

Minutes of Zoning Commission

September 28, 2006

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Ms. Lorrie Sass, Chairman, at 7:30 P.M. Members present were: Mr. Donald Sheehy, Mr. David Weiss and Mr. Stephen Yingling.

MINUTES

Mr. Weiss made a motion to approve the minutes of the August 31, 2006 meeting as modified.

Mr. Sheehy seconded the motion that passed unanimously.

PUBLIC COMMENTS

Mr. Almon Corrigan of Corrigan Trailer Sales inquired about the possible rezoning of properties at the corner of Snyder Road and E. Washington Street.

Ms. Sass explained the amendment process to Mr. Corrigan.

Mr. Yingling made a motion to recess the regular meeting.

Mr. Sheehy seconded the motion that passed unanimously.

The regular meeting was recessed at 7:35 P.M.

PUBLIC HEARING - (Continuance)

Proposed Zoning Amendment Z-2006-6

Ms. Sass called the public hearing to order at 7:35 P.M. Members present were Mr. Donald Sheehy, Mr. David Weiss and Mr. Stephen Yingling.

Proposed amendment Z-2006-6 is an application by Doris J. Lanza to amend the following:

To amend Section 141.02 to add permitted and conditional uses to Section 141.02 (a) and (d) and add subsections 117.13 (d) and (e) to add specific regulations for day care centers and schools.

Mr. Dale Markowitz, Attorney for the applicant, and Mr. and Mrs. Frank Lanza were present to represent this application.

Ms. Sass explained that this public hearing is a continuance for Z-2006-6 from the August 31, 2006 meeting to add permitted uses and fitness and recreational sports centers to the professional office district.

Mr. Markowitz stated that he took Mr. David Weiss' advice and looked at the specific categories and it was really helpful to narrow them down and he was able to match the compatibility of them. He said he redrafted the legislation and came up with very specific categories that he believes meant what the zoning commission was talking about last time and the type of uses that would still be professional offices or administrative offices and he made a change on optometrist that they would not sell eyeglasses, and kept in photography studios with pretty much the same language as before where they would be working off-site. He said he took the fitness and recreation sports centers and redefined it because last time it was called health clubs and fitness clubs and the way the Federal classification was set up, it was fitness and recreational sports centers and he made it a conditional use so the Board of Zoning Appeals has control over what they can do and he limited the activities to those items set forth in Section 2 of the proposed amendment and in Section 3 he added some specific conditions. He said he is trying to be compatible with what they did for the schools and daycare centers so the activities will just be in the inside, not the outside, they are limiting the number of people that will be using the facilities at any one time and are requiring public sewer and water because this use seemed to be a more intensive use of water than others would be so he would not think the township would want this in a place that was using ground water or septic systems and as a practical matter, he thinks pretty much where there is a professional office district now, they are in the sewer and water district and the only place it is not is where the Winbury Group is, there is no public water there, so they could not have a fitness club. He said he imposed a requirement to make sure parking is sufficient, there is buffering and a traffic study.

The zoning commission reviewed the changes made by Mr. Markowitz.

Mr. Markowitz said that the amendment for the school and adult day centers are on the township trustees' agenda for a public hearing on Monday night, October 2, 2006. He said he would be happy to talk about any of the categories and most of them are in the medical, counseling or professional field and one of them is a photography studio. He said regarding the health club, he could not come up with very many conditions.

Mr. Weiss referred to the optometrist office and said he did a survey of two optometrists and his impression was the argument was made that optometrists always sell eyeglasses, so he asked two of them about selling eyeglasses and they said no and he does not like the idea of setting up a situation where a business has to operate in an environment that is almost doomed to fail so he thinks they are better off eliminating optometrists because he thinks they will be set up to fail.

Mr. Lanza said he actually rented part of his building to a guy that just sold glasses and he is in the building by the freeway now. He said he did not do examinations, all he did was sell glasses and the reason he moved is he wanted to be next to an optometrist to refer people to him.

Ms. Sass said that particular provision will be deleted.

Mr. Weiss referred to the diagnostic imaging center and asked if that was like an MRI.

