsch stated that the first formal step for a new subdivision is the submission of a Concept Plan and meeting with the Medina County Planning Commission. All government agencies are notified of the Concept Plan Meeting and may attend. (Documents/plans are sent to the applicable government agencies.) This allows review by the township entities (i.e. Zoning Inspector, Trustees, Fire, Police and Road). The Medina County Planning Commission is looking for general comments, (emphasizing general) referencing any glaring issues that may not meet the Township's Zoning Code. There is no approval of the Concept Plan. The purpose is to allow opportunity for review and comment by the agencies.

Ms. Hirsch stated the formal submittal that goes to the Medina County Planning Commission is the Preliminary Plan. Just recently, Ledges at Stone Creek came in with their subdivision plans. The Preliminary Plan is sent to the government agencies for comment. The Zoning Department, along with the Township Trustees, Fire and Police and Road will receive the packet for review and forward comments back to the Medina County Planning Commission office. She commented that the Preliminary Plan can go to the Zoning Commission for review or may just be reviewed by the Zoning Inspector for comment. In other Townships, it is only the Zoning Inspector that reviews the Preliminary Plan, and not by the Zoning Commission.

Ms. Hirsch commented that she spoke to Mr. Lyons from the Prosecutor's Office about Hinckley's Zoning Code. In Hinckley's Zoning Code, it states that a "straight" subdivision requires a Preliminary Site Plan Review and referenced 11.2.A. Preliminary Site Plan. She noted she did not see reason for the Zoning Commission review, and questioned what would be gained by the Zoning Commission's review, if already reviewed by the Zoning Inspector. She added that a Final Plan Review would allow for Zoning Commission comment. Ms. Hirsch noted that the Medina County Planning Commission's review process may differ from what is outlined in the Township's Zoning Code.

Ms. Hirsch noted that in Section 11.2.A. Preliminary Site Plan - it reads that a Preliminary Site Plan review is required for all proposed Conservation Developments, subdivisions and planned commercial and industrial developments. In Section 11.2.B. Final Site Plan - it does not read that a Final Site Plan review is required.

Ms. Hirsch recommended the following:

In Section 11.2.A. remove the word "planned" commercial (stated not sure what a planned commercial development represents) and rather state "all commercial and industrial developments".

In Section 11.2.A remove the word "subdivisions"; leave in Conservation Developments, add "planned" residential, add "unit" developments, and add "all" commercial and industrial developments.

By making these changes, Ms. Hirsch believes this will alleviate some of the concerns with the Site Plan Review Process, meet the timeline requirements and eliminate any unnecessary delay that may arise due to the meeting schedule of the Medina County Planning Commission verses the meeting schedule of the Township Zoning Commission. Additionally she added that there is opportunity for the Zoning Commission to comment before the Final Plan approval. The Zoning Commission does not have to sign off on the plan until they have confirmed that the subdivision is in compliance with the Zoning Code.

Ch. Kman asked for clarification on her recommendation to leaving it up to the Zoning Inspector to conduct the Preliminary Site Review and eliminate the review process from the Zoning Commission. Ms. Hirsch responded yes, that there wouldn't be a Preliminary Site Review conducted by the Zoning Commission for a "straight" subdivision (a straight subdivision must meet a two acre minimum lot size, with a public street, have no common or open space etc.). All other developments noted in 11.2.A. would require a Preliminary Site Plan Review by the Zoning Commission.

Mr. Schneider asked if that meant the developer would bypass the Township. Ms. Hirsch responded no, that a copy would be sent by the Medina County Planning Commission office to the Zoning Inspector, and included would be the Township entities and the Zoning Commission. The developer could ask for an informal review of the plans with the Zoning Commission for input, but not as a requirement for the Zoning Commission to review the approved Preliminary Site Plan. Mr. Powell asked why the Zoning Commission can't have the current code written this way, or does it need to be changed for a reason? Ms. Hirsch responded that the Zoning Commission does not have to change it. However, if it is not changed, it may delay the overall process.

