

## Minutes of Zoning Commission

November 26, 2002

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. David Weiss, Chairman at 7:34 P.M. Members present were: Ms. Lorrie Sass and Mr. Donald Sheehy. Mr. Raymond Richards was absent.

### OLD BUSINESS

#### Riparian Setbacks

The zoning commission discussed proposed riparian setbacks.

#### Gas & Oil Well Regulations

The zoning commission discussed oil and gas well regulations. Ms. Sass and Mr. Sheehy will work on a proposed amendment regarding same.

#### Child Day-care Centers

The zoning commission discussed the definitions for child day-care center regulations. Mr. Richards will work on the definitions for a proposed amendment.

#### Definition of Banner

The zoning commission discussed the definition of "banner". The members will work on a definition for a proposed amendment.

#### Adult Entertainment

Mr. Weiss reported on the status of the adult entertainment amendment.

### CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated November 4, 2002.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated October 17, 2002.

### MEETING SCHEDULE

Mr. Weiss made a motion to cancel the regularly scheduled meeting of December 26, 2002.

Mr. Sheehy seconded the motion that passed unanimously.

Mr. Weiss recessed the regular meeting at 8:00 P.M.

PUBLIC HEARING

Proposed Zoning Amendment Z-2002-7

Mr. Weiss called the public hearing to order at 8:00 P.M. Members present were Ms. Lorrie Sass and Mr. Donald Sheehy. Mr. Raymond Richards was absent. A court reporter from K. K. Foxx Court Reporters was present.

Proposed amendment Z-2002-7 by application of Frank and Doris Lanza proposes to amend Section 141.02 of the Bainbridge Township Zoning Resolution by adding Subsection 141.02(d) to add Child Day-care Centers as a conditional use in the Professional Office District, and added Subsection 117.12(c) to add specific regulations for Child Day-care Centers as a conditional use in any district.

Mr. Weiss noted that the legal advertisement for the public hearing had been duly advertised in the News Herald on November 15, 2002.

Mr. Weiss then read into the record the recommendation of the Geauga County Planning Commission in a letter dated November 13, 2002 in which the planning commission recommended approval of Z-2002-7 subject to comments listed.

Mr. Weiss explained that the current township zoning regulations allow child day care centers in CB Districts and LIR Districts and proposed zoning amendment Z-2002-7 would allow them, under certain circumstances, in Professional Office Districts.

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

Mr. Markowitz stated that he did not think they are presently allowed in all LIR Districts but they are allowed in Knowles Industrial Park because of the old M-1 Zoning. He said it was made clear in this application that conditional use permits are permitted in those districts.

Mr. Markowitz said that he is present to represent Z-2002-7 for the applicants and it is not necessary to reiterate the entire amendment but wants to make sure the board had a chance to review all of the correspondence, submitted by him regarding the amendment, that will allow child day-care centers in professional office districts and anyone coming into CB or LIR districts, these conditions must also be met.

Mr. Markowitz added that they did not provide the definitions for child day-care centers because the zoning code already has them but told the zoning commission that they might want to use the definitions from the Ohio Revised Code which may be a better way to go. He referred to the letter from the Geauga County Planning Commission dated November 13, 2002 and Section #1 that states "The proposed amendment should be modified to provide that a child day-care center shall be classified as an accessory conditional use to the principal permitted professional office use on a lot in a POD." He said the township does not have the concept in the zoning resolution to address conditional uses as accessory uses and Mr. Lanza will have only three buildings and only one portion of one of those buildings will be used less than 50%, it will not be a main or secondary use of the property. He continued by saying that the board of appeals will have great difficulty in interpreting that and does not see why the township would want to make it an accessory use. He said if someone else wants a day-care center in the second building, the township can decide that as an accessory use.

Mr. Markowitz referred to Section #2 of the planning commission letter and said this will be a very limited use because of the conditional use restrictions regarding turn-arounds for buses, hydrology issues and not all POD or CB parcels will be able to meet that and not a lot of day-care uses are popping up around the township and those that do will serve mostly residents. He said he would like to see the zoning commission look into accessory uses at another time and has not seen another community approaching it this way.