Mr. Markowitz replied yes.

Mr. Weiss asked about medical arts services.

Mr. Markowitz said medical arts is typically for example, a crash victim who has to have reconstruction of their face, so they will draw what the patient looks like or will do a cast etc. He said you will typically see that in a building that is primarily all medical or if they are specializing with a plastic surgeon.

Mr. Weiss asked about the implementation of medical treatments by individuals licensed by a government agency and if they are encompassed by the previous uses.

Mr. Markowitz said he is not sure that it is and the reason it was put in there in the first place is he is trying to make a more dynamic regulation so it has flexibility in the future because there are other types of medical uses that are medical allied so they will not come back and ask to have it amended again, but they are trying to limit it to those who are licensed. He said probably there is a category or two that they don't have in there already.

Mr. Yingling asked if it would be wise to add some language that indicates that product sales or component sales or sales of any product are incidental to the treatment but not a primary purpose of it.

Mr. Markowitz referred to prosthetics and said someone may go and see someone who is going to provide them with an artificial leg but that is not really covered here because those people are not licensed but he does not have a problem saying that it is not primarily for the sale of products, it is something that would have to be incidental.

Mr. Yingling said this is a catchall because we have been very careful with the optometrist and the glasses. He said we have not said there cannot be an optometrist office here so he could see an optometrist coming in and saying it is medical treatment and he is licensed and he is going to sell eyeglasses and contacts and we are specifically trying not have that so some caveat should be there and he is troubled by the next one where there is a couple of nondescript terms in there like primarily, infrequent because one person's infrequent is another person's every single day type of thing so he would rather close the loop somehow.

Ms. Sass referred to the implementation category such as those licensed by a governmental agency.

Mr. Weiss said it should be the State of Ohio.

Mr. Markowitz said a lot is heading towards Federal regulations as opposed to State regulations.

Mr. Weiss said the State of Ohio or the Federal government.

Mr. Markowitz said yes.

Ms. Sass said it should be the State of Ohio or the Federal government but there is not really any other regional licensing authority.

Mr. Weiss said that is why he wants to eliminate it so someone can't use some weird license from some state.

Mr. Markowitz said he would say State or Federal agency.

Mr. Weiss said most medical things are going to be licensed by the State or Federal government.

Mr. Markowitz said he did not have a problem with it and the sale of products is incidental and isolated, it is not the primary use.

Mr. Yingling said it could be limited to represent less than 10% of the gross sales.

Mr. Weiss said the township uses a test like that for adult material in bookstores, 25% of its square footage.

Ms. Sass said that Mr. Yingling is talking about revenue.

Mr. Weiss said we do that for agriculture but it is 50%.

Ms. Sass said that is per the Ohio Revised Code.

Mr. Markowitz said we had this discussion about doctors selling a shot or a brace if it is part of providing the treatment and it is either consumed on the premises or the balance of the treatment.

Mr. Lanza asked about a dentist because he fits people with bridges so they are actually selling them and asked if that is not considered selling a product.

Mr. Sheehy said they would not really be selling a bridge, they would be getting professional services incidental to his business.

Mr. Lanza said he did not know how a dentist would do that.

Mr. Markowitz asked what if they said, implementation of medical treatment by individuals licensed by a Federal or State governmental agency where the sale of products must be incidental to the treatment provided. He added that it should say any sale but you don't have to have a sale.

Ms. Sass said okay.

Mr. Markowitz reiterated that it should say licensed by the State or Federal governmental agency for any sale of products must be incidental to the treatment provided. He then referred to photography studios.

Mr. Yingling said he would like primarily defined, whether it means the number of days or hours or the frequency of clients.

Ms. Sass said both of those words could be deleted (primarily and infrequent and).

Mr. Yingling said the studio business is by appointment only.

Ms. Sass said photographs are taken off site and studio visits are by appointment only. She referred then to fitness and recreational sports centers.

Mr. Weiss said he does not see how fitness and recreational sports centers fits into an office building.

Ms. Sass said they are revisiting it.