After further discussion, the general consensus was that the Zoning Commission would like to be part of the review process; and be made aware of a proposed subdivision upfront versus at the final stages of the planning review. Additionally, Mr. Powell stated that it would provide public awareness and opportunity for the public to voice their opinions.

Mr. Powell commented that in years past, there was no review process for a straight subdivision by the Zoning Commission and since then the code had been changed.

Ms. Hirsch pointed out on page 116 that item, M., indicates that the Zoning Commission reviews for zoning compliance only.

Mr. Kamps offered some history of what the process had been in the past. A Site Review Committee comprised of two Zoning Commission members, two Board of Zoning Appeals members, the Zoning Inspector and a Trustee was created to conduct a Site Review. Later it was determined that the committee should not exist, as the BZA members could not be part of the review process, if later, required to adjudicate; and therefore was dissolved.

Mr. Kamps stated since then a "property" review was done either by the Zoning Inspector, Zoning Commission, Trustee or combination thereof. He added since it was recently brought to their attention that the Zoning Commission has no legal authority to do a Preliminary Site Review for a normal subdivision – the Zoning Commission needs to evaluate the need for parts of it: 1) whether the Zoning Commission needs to see it; 2) whether the Board of Zoning Appeals need the Zoning Commission's advice; or 3) whether the Trustees need the Zoning Commission's advice.

Mr. Kamps added that under the Planned Unit Development (PUD) section, the Zoning Commission does have the legal authority to do the Site Review. When the code was updated, most of the previous text carried over when Chapter 11 was created. He commented that before any major changes are made that the Zoning Commission reviews the concept behind the Site Review process.

Ms. Hirsch stated that she was only giving her thoughts from the Medina County Planning Commission view point and what the Prosecutor's Office comments were. She added that there is no formal rule on how the Zoning Commission fits in, whether the subdivision goes to Zoning Commission first or to the Medina County Planning Commission office.

Mr. Kamps commented that in a Planned Unit Development (PUD) the procedure is different and would be reviewed by the Zoning Commission and or the Trustees well before the Planning Commission review process.

Mr. Kamps stated that there should be some sort of written procedure that gives direction for a Site Review for a PUD development.

Trustee Schulte pointed out that it is outlined or referenced in Section 11.2. Mr. Kamps added that in the rewrite that there is reference made to review all other types of subdivision as outlined in Section 11.2.

Ms. Hirsch suggested that the word “planned” be added in front of residential.

Mr. Schneider asked for clarification as to when rewriting the code, was Chapter 11 a catch all so the review process starts somewhere and that the township is notified? Ms. Hirsch commented that the Zoning Inspector will be notified and may forward the information to the Zoning Commission, but it is the Medina County Planning Commission that receives the information first.

Trustee Schulte reiterated what the process is, and that the township entities are given the opportunity to comment on the Concept Plan and Preliminary Plan and provide input back to the Medina County Planning Commission. All Zoning, Safety, Road and Trustees receive a copy and may provide input pertaining to the township rules and codes. He added that to Ms. Hirsch’s point, why does the Zoning Commission want to put the developer through another process. The suggestion is to eliminate a layer for review of a normal subdivision and that the Zoning Commission may not be directly involved, but will receive the information.

Ch. Kman noted that Mr. Spellman from the Zoning Commission goes to the Medina County Planning Commission meetings as the Zoning Commission representative and brings back the information. Trustee Catherwood has attended the meetings in the past and that Hinckley Township has representation present at the meetings.

Ms. Hirsch suggested that the Zoning Commission set up an internal policy for the Zoning Office and have the Zoning Inspector provide the information to the Zoning Commission at their regular meetings.

Trustee Schulte stated that he spoke to Mr. Henwood from Medina County Planning Commission, and Mr. Henwood asked that if the lots within the subdivision meet the Zoning Code, what other review process is there for the Zoning Commission?

