

Minutes of Zoning Commission

December 22, 2003

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. David Weiss, Chairman at 7:33 P.M. Members present were: Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy.

MINUTES

Mr. Weiss made a motion to approve the minutes of the November 24, 2003 meeting as written.

Ms. Fine seconded the motion that passed unanimously.

CORRESPONDENCE

1. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated October 16, 2003 and November 20, 2003.
2. Bainbridge Township Board of Trustees Meeting Minutes, dated November 17, 2003.
3. Memo from the Geauga County Planning Commission, dated November 24, 2003. RE: Canyon Lake Colony Subdivision No. 10 – Final Plat.
4. Memo from the Geauga County Planning Commission, dated December 2, 2003. RE: Agenda for December 9, 2003 County Planning Commission Meeting.
5. Memo from the Geauga County Planning Commission, dated December 9, 2003. RE: County Planning Commission Meeting Dates for 2004.
6. Copy of letter to Mr. Hugh Edwards, Canyon Lakes Colony Company from the Geauga County Planning Commission, dated December 10, 2003. RE: Canyon Lake Colony Subdivision No. 10 – Final Plat.
7. Memo from the Geauga County Planning Commission, dated December 11, 2003. RE: Amendment to County Subdivision Regulations.
8. Zoning Inspector's Reports, dated October and November 2003.
9. Letter from Ekram Elgazzar of 8265 Wembley Court, dated December 15, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
10. Letter from Kevin and Deanna Miller of 8300 Wembley Court, dated December 15, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
11. Letter from Jack McKelvey, President of Chagrin Lakes Board of Trustees, dated December 20, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
12. Letter from Christopher M. Ernst, dated December 19, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
13. Letter from Michael F. Sparger of 6007 Parkland Drive, dated December 22, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
14. Letter from Francis and Cynthia Reagan of 16460 Crown Pointe, dated December 21, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.

15. Letter from Ken and Caryl Polanka of 8400 Wembley Court, dated December 21, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
16. Letter from Richard J. Seif of 8245 Woodberry Blvd., dated December 17, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.
17. Letter from Glenn and Mary Ellen Knific of 8450 Woodberry Blvd., dated December 16, 2003. RE: Amendment Application for property at 16338 Chillicothe Road.

Mr. Weiss recessed the regular meeting at 7:48 P.M.

PUBLIC HEARING

Proposed Zoning Amendment Z-2003-6

Mr. Weiss called the public hearing to order at 7:48 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy.

Proposed amendment Z-2003-6 by motion of the Zoning Commission proposes to amend Chapter 161.01 – General Provisions (Compliance with Regulations) of the Bainbridge Township Zoning Resolution.

Mr. Weiss noted that the legal advertisement for the public hearing had been duly advertised in the News Herald on December 12, 2003.

Mr. Weiss then read into the record the recommendation of the Geauga County Planning Commission in a letter dated December 10, 2003 in which the planning commission recommended approval of Z-2003-6 with comments listed.

Mr. Weiss explained the proposed amendment and the purpose is for no more than one single family detached dwelling to be located on a lot of record.

Mr. Weiss solicited comments for the amendment.

None.

Mr. Weiss solicited comments against the amendment.

None.

Mr. Weiss made a motion to close the public hearing at 7:50 P.M.

Ms. Sass seconded the motion that passed unanimously.

The regular meeting was reconvened at 7:50 P.M.

Proposed Zoning Amendment Z-2003-6

Mr. Weiss made a motion to recommend approval of Proposed Zoning Amendment Z-2003-6.

Ms. Fine seconded the motion.

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

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

PUBLIC HEARING

Proposed Zoning Amendment Z-2003-4

Mr. Weiss called the public hearing to order at 8:00 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy. Ms. Mary Bolas of K.K. Foxx Court Reporters was present.

Proposed amendment Z-2003-4 is an application by Raymond A. Arnold Masonry & General Contracting Co. that proposes to rezone property at 16338 Chillicothe Road from R-3A Rural Residential District to Professional Office (P-O) District.

Mr. Weiss noted that the legal advertisement for the public hearing had been duly advertised in the News Herald on December 12, 2003.

Mr. Weiss then read into the record the recommendation of the Geauga County Planning Commission in a letter dated December 10, 2003 in which the planning commission recommended denial of Z-2003-4 with comments listed.

