

## Minutes of Zoning Commission

June 25, 2019

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. John Lateulere, Chairman at 7:05 P.M. Members present were: Ms. Kristina Alaei; Mr. Chuck Giallanza, Alternate; Mr. Howard Miller, Alternate and Ms. Marlene Walkush. Mr. Dennis Williams 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. Dale Markowitz and Mr. Peter Cary

### MINUTES

Mr. Miller moved to adopt the minutes of the May 28, 2019 meeting as written.

Mr. Giallanza seconded the motion.

Vote: Ms. Alaei, aye; Mr. Giallanza, alternate, aye; Mr. Lateulere, aye; Mr. Miller, alternate, aye; Ms. Walkush, aye.

Mr. Lateulere recused himself from the public hearing and departed the meeting at 7:17 P.M.

### PROPOSED ZONING AMENDMENT Z-2019-1

Ms. Walkush moved to recess the regular meeting.

Ms. Alaei seconded the motion that passed unanimously.

The regular meeting was recessed at 7:17 P.M.

### PUBLIC HEARING

#### Proposed Zoning Amendment Z-2019-1

Ms. Walkush, Acting Chairman, called the public hearing to order at 7:17 P.M.

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

Proposed Zoning Amendment Z-2019-1 is an application to rezone 7207 Chagrin Road (Parcel 02-419836) and 7209 Chagrin Road (Parcel 02-376800) from Professional Office District (P-O) to Light Industry Restricted District (LIR). The applicant has also requested that Section 155.02 (a) be amended to add a permitted use, **where a zoning certificate is required, for exercise and fitness studios, martial arts facilities, yoga studios and similar disciplines and related facilities.**

The public hearing was advertised in the News Herald on June 14, 2019.

Ms. Walkush read into the record the recommendation of the Geauga County Planning Commission in a letter dated June 11, 2019 in which the planning commission recommended approval of Z-2019-1.

“Please be advised that the Geauga County Planning Commission at its meeting held on June 11, 2019 voted to recommend approval of proposed Bainbridge Township Zoning Amendment No. Z-2019-1 as initiated on May 28, 2019 by the Zoning Commission with the modification: At a later time, consider rezoning parcels remaining in the Professional Office District (PPN 02-72931, PPN 02-420106, and PPN 02-420847) to Light Industry Restricted to remediate inconsistencies.

Pursuant to R.C. 519.12, the Planning Commission’s recommendation must be considered by the Zoning Commission at its public hearing regarding the proposed amendment. Subsequent to the hearing, the recommendation is to be forwarded to the Board of Township Trustees. If the subject amendment is adopted by the Board of Trustees, a copy thereof must be provided to this office within five (5) days after its effective date.

If there are any questions, please advise.

Sincerely,

Maria Palmisano  
Planner I”

*Secretary’s note: The correct PPN for 02-72931 is 02-729311 and this amendment is an application, it was not initiated by the Zoning Commission as stated above.*

Ms. Walkush explained the proposed amendment.

Ms. Walkush solicited comments for the proposed amendment.

Mr. Dale Markowitz and Mr. Peter Cary were present to represent this amendment.

Mr. Markowitz stated that he represents the owner of the two parcels at 7207 Chagrin Road and 7209 Chagrin Road. He said they were at the Geauga County Planning Commission meeting and he presented them with some photographs which they wanted to see and it helped them understand, he thinks he has already shown them to the Zoning Commission but it might help. He submitted photographs to the Zoning Commission members for their review. He said this is an aerial which shows that our parcels are pretty much in the middle of the aerial photo. He referred to the aerial map and said Chagrin Road is here and our building is over here and then the other industrial building is to the west of us and then the office building which is just to the east on that triangular piece. He said then behind that is the property that Metroparks owns that walking path or bike path, whatever it may be, and then the two parcels that are referenced in the planning commission's recommendation, and Mr. Todd Peetz had called him about it, those are cell tower parcels that have separate tax Id numbers for the cell towers, we don't own those parcels, they are owned by the prior developer, RTB Burns and he thinks there are two separate Burns family parcels so if you recall when this property was first developed it was all industrial, it was zoned Limited Industrial Restricted and in 1990 which is now the Lyndall office property which is the one to the west over here, they wanted to get that rezoned to POD to create a buffer to the residential area and that occurred and at that time these parcels were all under one address and all had one legal description, they then separated the parcels out but for reasons that we still can't figure out they put the existing industrial park into the professional office district so that is what has caused the consternation over all of the years and why these tenants have to go to the zoning board of appeals and most every use there is non-conforming. He said it used to be Fram was there, Mogul was there, there was a home improvement company there and there have been companies that did some minor assembly over the years, sports gear companies and woodworking shops, that kind of thing. He said those people all got by or came in and got approval for a permit and somebody figured out one day that these are all in the office district, how are we approving this and so the last two tenants which was this company that has soup ingredients that they sell primarily to Stouffers and then the other one is the fitness center, we brought them before the board of zoning appeals a couple of months ago. He said the board of zoning appeals granted the variance for the soup base company and the other one we put on continuance pending the rezoning and if the rezoning gets approved then the fitness center, the variance necessity goes away. He said that is the status of what is there and we talked to Mr. Steve Ciciretto who was the architect since the inception of the project, he also could not understand how it happened, they have gone back to the records and they still can't figure that out. He said in 1995 the then zoning inspector got together with Mr. Burns and said let's get it rezoned back to industrial, they came to a zoning commission meeting and it got tabled for reasons we are not clear because you can't tell from the minutes and then Mr. Burns and Mr. Ciciretto tell us that they thought that the zoning inspector was going to shepherd it through the process but it never had been done so for 25 years or more, more than 20 years, they just assumed it was industrial because all of these tenants would come and go and nobody ever said wait a minute, you are not industrial, you are office so it was only when something came to the attention of Ms. Endres that we all of a sudden realized that this is an issue here so we felt the best course was to come back and get it properly rezoned to industrial.