Mr. Markowitz referred to Section #3 of the planning commission letter and said it distinguishes between operator and applicant but we decided applicant would be the one to apply and it is up to the operator to meet the conditions. He added that they have already done a traffic impact study.

Mr. Lanza said he had one done for the garage and one for the offices.

Mr. Markowitz said he is hoping they will not have to do another one. He continued by saying that the applicant will post signs that the zoning requires and the board should look at each applicant regarding on-site septic, water and a letter from the county if water is available. He said the provision he and this applicant did not follow was making it an accessory use, but they did address all of the others. He said he did send the zoning commission a summary of the pertinent provision from the ORC and before any day-care opens it is inspected by the state and county building department regarding the number of children and the number of staff and noted that the children that cannot walk have to be on the first floor and added that the state regulations are well thought out.

Mr. Markowitz said the planning commission referred to 100 sq. ft. per child for the play area but it is not a township requirement.

Mr. Weiss said that was in the draft of the original application.

Mr. Markowitz said he put it in the original draft but after talking to Mr. Jim Nerpouni he found out the state already regulates it as 60 sq. ft. for outside play and 30 sq. ft. for inside play for each child. He said the operator will be limited by the number of children at one time per the ORC and in looking at various day care centers, there is not a set formula and it differs with the number of children and ages and the number of children outside in the play area etc. so it is best to go with what the state requires and added that he apologizes for the earlier draft and asked the zoning commission to use the modified draft.

Mr. Weiss solicited comments and questions from the audience for the amendment. None.

Mr. Weiss solicited comments against the amendment. None.

Ms. Sass said she is concerned about the possibility of a stand-alone use in a Professional Office District.

Mr. Weiss said he is concerned about other tenants in the building, ie. an engineer that requires attention and having kids outside on the playground but if it is the only use, you won't have other tenants.

Mr. Markowitz submitted three letters to the zoning commission from existing tenants in the building saying they will not object to a day-care center being a co-tenant in the building as long as no noise filters through the common walls and the main entry to the offices is not used for the entrance/exit of the day-care center, otherwise they had no objections.

Mr. Jim Nerpouni said the tenants themselves may use the center.

Ms. Sass said she is concerned about the other properties affected by this change.

Mr. Markowitz said what about the businesses in CB Districts.

Ms. Sass said that CB Districts have a higher intensity use and PO Districts have more of a quiet business atmosphere.

Mr. Markowitz said there will be no noise from the kids inside the day-care.

Ms. Sass said if they have a gross motor room, it can generate a lot of noise.

Mr. Nerpouni said he visited four to five other operators and the centers are quiet, the children are playing in a learning situation. He said there have been 30 – 40 children at one time and you really cannot hear them. He said he was going to record them but didn't and added that the children were well supervised and there was no rough playing.

Mr. Markowitz said a day-care center makes less noise than a dentist drill.

Mr. Nerpouni said you will not be able to hear a thing with the mound.

Ms. Sass said there are other sites that don't have that kind of buffer.

Mr. Markowitz said we can require the BZA to provide a buffer or mound. He referred to the day-care at the Tanglewood Office building that is zoned CB and said he has been in that building and the walls are thin but does not expect the tenants will object. He added that it sounds like Ms. Sass and Mr. Weiss are at opposite sides of the spectrum.

Mr. Weiss said the zoning commission is trying to address other issues raised at the meeting.

Mr. Markowitz said if the building is a stand-alone, it is difficult to get it financed and very difficult to re-sell and it is easier to adapt an office building to a day-care and also people in that building will be natural customers.

Mr. Lanza said if the tenants complain about the noise, that would be his problem and maybe they would want to break their lease.

Mr. Markowitz said that no other community said they had to be stand-alone or deal with the noise factor and there is no explanation anywhere to say you have to totally separate the day-care center because of noise in the building.