Mr. Weiss explained the amendment and said that the purpose of the proposed zoning amendment is to rezone property at 16338 Chillicothe from residential to professional office district. He then gave the floor to the applicant, Mr. Larry Arnold, son of Mr. Raymond Arnold.

Mr. Larry Arnold stated that he lives at 132 Leaview Lane, Chagrin Falls, Ohio 44022 and they purchased the property with the intent of having their office there but he would either have to reside there or change the zoning to allow it and after hearing what the planning commission had to say, he accepts their recommendation.

Mr. Weiss asked Mr. Arnold if he wanted to withdraw the application.

Ms. Sass said the zoning commission had to proceed with the hearing and zoning amendment process.

Mr. Weiss solicited comments for the amendment.

None.

Mr. Weiss solicited comments against the amendment.

Mr. Edward Wells of 1079 Sheerbrook Drive, South Russell, stated that he represents the homeowners board of the Chagrin Lakes Subdivision and they had sent a letter to Mr. McIntyre stating their concerns. He said the parcel is reasonably large therefore a subsequent owner could develop a cluster of offices that will add to a slow growth of commercialism along Rt. 306. He said they, as residents, have a strong feeling that they would like that property to remain residential.

Mr. Jim Parrish of 8485 Woodberry Blvd. said that he lives just south of the property in the Woods of Wembley and expected that the area would conform to the existing residential zoning and is concerned.

Ms. Lisa Mann of 8440 Wembley Court stated that she has the same concerns and she purchased her property with the understanding that nothing would be behind them and it would be all residential with a nice little farmhouse and added that there is no traffic light for turning left out of the subdivision.

Ms. Sass asked if the green space is owned by the homeowners association.

Ms. Mann replied yes.

Mr. Glenn Knific of 8460 Woodberry Blvd. stated that he does not have much more to add other than he moved here three years ago and researched the zoning and thought that residential zoning would be observed and protected and feels that this would impair the value of the neighborhood and fears the potential of traffic congestion.

Ms. Carol Polanka of 8400 Wembley Court said she feels that the retail commercial area should be kept at E. Washington and Rt. 306 and now the area looks very nice and that is the way Bainbridge Township wants to keep it, as residential, not professional office.

Mr. John Sowers of 8480 Woodberry Blvd. said his property is the closest to this property and feels that this zoning change would devalue his property enormously.

Mr. Tim Nolan of 8405 Woodberry Blvd. said he is against it for all the reasons mentioned and it will affect the aesthetics of the neighborhood, traffic and safety and is concerned about who the property may be sold to in the future.

Mr. Mike Althans of 8220 Woodberry Blvd. said that he dittos all of the previous comments.

Mr. Chris Brown of Prestige Homes, 17 W. Streetsboro Street, Hudson, Ohio stated that he is present on behalf of the homeowners of the Woods of Wembley and they built many of the homes in the subdivision. He said he received a number of phone calls about this and they strongly oppose any zoning change. He said the Woods of Wembley was developed to preserve open space and maybe Mr. Arnold won't do this, but a subsequent owner could demolish the house and build an office building that covers 40% of the lot.

Mr. Sowers asked if this type of zoning has to be adjacent to commercial.

Mr. Weiss said yes, it should be adjacent to a non-residential use and added that churches are considered residential and the Geauga County Planning Commission made a point of that.

Mr. Sheehy said that it must be used as a transition between commercial and residential.

Mr. Larry Arnold said what they have done to the house has anything but downgraded the area, it has upgraded the property and their intention was to take something and make it decent.

Everyone in attendance agreed.

Mr. Weiss said it is not necessarily the intentions of the current owner, but once the property is rezoned, the township cannot control what can happen to the property. He added that the zoning commission will take letters and enter them into the correspondence but cannot enter them into the hearing.

Mr. Weiss made a motion to close the public hearing at 8:21 P.M.

Ms. Sass seconded the motion that passed unanimously.

The regular meeting was reconvened at 8:21 P.M.

Proposed Zoning Amendment Z-2003-4

Mr. Weiss made a motion to recommend approval of Proposed Zoning Amendment Z-2003-4.

Ms. Fine seconded the motion.

Vote: Ms. Fine, nay; Mr. Richards, nay; Ms. Sass, nay; Mr. Sheehy, nay; Mr. Weiss, nay.