Mr. Markowitz said it is something that the people who in professional office buildings want to have and they see the value of it and also they may have rehab treatment going on at that facility so that certainly should be considered to be incidental to the treatment being provided and of course there are clearly recreational non-medically related activities that are included. He said he just does not see why it would be inappropriate for that kind of a use to be in a professional office building recognizing that it would be limited but he sees it being compatible and not being a nuisance to the neighbors if we have the conditions we talked about.

Mr. Yingling asked about the immediate adjacent tenant in the same building because he thinks handball, racquetball and squash could be a bit of a noise impact on an adjacent tenant.

Mr. Markowitz said no, not at all because he has been in offices with racquetball right next door and you can't hear a thing. He said maybe within the facility itself it can be heard sometimes, but not by adjacent tenants. He asked Mr. Vic Voinovich if noise has ever been an issue in the UHHS building where he is now.

Mr. Voinovich said no and they are right next to the doctors.

Mr. Yingling asked Mr. Voinovich if he has handball, racquetball or squash.

Mr. Voinovich said he does not.

Ms. Sass asked Mr. Voinovich if he is not primarily rehabilitation or occupational therapy.

Mr. Voinovich said it is not his primary business.

Ms. Sass asked him what his primary business is.

Mr. Voinovich said getting people in shape, general fitness, he has machines, cardio etc.

Ms. Sass asked if he has aerobic step classes.

Mr. Voinovich said yes he did.

Ms. Sass said she thinks that would be more of a noise feature because she has worked out with 100 people doing a step class.

Mr. Markowitz said they work out in the town hall everyday.

Mr. Voinovich said there is a gynecology office right next door and there has not been an issue.

Mr. Yingling said his other concern with handball, racquetball and squash is that most of the places he has played, they also sell products, such as racquets, covers, balls and we are trying to stay away from the sale of items.

Mr. Voinovich said he sells t-shirts.

Mr. Yingling said the business is not there to sell products, the people are there to work out.

Mr. Sheehy said health clubs may sell vitamins and supplements, power bars and water etc.

Mr. Markowitz said he was not contemplating selling that, there may be a juice bar or something, he was not contemplating that and it would be part of what would be permitted.

Mr. Yingling said most of the places that have courts, typically sell racquets and balls.

Mr. Markowitz said not all of them, it is not their primary business.

Mr. Voinovich said he does not have racquetball sports.

Ms. Sass asked Mr. Voinovich if he sells anything.

Mr. Voinovich said he sells just t-shirts.

Mr. Lanza said that could be a restriction and isn't that what a conditional use is all about.

Mr. Weiss referred to the traffic pattern that tends to be centered before the two rush hours.

Mr. Markowitz said that is not what Mr. Voinovich's experience has been.

Mr. Voinovich said his traffic tends to be heavier at 9:00 in the morning.

Mr. Lanza said Heinens is right there and all that goes in and out of there are semi-trucks and it is a very congested area already and we are right next to Heinens.

Mr. Weiss said that is right and that is exactly why we have the professional office district to be used as a buffer between those trucks and the houses.

Mr. Lanza said that is the reason he deed restricted 3-1/2 acres between his POD and the houses, there is a 3-1/2 acre wooded lot and maybe everyone does not do that but that particular parcel has that and you don't see anybody from W. Craig ever come here and question what we are doing simply because he created that buffer because he was very sensitive to the needs of the people in the residential area and he wanted to let them know that there would never be anything in their backyard and he added a mound to cover that whole area so it actually shields them from the commercial area that they did not have before.

Ms. Sass said this amendment is not just for that area.

Mr. Lanza said he understands but thought that is where the conditional use came in so the Board of Zoning Appeals could look at each one individually and have some control and possibly look at our area compared to someone else's area and put restrictions on it.

Mr. Markowitz said what he was trying to accomplish was to have no greater impact than the other uses provided for and asked what the community would find to be objectionable to it and what would create greater hardships for the community by allowing a fitness center than by allowing doctors because doctors have the most intense traffic than any other use.

Ms. Sass said if there is group class instruction, there is a traffic impact.

Mr. Markowitz said that would be limited by the number of people you can have in a facility at one time.

