

## Minutes of Zoning Commission

November 30, 2010

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. Donald Sheehy, Chairman at 7:02 P.M. Members present were: Mr. Steve Hunder, Mr. Charles Nichols, Mr. Ken Watson and Mr. Stephen Yingling.

Guests: Mr. Shane Wrench, Bainbridge Township Zoning Inspector  
Mr. George Smerigan, Oxbow Engineering  
Mr. Howard Miller, Alternate

### MINUTES

Mr. Watson made a motion to approve the minutes of the October 26, 2010 meeting as written.

Mr. Nichols seconded the motion.

Vote: Mr. Hunder, aye; Mr. Nichols, aye; Mr. Sheehy, abstain; Mr. Watson, aye; Mr. Yingling, aye.

### NEW BUSINESS

#### Noise Ordinance

The Zoning Commission discussed a proposed noise ordinance. Mr. Shane Wrench, Zoning Inspector stated that noise complaints are rare and the Police Department enforces complaints from parties etc.

### OLD BUSINESS

#### Geauga Lake Flea Market LLP

The Zoning Commission discussed the Geauga Lake Flea Market that has been proposed recently and was in agreement that it would be a better route for this proposal to go to the Board of Zoning Appeals instead of the Zoning Commission.

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

Mr. Watson seconded the motion that passed unanimously.

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

## PUBLIC HEARING

### Proposed Zoning Amendment Z-2010-1

Mr. Sheehy called the public hearing to order at 7:15 P.M. Members present were: Mr. Steve Hunder, Mr. Charles Nichols, Mr. Ken Watson and Mr. Stephen Yingling.

Proposed amendment Z-2010-1 is a motion by the Zoning Commission to amend Chapter 173 – Signs.

Mr. Sheehy noted for the record that the legal advertisement for the public hearing had been duly advertised in the News Herald on November 18, 2010.

Mr. Sheehy read into the record the recommendation of the Geauga County Planning Commission in a letter dated November 10, 2010 in which the planning commission recommended denial of Z-2010-1 with comments listed.

Mr. Sheehy explained the proposed amendment that is a re-write of the sign ordinance and in some areas the Zoning Commission is being more aggressive especially on dilapidated signs, signs that are not in compliance or in violation and in other areas trying to be a bit more flexible to embrace the concept of larger shopping centers with a similar theme of signage rather than sort of a scattering of different types of non-compatible signage to try to improve the visual appearance and to try to make it easier for the customer or whoever is entering the shopping center to understand where the stores are.

The zoning commission discussed the comments from the Geauga County Planning Commission and was in agreement the comments were basically the same comments that were reviewed previously by the Zoning Commission.

Mr. Yingling said the Zoning Commission members did go through these comments one by one and addressed why they should be adopted or not.

Mr. George Smerigan stated that he didn't see anything in the Planning Commission's letter that wasn't from their informal review and with each of these items the Zoning Commission had valid reason for keeping them in the amendment. He said for instance with the shopping center definition to require that they all be in the same ownership and in some instances you have tenants that own their own parcel but the center is all under some sort of common arrangement in terms of parking and access and why wouldn't we want to treat that as a shopping center and fail to treat it simply because there was an out-parcel or a tenant that had their own parcel so we felt that while we understood the intent of what they were recommending and why they said it, we thought our language was more applicable to the current situation.

The zoning commission discussed the defensibility in a court of law.

Mr. Smerigan said it is totally defensible and with Item three regarding the Political Signs there is an Ohio Supreme Court decision that says you can't identify signs as political signs so that language was taken out.

Mr. Sheehy said the Zoning Commission crafted the language but the Planning Commission is recommending that it be denied and explained that that is their recommendation.

Mr. Smerigan explained that the Geauga County Planning Commission is an advisory board to the Zoning Commission only and the Zoning Commission is making a recommendation to the Board of Trustees.

Mr. Yingling said the Zoning Commission may have to provide to the Board of Trustees why the items the Planning Commission suggested were not adopted.

