

Zoning Commission

Work Session

May 9, 2013

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The work session was called to order by Chairman Spellman at 7:23 p.m. on Thursday, May 9. Roll call found present: Chairman Spellman, V-Chair Karen Siarkowski, John Nehrenz, and Jim Kamps. Calvin Powell had an excused absence and Alternate Terry Walrath sat in his place. Also present: Alternate Mel Kman, Zoning Administrative Office Manager Peterlin, Trustees Catherwood and Schulte and Medina County Prosecutors Office representative Bill Thorne.

Chairman Spellman stated that the purpose of the work session was to clarify the Medina County Prosecutors Office comments on the proposed zoning language provided by Bill Thorne on March 26, 2013.

Chairman Spellman stated that many of the comments are self-explanatory and will be incorporated into the Resolution. He asked the Board if there were questions on Mr. Thorne's review.

The Zoning Commission requested clarification on the following:

Page 15 Definitions, Sign Address, Sign Development, Sign Directional. Mr. Thorne explained that the courts have found if justification of such can be found for the health, safety and welfare of the public, these definitions may be defined by their content. Proof may include meeting minutes or consultation/documentation provided by safety professionals. Generally, the courts frown on content-based sign definitions but in these instances they have allowed as long as the basis is documented and related to health, safety and welfare.

Page 23 General Regulations, SECTION 4.1 B: Mr. Thorne explained that the Township cannot prevent someone from buying a non-buildable lot. He also added that a lot cannot be sub-divided with less than the required building size. Often existing sub-standard lots require a variance to build upon due to revisions in the zoning code over the years. He noted that some jurisdictions have established zoning codes that are specific to non-conforming lots.

Page 25 General Regulations, SECTION 4.8: Mr. Thorne stated that as written the language creates a potential for resolving numerous disputes throughout the Township. These nuisance issues are better enforced by the police, rather than zoning.

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Page 25 General Regulations, SECTION 4.8 B FENCES: Mr. Kamps stated that the fence height requiring a County permit was confirmed with the Medina County Building Department.

Page 25 General Regulations, SECTION 4.11 F: Mr. Kamps questioned Mr. Thorne's comment. Mr. Thorne confirmed that the correct authority was the Medina County Health Department.

Page 38 Sub-Section 6R.1.2 PERMITTED USES E., Accessory Uses: Mr. Thorne stated that the courts have overruled similar language. The presence of a vehicle does not necessarily mean it's a business. He recommended that the establishment of parking regulations that prohibit parking is preferable. Prohibitions may be based on size, weight and type of vehicle.

Page 40 Sub-Section 6R.1.4 AREA, YARD, and Height Regulations D.2: Mr. Thorne questioned who has the authority to make the call? Is it the Zoning Inspector? Is it the developer or the property owner, or do you want it automatic? It is not clearly indicated. He stated it can be written as the Board wants as long as it is clear who makes the call and when it can be rejected. Chairman Spellman indicated that a similar revision may be required for 6R. 2 SECTION.

Page 44 Sub-Section 6R.1.7 DEVELOPMENT STANDARDS AND CRITERIA CONSERVATION DEVELOPMENT, A. Purpose Jim Kamps asked what the correct reference is? Mr. Thorne stated that there was a typo and it is just necessary to put the correct reference in.

Page 47 Sub-Section 6R.1.7 A.6.: Mr. Thorne responded that the Prosecutors Office is requested to review the HOA documents. He added it is "a major problem in other areas to pay for maintenance needs in areas of high foreclosures."

Page 75 Sub-Section 6R.1.1.5 AREA, SETBACK & HEIGHT REQUIREMENTS: Mr. Thorne reviewed his notes and indicated a rewrite in regards to riparian setbacks. He recommended deleting first four words and leaving "Riparian setbacks shall be met.

Page 83 SECTION 7.2. F: Mr. Thorne regarded this as redundant. He asked why it is necessary to restate what has been previously written.

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Page 83 SECTION 7.2.H: Mr. Thorne indicated that the zoning inspector should be in charge and enforce. The way it is written it appears that the BZA automatically has to recommend that the zoning inspector take enforcement action. He felt it is better to begin with the zoning inspector.

Page 83 SECTION 7.5. B.15. SUPPLEMENTAL REGULATIONS FOR CERTAIN USES:: Mr. Thorne explained to the Board that Public monies cannot be used for private cemeteries. “As long as the cemetery is private there is no obligation for the Township. Mr. Kamps indicated they would revisit this language.

Page 89 SECTION 8.2 NON-CONFORMING BUILDINGS/STRUCTURES: Mr. Thorne responded that the current language basically says that the building cannot be maintained, the owner has the right to maintenance and the Township cannot prohibit. Changes cannot be made to increase the non-conformity. Chairman Spellman indicated that this also applies to (B). Mr. Thorne stated that the 9th District is upholding a Township’s right to not allow for expansion of a non-conforming use. He explained the differences between expanding a legal building that houses a non-conforming use vs. a non-conforming use being expanded. Conversation included replacement percentages in cases of fire, etc. Mr. Thorne stated that the courts have said that abandonment of the non-conforming use must be voluntary and there are problems with obtaining homeowners insurance when there are limits on replacement. In zoning codes. He indicated it can be written according to what the Township wants.

Page 102 SECTION 10.2. COMPUTATIONS A.5. Determining Sign Area or Dimension: Mr. Thorne stated that current language gives unlimited discretion to the zoning inspector. He questioned what type of issues might come up since the sign dimensions are clearly noted in the regulations. If there is an issue this should go to the BZA The way the code is written a sign either complies or it doesn’t.

Page 127 CHAPTERS 13. Township Board of Zoning Appeals: Mr. Thorne indicated that the current language conflicts with Statute and is better left as an Appendix. Appendix’s can be revised without going through the amendment process.

Page 151 Administrative Guidelines: Mr. Thorne indicated that guidelines cannot be more restrictive than the ORC and to avoid establishing rules/procedures that exceed the authority of the Board.

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This concluded comment on Mr. Thorne's written review.

Mr. Kamps asked what allowances can be made for revising the Resolution in clerical alterations. Mr. Thorne said if it is clear that typos need fixed and there is documentation to show that it is indeed a typo, these can be fixed. Anything of substance must go through the amendment process.

Chairman Spellman said that at the last meeting two items came up that he would like Mr. Thorne to address.

1. A MCPS reference to condos being allowed in a Conservation Development. Mr. Thorne stated that condos are governed by State and this part of the Code is not for condos. Condos can be prohibited within this District. All agreed current language is fine.

2. MCPS commented that the allowance of waivers by the Zoning Commission in regards to Conservation Development was "in effect a de facto variance." Mr. Thorne indicated he felt that since the use is permitted, not conditional, this is allowable to broaden the flexibility in development. He indicated he will review the entire section more thoroughly and get back to the Board before their next meeting.

Chairman Spellman asked the Board if there were any additional questions. There being no more questions, Chairman Spellman thanked Mr. Thorne for his time.

John Nehrenz made a motion to adjourn, second by V-Chair Siarkowski. All in favor. The work session was adjourned at 8:35 p.m.

Minutes by: Trustee Martha Catherwood, Acting Recording Secretary

Minutes Approved: _____, 2013

William Spellman, Chairman

Karen Siarkowski, Vice Chairman

Jim Kamps, Member

Absent
Calvin Powell, Member

John Nehrenz, Member

Mel Kman, Alternate Member

Terry Walrath, Acting Member