Mr. Yingling said you can have six per every 1,000 sq. ft.

Mr. Markowitz said it came about by two different methods and one was literally by taking the amount of square feet that Mr. Voinovich was working on taking by the maximum number of people that he thought would be in there and he also took it from the perspective of if he broke it down into exercise stations, you would have more than 150 sq. ft. per person and that is a large area to devote to one person using fitness equipment and he recognizes that you can't do that across the board.

Mr. Yingling said he did not think Mr. Voinovich could get in here because with 150 sq. ft., that is one machine in a 10' x 15' room and asked Mr. Voinovich if his machines are closer than that.

Mr. Voinovich said yes.

Mr. Markowitz said not all of the space is taken up by machines, there are areas that may have a yoga class or exercise class so you cannot take the whole facility and divide it by the amount of equipment, there may be work stations, a squash corner or there may be people sitting waiting so they were trying to come up with a number that is not a whole lot different than what he has. He referred to a dentist or doctor's office and how many people will be in that office at one time and took a number that he thought was less than a doctor or dentist office.

Mr. Yingling said he thinks this is too restrictive here and he does not think Mr. Voinovich is going to get in here and asked if there will be an office.

Mr. Voinovich said there will be an office, locker room and reception area.

Mr. Yingling said it still seems restrictive with 10' x 15' and he has seen houses with bedrooms smaller than that, that people put two kids in and you only want one.

Mr. Markowitz said he does not think they will get a use in there that is going to be incompatible with what is already going on in the building nor creating negative impacts on the community.

Ms. Sass said given the fact that we have recreational fitness centers, not only permitted, but actively being used in the CB district, and she understands the necessity for the relationship of the doctors to refer patients, she would be much more comfortable with the concept of rehabilitation or occupational physical therapy.

Mr. Weiss said we already have that which addresses the needs for doctors.

Ms. Sass said right and would be fine with it as that.

Mr. Voinovich said the trend, more and more, is those places are going out of business because they are stand alone without a shared space and they have a lot of trouble surviving and he is not exactly sure what that is.

Ms. Sass asked why that would be.

Mr. Voinovich said you see a lot of the fitness centers share that space and he tried to contact a couple of those he had had relationships with and found out they had gone bankrupt so he knows they have had a lot of problems and it is a trend nationally.

Ms. Sass asked when they are combined together, do the people who go to rehab or occupational therapy at the fitness center pay a separate fee to use other equipment.

Mr. Voinovich said they would pay the people who are giving them the therapy to use the fitness center and when the insurance runs out, they can continue to rehab in the same fitness center rather than having to go someplace new.

Mr. Yingling said we don't have anything in any of the doctor facility uses that references six people per 1,000 sq. ft.

Mr. Markowitz said correct and the regulation that would limit that is the amount of parking.

Mr. Yingling said he was going to physical therapy at the center this summer and that is right beside Mr. Voinovich's facility.

Mr. Voinovich said they used to be there but they are not there now.

Mr. Yingling said they had some equipment there but a lot of it was benches and balls and stretching etc. but that was not a very large room and there were times that there were 10 -12 people in there and it was not 1,000 sq. ft.

Mr. Markowitz said it was probably 500 – 600 sq. ft.

Mr. Yingling said he is worried that this is too restricted but he also knows what is trying to be done and if we go back to the square footage, the number of people per square foot in a doctor's office already exceeds this and there is the parking issue to deal with and the impact of the site etc. so if we permit these uses, conditionally, do we need that restriction in there.

Mr. Markowitz said of course they don't want it, he put it in there because he felt that the zoning commission had to be able to assure the community that this was not going to be a high traffic pattern area during certain times of the day or throughout the day so he wanted to make sure the type of uses that would go in there would limit themselves to that number of clients and it will limit the market, but we did it to satisfy the zoning commission.

Mr. Lanza said there is not that much traffic there because we have an entrance coming off of E. Washington Street and one coming off of Rt. 306 and it just so happens that that particular property lets you come in or out on E. Washington Street just below the shopping center and out onto Rt. 306 so there is never traffic lined up to get out of there, it is a busy section because of the people coming out of Heinens.

