

Minutes of Zoning Commission

November 26, 2019

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. John Lateulere, Chairman at 7:04 P.M. Members present were: Mr. Chuck Giallanza, Alternate; Mr. Howard Miller, Alternate; Ms. Marion Perry; Ms. Marlene Walkush and Mr. Dennis Williams. Ms. Kristina Alaei was absent. Ms. Karen Endres, Zoning Inspector and Mr. Dave Dietrich, Assistant Zoning Inspector/Planning and Zoning Coordinator were present.

PLEDGE OF ALLEGIANCE

The Zoning Commission recited the Pledge of Allegiance.

GUESTS: Mr. and Mrs. Glenn Knific of the Woods of Wembley were present regarding the proposed zoning amendments.

MINUTES

Mr. Miller moved to adopt the minutes of the August 27, 2019 meeting as written.

Mr. Giallanza seconded the motion that passed unanimously.

Mr. Giallanza moved to adopt the minutes of the September 24, 2019 meeting as written.

Mr. Miller seconded the motion that passed unanimously.

Mr. Williams moved to adopt the minutes of the October 29, 2019 meeting as written.

Ms. Perry seconded the motion that passed unanimously.

MEETING SCHEDULE

The Zoning Commission was in general agreement to cancel the regularly scheduled meeting to be held December 31, 2019 and to hold a special meeting on January 14, 2020 to review proposed zoning amendments.

NEW BUSINESS

Proposed Zoning Amendment Z-2019-4

Ms. Walkush moved to recess the regular meeting.

Ms. Perry seconded the motion that passed unanimously.

The regular meeting was recessed at 7:15 P.M.

PUBLIC HEARING

Mr. Lateulere, Chairman, called the public hearing to order at 7:15 P.M.

Zoning Commission members present were: Mr. Lateulere; Mr. Miller, Alternate; Ms. Perry; Ms. Walkush and Mr. Williams. Ms. Alaei was absent.

Proposed Zoning Amendment Z-2019-4 is a motion of the Zoning Commission to amend Chapter 109 – Zoning Inspector; Certificates and Enforcement; Chapter 113 – Zoning Commission; Chapter 117 – Board of Zoning Appeals; Chapter 121 – Zoning Amendments and Chapter 177 – Prohibited Uses.

The public hearing was advertised in the News Herald on November 15, 2019. Mr. Lateulere read the legal notice of public hearing into the record.

Mr. Lateulere read into the record the recommendation of the Geauga County Planning Commission in a letter dated November 20, 2019 in which the planning commission recommended approval of Z-2019-4 with modifications.

Mr. Lateulere stated that per the Ohio Revised Code the Planning Commission has to get copies of the amendments, they have to consider them and make a recommendation to this body and to the trustees, however, what they provide back to us is a recommendation, it is something that we need to consider and as a board determine how we want to look at it. He said as we go through the Planning Commission letter, there are a number of items that they had, they called out changes to that and in looking at these new uses he thinks it would be helpful if we went through what those actually were.

The Zoning Commission reviewed the first comment regarding Chapter 109.03(b) and that is “No zoning certificate shall be required for any building, structure, land or premises specifically exempted by this Zoning Resolution or Ohio R. C. 519.21, however compliance with all other provisions of this Zoning Resolution shall be required for such exemptions as may be lawful. If provisions of the Ohio statutes exempt any person from obtaining a zoning certificate from the Township, such person shall, prior to commencing construction or operations, *consult* with the Zoning Inspector and provide such information as may be necessary to substantiate the validity and legality of such exemption and so as to complete Township records.”

Mr. Lateulere stated that the Planning Commission recommends that we change “consult” to “advise”.

Ms. Walkush stated that she is against that.

Mr. Williams stated that he was too.

Ms. Endres said if you change consult to advise you don't need "with".

Mr. Lateulere said he thinks the word "with" would come out of there.

Mr. Dietrich stated that our legal counsel prefers "consult" and he and Ms. Endres both prefer "consult".

Ms. Walkush said she prefers "consult" and she agrees.

M. Lateulere said he doesn't disagree with that, it is under good advisement.

The Zoning Commission reviewed the second comment regarding Chapter 109.07(b) whereby the Planning Commission recommends changing "by certified mail" to "by regular mail".

Mr. Lateulere said we have been over this three times.

Ms. Walkush said yes, many times.

Ms. Endres said she wanted "certified mail" deleted regarding the revocation.

Mr. Dietrich said there is no statute to that provision that it be provided by certified mail.

Mr. Lateulere said it could be hand delivered.

Ms. Endres said actually most of the time she emails these, people use email now.

Mr. Dietrich said or people could even pick it up.

Ms. Endres said she has hand delivered revocation letters.

Mr. Dietrich said so that is why we suggested it.

The Zoning Commission reviewed the third comment regarding Chapter 177.01(hh) which is "No use shall be permitted to be established which is hazardous, noxious, or offensive due to emission of odor, smoke, fumes, dust, noise, or vibration."