Mr. Markowitz submitted color maps to the zoning commission and said what looks to him to be pinkish purple, that is industrial and then the reddish color is the office and then the yellow is residential and that is primarily S. Franklin Circle and so the parcels to be rezoned are noted in the arrow that he drew so they would be surrounded on one side by industrial and what is behind us is S. Franklin Circle. He said he has a series of pictures that he can show the zoning commission and if you scan through them you will see that the buildings all have the appearance on the outside of industrial warehouse type space and then this is a typical interior and this particular one is part of the soup base business and you will notice they don't have windows because these are designed to be industrial warehousing and then if you look at the third picture this is a typical loading bay in the back and all of the units in 7207 Chagrin have that and they actually lowered the grade so that they could get trucks in level for the loading docks. He said he took a picture of the base of one of the cell towers and the other pictures at 7209 where Hemlock Landscaping used to be and now other tenants have moved in there and then there is a typical layout showing when the building was first designed, Mr. Steve Ciciretto gave us that, and you can see it was designed as office/warehousing and light industrial type products and then there are some aerial photos and there are some more showing where the dumpsters are and where their doors are for their buildings and a couple of entrances so just to give you a feel for the project and when you go there you say oh, this is an industrial park so you wonder how it got to be office.

Ms. Alaei said she has been in there, you had an estate sale.

Mr. Markowitz said it used to be there, it is gone.

Ms. Alaei said she has been in that space.

Mr. Markowitz said the soup base business is right there. He said the estate sale people would go around to houses and pick up the furniture but they didn't have a retail business there.

Ms. Alaei said no.

Ms. Walkush said it certainly fits the picture. She referred to the photos and said these two really tell a story.

Mr. Markowitz said yes they do and that is where they lowered the grade there and this shows you, you wouldn't expect an office building to look like this.

Ms. Alaei said the front looks like an office building because there are residential areas around there so they probably didn't want it to look like an industrial park.

Mr. Markowitz said typically what would happen is they would have a small office in the front so people wanted a nice appearance when visitors came and then the back is where they would be doing their warehousing. He said there is a picture in there of the inside of the fitness center and you can see no windows there, they have a loading dock there too but the high ceiling was what was attractive to them. He introduced Mr. Peter Cary and said he is the property manager there and has been involved with the property since our client purchased it but we went in there when they were actually having a small class, they are not a typical fitness facility where you have 50 or 60 people coming, they might have maybe 8 or 10 people and there is a lot of personal training that goes on there, that facility isn't the kind of size and shape and the area that they have and the amount of parking they have you won't see large amounts of people coming in during the day or at the end of the end. He said there are two partners, one is the personal trainer and the other is the business manager but he thought it was actually pretty nice for a small fitness facility. He said as far as the text amendment goes we thought it would make more sense to include that in this district and you might say well should we include it in some other districts and as far as he is concerned he thinks you should, he has had clients in the past who has got commercial buildings who would call him and say, Planet Fitness or one of these fitness companies would come and say they would like to be in your facility but it is not expressly permitted in all of those districts where you might want them so they thought that it meant the Land Use Plan would try to have more areas available for exercise and health so we are hoping that you will include the text in this one.

Ms. Walkush said she is a little concerned about it only because it is not specific, it leaves it open but that is neither here nor there, similar disciplines and related facilities is pretty large in definition.