Mr. Yingling asked what if he would put up racquetball, handball, squash court facility in the professional office area on the Glynos property because everyone knows what a nightmare that intersection is in terms of trying to get in and out and backing up past the Glynos property itself and Mr. Lanza's sight might be okay but other sites wouldn't work, it looks good and sounds good in Mr. Lanza's facility as an adjunct to some of the other things going on there, but there are a couple of places where there is no facility there now.

Mr. Markowitz said the answer is if you have a doctor or dentist office, you are going to have more people coming in and out and this is a less intense use.

Mr. Yingling said with a racquetball facility with leagues, these people are there for a couple of hours, there are teams so it could be an intense use.

Mr. Markowitz referred to a facility with 16 people and if they all left at the same time. He said he just saw a traffic study of that intersection that he will be presenting for the Weils of Bainbridge in a couple of weeks and that intersection in two years will have to have improvements made by the state and the county because the level of service is going to be unacceptable and that is with no other new development in the community so the state is going to have to start putting that in their budget. He said they are going to have to put in a right turn lane only eastbound, turning to the south on Rt. 306 and they will have to do a right turn lane going south from the west onto E. Washington.

Mr. Lanza said the fact of the matter is, we don't have squash and racquetball.

Mr. Markowitz said we are permitting it and it could be taken out.

Mr. Weiss said in a very small area, there could be 30 people coming in and out every single hour.

Mr. Yingling said they will exceed the six people per 1,000 sq. ft. and he is looking at this with the caveat that if this is allowed, if we put some of these restrictions in there, we are setting up someone to fail.

Mr. Markowitz said he asked Mr. Voinovich first and he was okay with that number and the number could be raised, but he was trying to come up with as restrictive number as he could and still meeting what the expectations were for their facility and said to keep in mind the number is for members not staff.

Mr. Lanza said they don't have a lot of staff.

Mr. Voinovich said there are probably five people there at a time.

Mr. Yingling said the racquet clubs typically don't have a lot of staff either.

Mr. Weiss referred to occupational therapists and said we allow it in commercial and we know that currently there are some in the commercial areas and asked what the benefit is to the township of allowing it in the professional office district.

Mr. Markowitz said the benefit to the township is it would make the office buildings viable because they are all struggling and you would have the ability to go to your doctor or dentist or other medical facilities and be able to go into a health club or fitness center in the same building as your doctor so you won't have to leave and it would be less traffic movement within the township.

Mr. Weiss said we have the occupational therapist there.

Mr. Markowitz said they don't have to go to a licensed occupational therapist and gave an example of a doctor telling a person to quit smoking, that person could go in the same building and start working out and it would give that a person an opportunity to do it all in the same building and would do less traveling in the commercial area.

Mr. Weiss said that is such a small part of the traffic involved.

Mr. Lanza asked what the down side is.

Mr. Weiss said you are the applicant and you have to tell us why the zoning commission should be approving this.

Mr. Markowitz said it is compatible with office use and it is not inconsistent with office districts and we are not saying this because we have a tenant that wants to go in there, we are saying that in office buildings you frequently see these kinds of uses and they fit within that type of use and they are an appropriate and reasonable use of the building and they are not incompatible with the other tenants and not incompatible with the surrounding areas of the office districts.

Mr. Weiss said that is the point where he disagrees because the township's office district is specifically designed as a buffer and with the original uses being primarily during traditional business hours.

Mr. Markowitz said doctors are the highest traffic uses of any use in this community bar none, nothing comes even close so that professional office district when it was originally designed could not have possibly contemplated that every use in there was going to be a low density use.

Mr. Weiss said he didn't mention traffic, he said they operated during traditional business hours which are 8:00 – 6:00 or 9:00 – 5:00 and his concern about these recreation sports centers is a large amount of their business occurs outside of those hours, he understands that a doctor might work after those hours but most of the business occurs in regular business hours and he does not think that is true of recreational facilities.