Mr. Sheehy said he is concerned with the restriction on the size of the lot width of 200' because of the 100' setbacks that will be given up and 100' will be needed to accommodate the bus turn-a-rounds etc. so maybe 200' is not wide enough, therefore variances will be requested.

Mr. Markowitz said if the zoning commission has a wider requirement, it will not affect them.

Mr. Sheehy said he does not want to see someone coming in saying that they cannot meet the lot width and suggested that in addition to screening and mounding, a twenty year growth plan for landscaping, which should be done by a professional, should be included in this amendment. He also added that he did not think the play area should be visible from the street for safety issues and said he prefers a wall or solid fence.

Mr. Lanza said his play area will not be visible from the street.

Mr. Nerpouni said the state requirements for fences are pretty stringent and everything is regulated so children cannot get out and no one can get in etc. and the playground surface is strongly regulated by the state.

Mr. Weiss said the lot width is more of a concern than lot size.

Mr. Sheehy said that is right.

Mr. Weiss said he does not want to create a situation where variances for side yard setbacks are required because the side yards should be a buffer.

Mr. Lanza said that 40% lot coverage is allowed on only a two acre lot.

Mr. Weiss said it could be all green space behind the building.

Mr. Markowitz asked what the radius is on a turn-a-round.

Mr. Sheehy said 90' to 100'.

Mr. Markowitz said the radius could go perpendicular to the lot.

Mr. Weiss said with a 200' width minimum with 100' gone for setbacks, it leaves 100' for the turn-a-round.

Mr. Sheehy said the 100' is used for the parking lot too.

Mr. Markowitz said the circular drive for the turn-a-round has to be for a bus but we can meet that.

Mr. Weiss said the zoning commission does not want to create a situation where the applicant can't meet the setbacks.

Mr. Markowitz said if the width is 300', someone could still come in and ask for a variance.

Ms. Sass said we can't avoid all of that but we could significantly cut down the number of variance requests.

Mr. Sheehy explained that a 200' width makes for a difficult site.

Mr. Weiss asked if 300' would be appropriate.

Mr. Sheehy said that a 250' wide lot would be appropriate.

Mr. Weiss said it makes sense to require a separate entrance for the day-care center.

Mr. Sheehy said they should have a separate entrance.

Mr. Nerpouni said it would be an advantage to the day-care and the other tenants and we would want a separate entrance for the children and have them all on the first floor because security needs to be complete for the kids.

Mr. Lanza said the day-care center has to have a separate entrance.

Ms. Sass said there could be one corridor with entry authorization.

Mr. Nerpouni said there will be one door from the outside into the room and the people will have to be buzzed in.

Mr. Weiss said there should be something added to say there should be a separate entrance in a multi-tenant building and there are other issues about screening, landscaping and Mr. Sheehy raised the issue about the play area being visible or non-visible from the street but it also depends on where the road is.

Mr. Sheehy said he is more concerned with somebody on the street being able to visibly see where the children are without entering the lot.

Mr. Nerpouni said the children are under the same supervision outside as inside.

Mr. Sheehy said he is worried about security, an abduction type of thing where somebody would happen to know when the children are outside.

Mr. Markowitz said they can easily screen it out but a stockade fence or wall may prevent the staff from knowing what is going on outside of the play area.

Mr. Nerpouni said the problem is when the children are left unsupervised.

Mr. Weiss said there is still the buffer, screening and landscaping issue because this is supposed to be a transitional use between residential and commercial so screening is a big issue.

Mr. Markowitz read their proposed specifications for screening and asked the zoning commission what they want to say in addition to what they have already said.

Mr. Sheehy said he did not think it is substantial enough because two rows of hedge don't provide any kind of sound buffer at all. He said you would want a wall or mound with landscaping behind it to make it more pleasing and a straight line of evergreens becomes a problem in time and would rather see a landscaping plan to provide a buffer for the neighbors.