Trustee Catherwood commented that she is not opposed to the Zoning Commission being made aware of a subdivision proposal because A) Trustees sign off on the plat, and it is important for them to hear concerns and B) it is important for the public to hear what the subdivision proposal is. She added that perhaps having an informal process without a fee attached would make better sense but again, not opposed to having the Zoning Commission aware of the particulars.

Trustee Catherwood added that there doesn’t have to be a Site Review where there is a fee for the developer or a requirement – but an opportunity for awareness to the board would be good.

Mr. Schaefer agrees that the Zoning Commission should know what is going on – but to Mr. Henwood’s point noted by Trustee Schulte, if the subdivision meets zoning, what is the need for additional review. He also agrees that creating an administrative process where the Zoning Inspector informs the Zoning Commission would work – whether it stays in the code or not, thinks the administrative process would work.

Mr. Marzullo commented that there should be awareness and opportunity to hear the developer’s proposal. When asked by the community, it would better prepare the Zoning Commission to provide informed feedback. Additional discussion ensued.

The process of whether or not it is required to have a formal site review (with fees attached) or more of an informal approach for a review process was discussed. Ms. Hirsch commented that whatever the Zoning Commission decides to do, that there are some consistency issues referencing back to her point made earlier regarding in 11.2.A stating that the Preliminary Site Review is required and in 11.2.B, no indication that a Final Site Review is required – she noted a little tweaking will be necessary.

Mr. Kman asked the Board to continue with Chapter 11 and discuss the items noted on the spreadsheet. Ms. Peterlin stated that the reference to the Zoning Commission is more clerical in nature, as it is referenced inconsistently throughout the Zoning Book. The board will need to determine if there is a need to change to read consistently or if okay to leave as is.

Ch. Kman directed the Board to page 20, item 78 of the spreadsheet to continue with the review process of Chapter 11 (page 114 of the Zoning Book).

Ms. Hirsch suggested the following:

In Section 11.2.A. remove the word “planned” commercial and rather state “all commercial and industrial developments”.

In Section 11.2.A. remove the word “subdivisions”; leave in Conservation Developments, add “planned” residential add “unit” developments, and add “all” commercial and industrial developments.

The Zoning Commission will need to determine if the word “subdivision” is to remain or to be removed.

The Zoning Department requested clarification or purpose of lines 9 & 10 in Section 11.2.A. After discussion it was agreed to remove “Applicants for other types of projects may, but are not required to, submit a preliminary site plan.”

SECTION 11.2.A. Preliminary Site Plan – The Zoning Commission agreed to a text change to read as follows: *“A preliminary site plan that indicates the general concept of development for an entire development site, including the general location of use areas, open space and circulation pattern shall be required for all proposed Conservation Developments, planned residential unit developments, and all commercial and industrial developments.”*

It was noted that a definition for planned residential unit development be created and added to Chapter 3 of the Zoning Book.

Mr. Kman directed the Board to page 20, item 79 of the spreadsheet – Section 11.2.C. Review of Site Plans Waived (page 114 of the Zoning Book). The Zoning Department requested clarification on intent of language. It was explained that this would apply to an existing or current site plan. Ms. Hirsch stated that a Preliminary Site Plan expires after five years, and that the developer would have to come back in – if no changes to the original proposal or if only inconsequential changes, the Zoning Commission may waive the review.

SECTION 11.2.C. – Zoning Commission agreed to leave as written.

Ch. Kman directed the Board to page 20, item 80 of the spreadsheet – Section 11.3. Informal Review of Proposal Encouraged referencing line 29 (page 114 of the Zoning Book). The Zoning Department requested clarification on the intent of language primarily and/or. Ms. Hirsch commented that generally speaking an informal review is not required – they are recommended, even for the Medina County Planning Commission, adding that we cannot require an informal review, even though it would be to the developer’s advantage.

SECTION 11.3 (first paragraph) – Zoning Commission agreed to leave as written.

Ch. Kman directed the Board to page 21, item 82 of the spreadsheet – Section 11.4.M referencing line 37 (page 115 of the Zoning Book) – Should L apply to the Conservation Development? Determine if clerical change – should read A – L not A – K. The Zoning Commission noted that L applies to the Conservation Development.