Mr. Voinovich said when he negotiated a lease with the hospital, they leave their front doors open until 9:00 P.M. but our employees leave at 7:00 P.M. and don't get there until 8:30 or 9:00 in the morning. He said with the way this is being talked about, he would like to open a few more, he wishes he was that busy so he is confused about that and said most of his business happens during the day because most people have families to get home to.

Mr. Markowitz said unless they have a social setting where they have a bar, restaurant or food service, people are never there. He said people go there to work out after work, but they are not there at 8:00, 9:00 or 10:00 at night, they usually get there at 5:00, 5:30 or 6:00 and are done by 7:00, 7:30, or 8:00 at the latest and a lot of these other uses are there during those hours too. He said during tax season, accountants work until really late and a lot of dentists have night hours and it is not unusual for doctors to be there during those hours and it is no different than child and adult daycare centers.

Ms. Sass asked for some other examples of office buildings that have recreational sports centers in them and she is thinking of Ballys or Curves or places like that and is primarily thinking of them in more commercialized areas.

Mr. Voinovich referred to one off of Mayfield Road on Beta Drive.

Ms. Sass said that is more industrial.

Mr. Markowitz said no it is more of an office complex it is a mix in there.

Mr. Sheehy said it is office/industrial.

Mr. Tom Finley referred to the Omi building on Chagrin Boulevard by Beechmont Country Club and said a fitness center just went in there, about 3,000 sq. ft. in a 30,000 sq. ft. building, we have a building at Mercantile and Commerce in Beachwood, 30,000 sq. ft. and a 7,000 sq. ft. Mind and Body facility went in there and referred to others nearby and said the trend is going in that direction and they are going to where the businesses are because it needs to be close to do the recreation with the health and fitness and it becomes part of their day and that is why they are approaching people like us who have office buildings.

Mr. Voinovich said more companies are paying the memberships.

Mr. Jack Caputo of 16415 Crown Point asked if the adjacent property owners are supposed to be notified for rezoning or conditional use permits because he just found out about this a couple of days ago.

Ms. Sass explained that the zoning commission is not looking to rezone Mr. Lanza's property so the adjacent property owners do not need to be notified but public hearing notices are advertised in the newspaper.

Mr. Caputo asked if this is open for comments.

Ms. Sass said the zoning commission will take comments after the applicant has completed his presentation.

Mr. Yingling said he understands the growing trend toward it and he thinks it is more apropos where you have multiple facilities like Mercantile Park.

Ms. Sass said that is what she thinks of, those areas are more office complex driven than what we have here in Bainbridge.

Mr. Sheehy said Mercantile is totally isolated from residential, it is office, warehouse, shipping, mixed and it is not just professional office.

Mr. Finley said there is residential within 150' of the Omni building and Republic Bank is in the front and the back door faces residential, there is a buffer zone of woods, but residential is much closer than what we are talking about here and they coexist just fine and it is a non-issue for Pepper Pike.

Mr. Lanza said he does not understand the after hours and some people go to the fitness center early in the morning so he does not understand the problem because there would be less traffic during peak hours and does not understand the impact on the community.

Mr. Markowitz said the only two places they were comparing is Mr. Lanza's development and the one that is down on Chagrin Road because they are the only two that have sewer and water and he does not see how having people here at night at 8:00 or 9:00 how that would have any impact in both of those areas because there is a substantial buffer for both of them and the Board of Zoning Appeals has to make sure that is one of the criteria and they have the ability to impose conditions on that.

Mr. Yingling said the one issue that is different is it is a conditional use so they will have to go to the Board of Zoning Appeals and say what the parking is and what the traffic is going to be during a certain time of day etc.

Mr. Markowitz said he can't think of anywhere a health club or fitness center is a conditional use because it is not that intense of a use and we did that here based on comments that were made because it is in a district that is adjacent to residential and we don't have a problem putting the conditions in there but it may scare off some possible tenants that know they will have to wait a few months and with the limitation of the number of people that can go in there, he does not see how you are not protecting the people in the township by the conditions that are imposed.

Ms. Sass opened up for the floor for comments from the public.