Mr. Weiss recessed the regular meeting at 8:22 P.M.

PUBLIC HEARING

Proposed Zoning Amendment Z-2003-7

Mr. Weiss called the public hearing to order at 8:22 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy. Ms. Mary Bolas of K.K. Foxx Court Reporters was present.

Proposed amendment Z-2003-7 by motion of the Zoning Commission proposes to add Chapter 160 – Establishment of Riparian Setbacks to the Bainbridge Township Zoning Resolution.

Mr. Weiss noted that the legal advertisement for the public hearing had been duly advertised in the News Herald on December 12, 2003.

Mr. Weiss then read into the record the recommendation of the Geauga County Planning Commission in a letter dated December 10, 2003 in which the planning commission recommended approval of Z-2003-7 with comments listed.

Mr. Weiss explained the proposed amendment and said the purpose is to establish riparian setbacks on all lots in the township. He said the proposed amendment is based on technical support from the Chagrin River Watershed Partners with the following additional documents:

1. A Review of Selected Functions of Riparian Buffer Zones and Some Widths Associated with Them, Divilbiss, Ohio Department of Natural Resources, 1994.
2. Wetland and Stream Buffer Size Requirements – A Review, Castele et al. Journal of Environmental Quality, 1994.
3. Protecting Floodplain Resources: A Guidebook for Communities, Federal Interagency Floodplain Management Task Force, 1996.
4. Environmental Land Planning Series: Site Planning for Urban Stream Protection, Schueler, 1995.

Mr. Weiss continued by saying that based on the recommendation of the Geauga County Planning Commission, the definition of a wastewater treatment plant from the Geauga County Water Resources Department should be added to Section 160.03 (l): Definitions as follows:

“a facility at the end of a sanitary collection system which processes the influent waste, and discharges water to a receiving system, treated to the standards of the Ohio Environmental Protection Agency (EPA).”

Mr. Weiss stated that based on the recommendation of township advisors, the following also should be amended:

Section 160.01: Public Purpose - DELETE Item (a) (8) “Increase the groundwater supply.”

Section 160.03 – Item (k) – DELETE the word “dredging”.

Section 160.04 – Item (d) (1) – DELETE the words “point where the.....meets the bank of” and insert “of each designated”

Section 160.04 – Item (f) – DELETE the word “orange” as the description for the construction fence and remove “and silt fence” after snow fence.

Mr. Weiss stated that they were the combined recommended changes from the county and the Chagrin River Watershed Partners.

Mr. Weiss solicited comments for the amendment.

None.

Mr. Weiss solicited comments against the amendment.

None.

Mr. Weiss asked if there were any questions regarding the proposed amendment.

Ms. Laura Cramer, representative of Canyon Lakes, said one of her concerns is how the township will approach small lots and how they will be handled.

Mr. Weiss said the setbacks will be handled the same way side yard setbacks are.

Ms. Cramer asked how this amendment will affect small lots and if the setbacks are the same, and when they go to develop a phase with a stream, they will have to establish a riparian corridor around the stream or get a variance.

Mr. McIntyre said a legal opinion should be sought as to how these regulations apply to any court-ordered subdivision and if applicable the township will treat them like any other setback and go through the administrative process.

Ms. Cramer said she will have to sell the lots that have streams on them, contingent upon getting a variance and added that these lots are small lots, ½ acre minimum.

Mr. Weiss said that most of the streams in the new area have a 25' setback.

Mr. Sheehy asked Ms. Cramer how close they get to the streams.

Ms. Cramer said they stay out of the high water mark and added that they are not impacting any streams and no permit is needed by the Army Corp of Engineers. She also said that it was surprising to them that some of the streams were defined as streams.

Mr. Sheehy said the streams must have a defined bed and bank.

Ms. Cramer said it is the interpretation of the definition and the definitions have expanded.

Mr. McIntyre said without good control, it can become a stream very fast.

Ms. Cramer asked how this legislation will impact roads and crossing of streams.

Mr. Sheehy said there is a provision in the amendment. He read from page five, Section 160.06 (a) which refers to crossings.