SECTION 11.4.M – Zoning Commission agreed to clerical change to read as follows: *“The following items for Conservation Developments, in addition to the items identified in subsections A – L above:”*

Ch. Kman directed the Board to page 21, item 83 of the spreadsheet – Section 11.4.M referencing line 5 (page 116 of the Zoning Book) – Determine if clerical change – should read “N” not M.

SECTION 11.4.M N – Zoning Commission agreed to clerical change to read as follows: “N” instead of M.

Ch. Kman directed the board to page 21, items 84 of the spreadsheet – Section 11.5 referencing lines 12 & 13 (page 116 of the Zoning Book). Determine if number of copies required for a Final Site Plan is correct. After discussion, the Zoning Commission noted that 10 copies is correct.

SECTION 11.5 (first paragraph) – Zoning Commission agreed to leave as written.

Ch. Kman directed the board to page 22, item 85 of the spreadsheet – Section 11.5.E. referencing line 5 (page 117 of the Zoning Book). It references Preliminary architectural plans, is this referenced correctly? Discussion included the degree of review by the Zoning Commission, the efforts by the developer to obtain a sealed architectural plan, time involved and if reference to building plans to include the façade, illustrations of the building would be better suited. Further discussion required, no conclusion.

Trustee Schulte asked that they look at the lot definition per the request of Mr. Thorne from the Prosecutor’s office. He added that upon Mr. Thorne’s review of the HOA document for the Ledges of Stone Creek, Mr. Thorne had concerns with the lot definition in the Zoning Code. Mr. Thorne reads the definition as a parcel representing one property and a plot representing many properties. Mr. Thorne is suggesting that a lot be defined “as a legal recorded piece of land to equal one parcel”. Mr. Thorne’s example was – if the person buys a plot (i.e. four lots) within the subdivision, would that allow for the owner to put the house anywhere within the four lots? Mr. Thorne’s suggestion was to remove the word plot from the definition to include a legal recorded piece of land.

Ms. Hirsch commented that upon her review of the definition, she does not understand his concerns as it is the same definition the Medina County Planning Commission uses as well as the Engineering Dept., and therefore, she would not be able to provide feedback until she speaks to Mr. Thorne for more details.

Ch. Kman directed the board to page 2, item 6 of the spreadsheet – Lot Definition referencing lines referencing lines 22 – 25 (page 10 of the Zoning Book). Discussion included the definition from the dictionary. Mr. Schaefer explained “a lot being one individual parcel and a plot being the entire subdivision” and that may be part of the concern. Mr. Schaefer stated that from the legal standpoint, it could be ambiguous – but added he is no expert, but that is why Mr. Thorne may have some concern. If the word plot is removed, it would take away any confusion.

Ms. Hirsch stated that if changing the definition, then page 5 would need to be changed and potentially other areas of the code. She added that the word plot is an old fashioned word – and that is the definition used in Medina County Planning Commission. Trustee Catherwood added it be advantageous to have similarity for builders and developers. Ms. Hirsch will further research with Mr. Thorne and provide further comment. Further discussion ensued.

Mr. Schneider suggested Ms. Hirsch come back after her research and Trustee Schulte asked if Ms. Hirsch would be willing and Ms. Hirsch said that she would be. She will further research the lot definition and review with Mr. Thorne.

From the floor Trustee Schulte thanked Ms. Hirsch for her attendance and the information that she provided. He also thanked those who attended the last Zoning Workshop.

Mr. Schneider moved to adjourn the meeting and Powell seconded. All in favor.

Meeting was adjourned at 8:30 p.m.

Suzanne Peterlin, Acting Recording Secretary

Minutes Approved: _____, 2016

Mel Kman, Chairman

Calvin Powell, Member

Diane Dermody, Member

Bruce Schneider, Member

Jim Kamps, Alt. Member (Member)

Matt Marzullo, Alt. Member