Mr. Jack Caputo stated that he lives in Bainbridge plus he owns the shopping center adjacent to this property and the township trustees, several years ago, took this property and rezoned it to office and he thinks they did a perfect job in buffering the residential from the retail but at this time you are talking about changing it back to retail, you can call it commercial business, but he calls it retail. He said he thinks the zoning commission is wrong in considering this and to allow retail on this property would defeat the trustees' thinking and the uses that are being presented may be alright today but what is going to happen down the line when he is no longer in business or maybe the whole economy changes and there is no need for fitness, there will be another retail business there and it may be undesirable and the township would have opened up a can of worms and it will have a hard time supporting its position. He asked why the township would want to add more retail to this area of Rt. 306 and E. Washington because there is all kinds of vacant space available right now, why not tell these people, which they have approached me to go into the retail business usage rather than office. He said he would not put a fitness center in an office building because it would destroy his other tenants.

Ms. Sass asked why.

Mr. Caputo said because of the traffic pattern, it is just horrendous. He said he thinks the trustees were acting properly when they rezoned this property and he thinks the zoning commission should go along with their recommendation.

Ms. Sass asked for any other comments in favor or opposed to this amendment.

Mr. Yingling asked Mr. Caputo if his comments were directed primarily at the fitness and recreational sports as opposed to the other list of items.

Mr. Caputo asked if the presentation here is for fitness centers.

Mr. Yingling said that was one but the uses that would be allowed are limited and they are asking to expand that to things like medical diagnostic laboratories, etc.

Mr. Caputo said he has no objection to that, he thought they were lumped together.

Mr. Yingling said they are in there together but they are broken out.

Mr. Markowitz said a health club is not a retail use, you may find it in retail districts but you will also find it in office districts and he does not see how it can be classified as retail use. He said it is a service that is being provided to people and providing a service for people's well being and does not see how it is an incompatible use with the professional office district. He said as far as the traffic patterns, Mr. Finley can respond to them because he does have the actual experience having fitness centers in his office buildings and he knows that it is not a horrendous traffic pattern and asked Mr. Finley if he has lost tenants because he put in fitness facilities.

Mr. Finley said they have a section of their lease that is called quiet enjoyment and they have to be very sensitive to them because they can come back and say we are in default of our leases so we are very sensitive on what kind of operations are there, what they are doing, how they are doing it, where is the music level, plans are approved etc. He said parking is the other issue regarding the traffic pattern, who is your customer etc. and we want to know that going in and have a comfort level with that so quite frankly we are not driving out other tenants, we are in business to retain tenants not to drive them out and we have a very high sensitivity to how that all works out. His experience is it has not been a problem provided it is managed appropriately and the landlord, owner or otherwise would have the same sensitivity.

The zoning commission discussed that a health and fitness operation is a permitted use in a CB district.

Mr. Yingling said it would be easier for someone to put it in the CB district as opposed to the office district because it is a conditional use and they would have to go to the BZA for it.

Mr. Lanza said he could easily go in the shopping center if that is where he wants to go.

Mr. Caputo said correct and there are other spaces in Bainbridge that are empty.

Mr. Lanza said maybe they don't want to go into a commercial area with all the windows and people walking by to see what is going on etc. He said there must be some advantage for him to want to go into my building instead of the shopping center that is right in the same area and for some reason they prefer going into an office building and he does not see it as a detriment to the community.

Ms. Sass said that is the zoning commission's concern that there is a very strong potential for it to be a detriment and not to be in line with the stated purpose of the professional office district and it is a concern that she is hearing. She said there is still one more public hearing, the pitch can still be made to the township trustees selling them on the advantages and the fact that this is not inconsistent with the stated purpose of the professional office district.

Mr. Markowitz said that is not going to happen and it will be hard for all three trustees to override the zoning commission's recommendation.

Mr. Yingling asked if the township has permitted uses in one district and the same uses as conditional uses in another district.

The zoning commission reviewed daycare centers.

Ms. Sass said that daycare centers are conditional uses in both districts.

Mr. Weiss said they have to be licensed by the State.

Mr. Markowitz said there are probably not the same conditions as in a professional office district.