Mr. Markowitz said he came up with that himself because he is the Law Director in Chagrin Falls and has been in other communities and it seems like he is constantly getting phone calls from building inspectors saying this sounds like a duck, it quacks like a duck but it is not a duck so we have been changing our codes to allow for changes in use, it used to be a fitness center was nothing like it is today, you might go and there would be racquet ball courts and then there might be a steam room, you don't see racquet ball courts anymore, nobody builds them and uses them anymore so now it is more people doing aerobic exercise or people doing Karate or that kind of thing so that is why he tried to have it broad enough to be able to encompass changes that occur in exercise.

Ms. Walkush said if you relate similar disciplines and related facilities to exercise and fitness and martial arts and keep it at that level that is understandable, we will see what happens, but she is okay with it.

Mr. Markowitz asked if there are questions for him or Mr. Cary.

Ms. Walkush solicited comments against the proposed amendment.

Mr. Dave Dietrich stated that he doesn't have any comments against the amendment but he does have a few. He said he has comments regarding the similar language, he did get a verbal comment from our legal counsel on that. He said ordinarily the prosecutor's office is not all that enamored with "similar" use type language because it has been problematic in certain circumstances for zoning inspectors and it leads to interpretation and enforcement issues but we did talk about this, he and Ms. Endres did but there are so many different types of exercise related uses now, it keeps morphing, Pilates, Karate, you name it so we think we are comfortable with the way Mr. Markowitz has written this related to similar disciplines and it should give enough guidance and comfort level to Ms. Endres and any future zoning inspectors down the road on this particular matter. He said other than the text component we had no other thoughts on it.

Ms. Walkush said the wording is sort of the boomerang type thing because it relates back to those kinds of facilities so it is sort of a little bit on the tight side.

Mr. Dietrich said it was a precautionary note by our legal counsel but not something that she was adamant about. He said moving onto the zoning amendment component, the zoning map, the planning commission's letter which he was perplexed about, the wording referenced a modification and he doesn't think what is suggested here is a modification, it is a suggestion perhaps at best, and he doesn't mean to be a nitpicker but he spent many years nitpicking so he is going to say some things here about the parcel numbers and PPN 02-72931, doesn't exist, there is no such parcel number and he thinks there is a missing digit at the very end and if so that refers to an adjacent parcel owned by the Cleveland Metroparks, it is a sliver that should be addressed in the future as a separate amendment and rezoned to correlate with what we are doing with this amendment but it is not something that needs to be done immediately. He said the next PPNs are correct but he went to the Auditor's office on this and had the zoning secretary gave you the email chain on this particular topic and these are lease sites and it is kind of a unique can of worms, the Auditor's office sometimes assigns PPNs for tracking and this is what they did here for cell towers, in Geauga County, not just in this particular case, they would assign a parcel number and again it is a tracking mechanism so he didn't want the zoning commission to feel as if this should have been included in some way, shape or form that Mr. Markowitz initiated, they should not have been, again they are lease sites so it is a non-issue and he just wanted to verify that with the zoning commission tonight and with the email he got from the Auditor's office it is not a problem.

Ms. Walkush said she knew that and thanked Mr. Dietrich.

Mr. Dietrich said beyond that he doesn't have any issues with the map component.

Ms. Endres said she doesn't have any issues with the amendment, no.

Mr. Dietrich said he thinks it is something that should be recommended.

Ms. Walkush said it should not have taken this long. She asked if there were any other comments or questions.

There were no further comments.

Ms. Walkush moved to close the public hearing.

Mr. Giallanza seconded the motion.

Vote: Ms. Alaei, aye; Mr. Giallanza, aye; Mr. Miller, aye; Ms. Walkush, aye.

The public hearing was closed and the regular meeting was reconvened at 7:41 P.M.

Proposed Zoning Amendment Z-2019-1

Recommendation

Ms. Walkush 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-2019-1.

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

Vote: Ms. Alaei, aye; Mr. Giallanza, aye; Mr. Miller, aye; Ms. Walkush, aye.

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

(Audio Recording of Public Hearing on File)

Mr. Lateulere returned to the meeting at 8:00 P.M.

OLD BUSINESS

Proposed Zoning Amendments

Signage

The Zoning Commission held a work session on the proposed amendment to the sign chapter. Mr. Lateulere suggested getting comments from the Bainbridge Township Fire Chief and Police Chief regarding billboards.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated May 13, 2019; May 15, 2019 and May 28, 2019.
2. Memo from the Geauga County Planning Commission, dated June 4, 2019. RE: Geauga County Planning Commission Meeting Agenda for June 11, 2019.
3. Memo from the Geauga County Planning Commission, dated June 18, 2019. RE: Replat of Sublots 4 & 5 in the Washington-Post Development CO's Washington-Post Subdivision No. 1 – Final Plat.

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

Ms. Walkush seconded the motion that passed unanimously. The meeting was adjourned at 9:27 P.M.

Respectfully submitted,

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Linda L. Zimmerman  
Zoning Commission Secretary

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John Lateulere, Chairman

Date Approved: July 31, 2019