Mr. Markowitz asked if a masonry wall or mound with landscaping behind it would work.

Mr. Sheehy said yes but here it does not say where the wall or mound will be located.

Mr. Markowitz said that can be determined by the BZA.

Mr. Sheehy said no, his preference would be to put it closer to the playground area.

Mr. Markowitz said it must be 100' away and you can't have a playground or structure in the 100' setback.

Mr. Sheehy said his preference would be a landscaped mound.

Mr. Lanza said his mound is 20' with 250' of woods between the mound and the property line and from the actual house on W. Craig the mound is 500' so we have more than enough buffer. He said the mound should be to shield the residents from the commercial district and in our case it does not matter but we understand the zoning commission's concerns.

Mr. Markowitz reviewed the suggestions by the zoning commission to be incorporated into the amendment.

Mr. Lanza said he has a 250' wooded natural buffer.

Mr. Markowitz asked if any of the members have looked at the mound located at the Weils and said it will be effective in ten years and said the trees between the mound and the property line are the real buffer.

Mr. Sheehy said trees may or may not be a buffer.

Mr. Lanza said if it is a natural buffer, you should have a lot of ground cover so you cannot see anything in the summer.

Mr. Sheehy said you need a year-round buffer.

Mr. Markowitz said the mound on Mr. Lanza's property is more than you would need for a day-care center and suggested putting it near the play area.

Mr. Sheehy said the mound could be landscaped.

Mr. Markowitz said the mounds at Auburn Lakes are landscaped but it is all in the eyes of the beholder.

Mr. Weiss said at minimum, we need to have a buffer between the play area and the property line which should be included in C-3 and we will add to C-3 the regulation of a 10' mound to separate the outdoor play area from the residential lots bordering the property line.

Mr. Markowitz said you may have a topographical situation where you cannot have a mound.

Mr. Weiss said we prefer a mound, but the BZA could grant a variance if need be.

The zoning commission discussed the suggested changes to the proposed amendment regarding the 10' high landscaped mound to separate the outside play area from the residential lots bordering the property line to include a 10' high landscaped earthen mound, landscaping, fencing or walls as determined by the BZA rather than allow the BZA not to require a physical buffer.

Mr. Weiss said this allows the BZA to determine what is appropriate.

The zoning commission discussed the proposed landscaping language and Mr. Weiss suggested the following changes/additions to the proposed amendment:

Item #3 – after Residential District which “shall include ten foot (10’) high landscaped earthen mound, fencing or walls as determined by the Board of Zoning Appeals. A twenty (20) year growth landscaping plan shall be prepared by a registered landscape architect and submitted to the Board of Zoning Appeals for the required landscaping for any child day-care center proposal.”

Add Item# 10. “Minimum Lot Width. A lot shall have a minimum width of two hundred fifty feet (250’).”

Add Item #11. “Each child day-care center shall have at least one building entrance dedicated solely for its use.”

Mr. Weiss said that the applicant will address these three suggested changes to the proposed amendment.

Mr. Markowitz said he is assuming that the other changes are acceptable too.

Mr. Weiss said yes, the zoning commission did agree that the accessory use issue is unclear and we addressed all the issues of the county and the zoning commission that were raised.

Mr. Markowitz said he will make the changes to the proposed zoning amendment as suggested by the zoning commission and will forward them to the members by December 2, 2002.

Mr. Weiss made a motion to close the public hearing at 9:20 P.M.

Ms. Sass seconded the motion that passed unanimously.

The regular meeting was reconvened at 9:20 P.M.

#### Z-2002-7

Mr. Weiss made a motion to recommend approval of Z-2002-7 as amended by the applicant including the three recommended changes by the zoning commission.

Ms. Sass seconded the motion.

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

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

Mr. Sheehy seconded the motion that passed unanimously. The meeting was adjourned at 9:40 P.M.

Respectfully submitted,

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Linda L. Zimmerman  
Zoning Secretary

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David Weiss, Chairman

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Date Approved