Mr. Weiss said that miniature golf courses are permitted in Commercial Recreation but are conditional in Convenience Business. He said some of the things that are permitted in CR are conditional in CB such as game rooms.

Ms. Sass said going from a higher intensity to a lower intensity they become conditional and she is totally not opposed to occupational therapy, rehabilitation services and that is in there, but she does not have a high comfort level with the fitness and recreational centers in professional office.

Mr. Yingling said he does like the fact that it is a conditional use because it will be tougher to get it into a professional office district and he does not see it as retail. He said the BZA will look at that conditional use and ask what kind of impact it will have and he does not think the landlord will let something in there that is going to drive the other tenants out.

Ms. Sass said if the public hearing needs to be continued it will be, otherwise she is inclined to close the public hearing and reconvene the regular meeting.

Ms. Sass asked if anyone had any additional information for the public hearing.

Mr. Sheehy made a motion to close the public hearing at 8:45 P.M.

Mr. Weiss seconded the motion that passed unanimously.

The regular meeting was reconvened at 8:45 P.M.

The zoning commission discussed the proposed amendment to keep Attachment E as submitted with the deletion of reference to optometrist office with the sale of eyeglasses and contact lenses on the premises are not included in the services or sales of the optometrist. Also discussed was to modify a section to read “implementation of medical treatment by individuals licensed by a Federal or State governmental agency where any sale of products must be incidental to the treatment provided” and the provision that indicates photography studios where photographs are taken off-site and studio visits are by appointment only.

Proposed Zoning Amendment Z-2006-6

Attachment E, Section 1 – to add permitted uses to the Professional Office District

Mr. Yingling made a motion to recommend approval of Section 1, as modified, as follows:

Delete – Optometrist Office where the sale of eyeglasses and contact lenses on the premises are not included in the services or sales of the Optometrist.

Modify – Photography studios where photographs are primarily taken off site and studio visits are ~~infrequent and~~ by appointment only.

Modify – Implementation of medical treatment by individuals licensed by a ***Federal or State*** governmental agency ***where any sale of products must be incidental to the treatment provided.***

Mr. Sheehy seconded the motion.

Vote: Ms. Sass, aye; Mr. Sheehy, aye; Mr. Weiss, aye; Mr. Yingling, aye.

Attachment E, Sections 2 and 3 – to add Fitness and Recreational Sports Centers as Conditional Uses in the Professional Office District

Mr. Yingling made a motion to recommend approval of Sections 2 and 3 as submitted.

Mr. Sheehy seconded the motion.

Vote: Ms. Sass, nay; Mr. Sheehy, nay; Mr. Weiss, nay; Mr. Yingling, aye.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated August 21, 2006, August 28, 2006, September 11, 2006.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated August 17, 2006.
3. Memo from the Geauga County Planning Commission to Matt McGill, Bainbridge North Land Development, LLC, dated September 13, 2006. RE: Shops at Marketplace Subdivision (Resubdivision of Sublots 3 and 4) – Final Plat.
4. Memo from the Geauga County Planning Commission, dated September 14, 2006. RE: Shops at Marketplace Subdivision (Resubdivision of Sublots 3 and 4) – Final Plat.
5. Memo from the Geauga County Planning Commission, dated September 20, 2006. RE: Four-County Energy Meeting sponsored by the Northeast Counties Farm Bureau.
6. Memo from the Geauga County Planning Commission, dated September 21, 2006. RE: Canyon Lake Colony Subdivision No. 12-A – Final Plat.

OLD BUSINESS

Active and Passive Park Districts

The zoning commission discussed the rezoning of publicly owned land or parks in Bainbridge Township according their use, such as passive or active.

Since there was no further business to come before this meeting of the Bainbridge Township Zoning Commission, Ms. Sass made a motion to adjourn.

Mr. Sheehy seconded the motion that passed unanimously. The meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Linda L. Zimmerman
Zoning Secretary

Lorrie Sass, Chairman

Date Approved: 10/26/2006

AUDIO RECORDING ON FILE

ZC 9/28/2006