Mr. Smerigan said in some instances the Planning Commission has a slightly different view point and they are looking globally, they want all of the townships to be kind of doing things the same but the western half of the county and the eastern half of the county are so vastly different that it is not going to work that way. He said in some instances we are pushing the envelope a little bit and what they are expressing is they are more comfortable going back to the safe ground and we discussed that but we are doing it knowingly. He said for instance the signs on parked vehicles, we talked about that and were on the edge with that but the Zoning Commission said let's give it a shot and he thinks that it will be effective for Bainbridge Township and even if it is challenged Mr. Wrench is going to be able to go out and compel compliance and why wouldn't we do that if we can. He said if the truck is actually used in the business and it is a delivery van and they make deliveries with it there is nothing you can do about it but if it is a broken down truck that doesn't run then it is really not a truck anymore and now it really is a sign and he thinks that that position can be sustained. He said with regards to semi-trailers he has seen it done because other communities have taken action against those things where a semi-trailer is just parked there with wording on the side of it and if they were forced to move it and faced with some extensive litigation for getting the trailer out of there nine times out of ten they move the trailer because it isn't worth it for them to make that constitutional challenge because they would have to go all the way to the State Supreme Court because the lower courts are going to back the township on that because that has been the history. He said if Mr. Wrench shows he is serious about it, in most cases they are going to go ahead and pull it down if you have the language and the regulations that allow Mr. Wrench to be much stronger going out there and giving notice than if that language doesn't exist.

Mr. Yingling said the Zoning Commission has chosen to be more aggressive rather than conservative and we are all real comfortable with that.

Mr. Smerigan said that is the situation we have with the signs on the parked vehicles and the architectural design standards, you are going into territory that may make the county planning department or the county prosecutor's office a little bit more nervous because it is not well chartered water. He said it is the same thing with the removal of signs, the Zoning Commission members said they wanted to take a much more aggressive position on controlling the unsafe signs or signs that were put up without permits and what we wrote is a much stronger position and again they want to go back to the thing where you send a letter and you wait three weeks and you send another letter and if you do that, you are going to be back where you are. He said we talked about taking a more aggressive stance and there are communities that do this and they have been very successful in doing it this way and he does not know any challenge, most of them have not been challenged and the small challenges that come up never get past Common Pleas Court because if you have a sign that is unsafe and it represents any real danger to the public health and safety and you go in front of a judge, he will have very little sympathy because it stopped being a sign case and started to become a public safety case and they have very little sympathy for a guy with a bad sign. He said if Mr. Wrench has a picture of the sign hanging over ready to fall or some loose wiring that is dangling out there, the courts have been very strong about backing the zoning inspector and he doesn't see why we wouldn't want to take advantage of it.

Mr. Sheehy solicited comments for the proposed amendment: None.

Mr. Sheehy solicited comments against the proposed amendment: None.

Mr. Yingling made a motion to close the public hearing.

Mr. Watson seconded the motion.

Vote: Mr. Hunder, aye; Mr. Nichols, aye; Mr. Sheehy, aye; Mr. Watson, aye; Mr. Yingling, aye.

The regular meeting was reconvened at 7:27 P.M.

#### Proposed Zoning Amendment Z-2010-1

Mr. Nichols made a motion to recommend approval of Proposed Zoning Amendment Z-2010-1 as written.

Mr. Hunder seconded the motion.

Vote: Mr. Hunder, aye; Mr. Nichols, aye; Mr. Sheehy, aye; Mr. Watson, aye; Mr. Yingling, aye.

Proposed Zoning Amendment Z-2010-1 will be forwarded to the Bainbridge Township Board of Trustees for review.

## OLD BUSINESS

### Proposed Zoning Amendment – Rezoning of Various Properties

The Zoning Commission discussed the proposed rezoning of the Bainbridge Township and Geauga Park District park properties and was in agreement to initiate an amendment at the next regularly scheduled meeting to be held December 28, 2010 to rezone the properties from Residential to Active Public Park and Passive Public Park Districts.

### Proposed Zoning Amendment General Welfare – Exterior Maintenance

The Zoning Commission discussed the General Welfare – Exterior Maintenance proposal and noted that this type of code can only be adopted by the Board of Trustees.

### Former Geauga Lake Park Property

The Zoning Commission held a discussion on the former Geauga Lake Park property and was in agreement for each member to review the specific language for Chapter 151 (Commercial Recreation District) and Chapter 169 (Off-Street Parking and Loading) before the next meeting.

### Correspondence

1. Bainbridge Township Board of Zoning Appeals Minutes, dated September 16, 2010 and October 28, 2010.
2. Zoning Permits Reports, dated September 2010 and October 2010.

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

Mr. Yingling seconded the motion that passed unanimously. The meeting was adjourned at 8:15 P.M.

Respectfully submitted,

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Linda L. Zimmerman  
Zoning Secretary

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Donald Sheehy, Chairman

Date Approved: 1/11/2011