Mr. Lateulere said he thinks from what he has seen it is a fairly common statement to have in zoning resolutions that gives the ability to be able to review things subject to that. He said (ii) is Indoor and Outdoor Shooting Ranges as defined in Ohio Revised Code 1533.83(B) and we were provided what that definition is in the Ohio Revised Code. He read the following: “Shooting range” means a facility operated for the purpose of shooting with firearms or archery equipment, whether publicly or privately owned and whether or not operated for profit, including, but not limited to, commercial bird shooting preserves and wild animal hunting preserves established pursuant to this chapter. “Shooting range” does not include a facility owned or operated by a municipal corporation, county, township police district, or joint police district. He said (jj) is “Commercial composting as defined in O.A.C. 3745-27-01(C)(2) and composting facilities as defined in O.A.C. 3745-27-01(C)(3)” and “(kk) is Tattooing or body piercing service establishments as defined in O.R.C. 3730.01”. He said it was recommended that the Zoning Commission review them for necessity or appropriateness, and specifically, the addition of “(ii) *Indoor and Outdoor Shooting Ranges*” that they not restrict or impact firearm use by private property owners.

Mr. Lateulere said we haven’t opened up the floor yet and this might be a conversation that is going to be had so we can talk about it now if we want to or we can talk about it in a second but his view on it is relative to the “necessity and appropriateness” we are the ones that drafted this, we believe that they are necessary and appropriate given what Bainbridge is with specific to Outdoor Shooting Ranges and really everything in this chapter, and this is his own personal feelings and open to discussion is that the way that we constructed the zoning resolution is unless you are specifically permitted to have a use it is prohibited or if it is permitted by the state of Ohio and Ohio Revised Code specifically then we don’t have the ability to restrict that so he viewed these actually as uses that we are making clearly specific, these are all currently prohibited to begin with because they are not specifically named uses, we are just being clear and he thinks that clarity allows the community and anybody who might want to come and propose a use that might not be listed in here a clear path for due process to be able to request a zoning amendment to be able to specifically allow one of these uses to be enacted and that provides for the entire community the opportunity to be able to have their voices heard at that time and that is how he viewed these prohibited items in this chapter, it is not that specifically we think that any one use is terrible for the community but if one of the uses is on here and specifically somebody wants to try to do it, it is their opportunity to come forward and ask for due process and request an amendment be made and then we can have those discussions at the time of what the public, health, safety and general welfare implications are.

Ms. Walkush said she likes the way it is written now because we have the O.R.C. at our backs and she thinks that is important.

Mr. Lateulere said he thinks it is also important as noted on here not to restrict or impact firearm use by private property owners and when you read the Ohio Revised Code it is clear that we can't restrict that so if somebody on their own property has set up a proper backstop and they do either archery or to use their firearm on their property, that is not our issue nor is it something that zoning can restrict. He said if you own a piece of property that property is likely agricultural or single family or some other use that goes along with that, we are not restricting personal use of firearms we are saying in here that the establishment of a shooting range as defined by the Ohio Revised Code, that would be something that is specifically a prohibited use.

A discussion was held regarding discharging firearms in backyards and that it is a police matter, not a zoning matter.

Mr. Lateulere said the last comment would be Chapter 177.02 , same section, and the Planning Commission recommended changing the title to "Uses Not Specified" so they suggest striking the word "Prohibited" and that actually is not a terrible suggestion, these are the uses that are not specified whether they are prohibited or not he thinks that is not a bad way to go so it would be in both the title and in the section. He said that was the explanation of the proposed amendment.

Mr. Lateulere solicited comments for the proposed amendment – none.

Mr. Lateulere solicited comments against the proposed amendment – none.

Ms. Walkush made a motion to close the public hearing.

Ms. Perry seconded the motion.

Vote: Mr. Lateulere, aye; Mr. Miller, Alternate, aye; Ms. Perry, aye; Ms. Walkush, aye; Mr. Williams, aye.

The public hearing was closed and the regular meeting was reconvened at 7:38 P.M.

Proposed Zoning Amendment – Z-2019-4

Ms. Perry moved the adoption of the following motion:

That the Bainbridge Township Zoning Commission recommend the approval of the following proposed amendment to the Bainbridge Township Zoning Resolution attached hereto: Z-2019-4 subject to two modifications to change the sub-heading for 177.02 "Prohibited uses not specified" to only read "Uses not specified" on page one of Chapter 177 as well as page six of Chapter 177 per the recommendation of the Geauga County Planning Commission.

Ms. Walkush seconded the motion and the roll being called the vote of the Bainbridge Township Zoning Commission was as follows:

Vote: Mr. Lateulere, aye; Mr. Miller, Alternate, aye; Ms. Perry, aye; Ms. Walkush, aye; Mr. Williams, aye.

The amendment will be submitted to the Bainbridge Township Board of Trustees for its action.

(Audio Recording of Public Hearing on File)

OLD BUSINESS

Proposed Zoning Amendments

The Zoning Commission reviewed Chapters 135 – R-5A Rural Open Residential District; Chapter 139 – R-3A Rural Residential District; Chapter 155 – LIR Light Industry Restricted District; Chapter 161 – General Provisions and Chapter 165 Nonconformities and was in agreement to continue the review of these chapters at the special meeting to be held on January 14, 2020.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated October 11, 2019; October 14, 2019 and October 28, 2019.
2. Memo from the Geauga County Planning Commission, dated October 10, 2019. RE: Replat of Lot 9 and Lot 10 of the Lake Lucerne Land Company's Lake Lucerne Subdivision No. 1 – Final Plat.

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

Mr. Williams seconded the motion that passed unanimously. The meeting was adjourned at 9:28 P.M.

Respectfully submitted,

Linda L. Zimmerman
Zoning Commission Secretary

John Lateulere, Chairman

Date Approved: January 28, 2020

ZC 11/26/2019