Ms. Cramer said the intent here is to avoid negative impacts on a stream and there are three-sided box culverts that can be used to not negatively impact a stream but the Geauga County Engineer's Office will not permit them. She said the county is saying you cannot use a tool to mitigate this situation and they put it on the township trustees. She said it took a year to negotiate this to put one in and that deserves an answer. She asked if the township wants developers to avoid these impacts.

Mr. Sheehy said the intent is to not eliminate the ability to cross the streams but of all the streams, the crossings amount to 1% or 2%. He said the intent is to preserve most of the rear yards and woods that are in pretty good shape.

Ms. Cramer asked if there are criteria for the appeals process.

Ms. Sass said the applicant must prove a practical difficulty.

Mr. McIntyre said there are several approaches in which the applicant could ask for a front yard setback etc.

Ms. Cramer said they feel that now is the time to express their concerns.

Mr. Weiss said now is a good time to raise comments and all the zoning commission does is make a recommendation and it then goes to the township trustees.

Ms. Cramer said their (Canyon Lakes) setbacks are different because they are court ordered and asked if court ordered settlements are not dealt with differently, does it become an issue.

Mr. Weiss told Ms. Cramer that she is already able to build a house on a recorded lot, if not, she could seek a variance.

Ms. Cramer said there is pressure on her to sell someone something that needs a variance because this amendment will create a non-buildable lot. She said there needs to be a legal opinion on court-ordered settlements.

Ms. Fine asked Ms. Cramer if she can identify the lots that would be affected.

Ms. Cramer said the whole east section has to cross McFarland Creek and looking at the re-design, it would be the whole east section and one west section, where they are now. She said she could identify the specific lots.

Ms. Sass said if an opinion is asked for on the court-ordered settlement, the judgment entry may have to be modified and told Ms. Cramer it would behoove her to identify those parcels anyway.

Mr. Weiss made a motion to close the public hearing at 9:01 P.M.

Ms. Sass seconded the motion that passed unanimously.

The regular meeting was reconvened at 9:01 P.M.

Proposed Zoning Amendment Z-2003-7

Mr. Weiss made a motion to recommend approval of Proposed Zoning Amendment Z-2003-7 with the previously mentioned changes.

Mr. Sheehy seconded the motion.

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

The regular meeting was recessed at 9:04 P.M.

PUBLIC HEARING

Proposed Zoning Amendment Z-2003-5

Mr. Weiss called the public hearing to order at 9:04 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy.

Proposed amendment Z-2003-5 by motion of the Zoning Commission proposes to amend Chapter 135.04 – R-5A Rural Open Residential District (Regulations and Standards for Cluster Development as a Conditional Use).

Mr. Weiss noted that the legal advertisement for the public hearing had been duly advertised in the News Herald on December 12, 2003.

Mr. Weiss then read into the record the recommendation of the Geauga County Planning Commission in a letter dated December 10, 2003 in which the planning commission recommended approval of Z-2003-5 with comments listed.

Mr. Weiss explained the proposed amendment and said the purpose is to address the setbacks for dwelling units in a cluster subdivision and to eliminate condominium association from the cluster regulations.

Mr. Sheehy said he is concerned about eliminating condo type cluster zoning.

The zoning commission discussed the setbacks between cluster homes with Mr. McIntyre.

Ms. Sass departed the meeting at 9:20 P.M.

The zoning commission members continued their discussion and were in agreement to add to item (l) “or 30 feet to any side lot line” and add “Minimum Roadway Specifications for Subdivisions” per the recommendation of the Geauga County Planning Commission.

Mr. Weiss made a motion to close the public hearing at 9:27 P.M.

Ms. Fine seconded the motion that passed unanimously.

The regular meeting was reconvened at 9:27 P.M.

Proposed Zoning Amendment Z-2003-5

Mr. Weiss made a motion to recommend approval of Proposed Zoning Amendment Z-2003-5 with the above mentioned changes.

Mr. Sheehy seconded the motion.

Vote: Ms. Fine, aye; Mr. Richards, aye; Mr. Sheehy, aye; Mr. Weiss, aye.

OLD BUSINESS

The zoning commission met with Mr. Frank McIntyre regarding swimming pool fences and other proposed zoning amendments.

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. Richards seconded the motion that passed unanimously. The meeting was adjourned at 9:43 P.M.

Respectfully submitted,

Linda L. Zimmerman
Zoning Secretary

David Weiss, Chairman

Date Approved: January 29, 2004