

Minutes of Zoning Commission

March 27, 2003

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. David Weiss, Chairman at 7:30 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 14, 2002 meeting as written.

Mr. Sheehy seconded the motion that passed unanimously.

Mr. Weiss made a motion to approve the minutes of the January 30, 2003 meeting as written.

Mr. Sheehy seconded the motion that passed unanimously.

Mr. Weiss made a motion to approve the minutes of the February 27, 2003 meeting as written.

Ms. Sass seconded the motion that passed unanimously.

OLD BUSINESS

Proposed Zoning Amendments

Riparian Setbacks

Mr. Weiss reported on the status of the riparian setback amendment.

Adult Entertainment

Mr. Weiss reported on the status of the proposed adult entertainment amendment. A draft was forwarded to Mr. David Dietrich for his review and comments.

Conditional Use Zoning Regulations

Ms. Sass reported on the status of the proposed zoning amendment regarding conditional use regulations.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated February 17, 2003 and February 24, 2003.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated February 20, 2003.
3. Zoning Inspector's Report, dated February 2003.

Mr. Weiss made a motion to recess the regular meeting at 7:46 P.M.

Ms. Sass seconded the motion that passed unanimously.

PUBLIC HEARING

Proposed Zoning Amendment Z-2003-1

Mr. Weiss called the public hearing to order at 7:46 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy. A court reporter from K. K. Foxx Court Reporters was present.

Proposed amendment Z-2003-1 by application of The Winbury Group proposes to rezone Permanent Parcel Numbers 02-412700, 02-412800, 02-419931, 02-421000 at Bainbridge Road and State Route 422 from (R-3A) Residential to (CB) Convenience Business District.

Mr. Weiss noted that this public hearing is a continuation from February 27, 2003 and the zoning commission had requested additional information regarding this application.

Mr. Mark Snider and Mr. Patrick Winslow of the Winbury Group and Mr. David Best, Business Development Director were present to represent this application.

Mr. Snider thanked the zoning commission for seeing them again tonight. He stated that they own the Winbury Professional Center at 8401 Chagrin Road and invited the members to take a look at what they have done there and that they have offered their conference center to the police department and fire department for training. He added that they have a video conference center with a 60" screen and have offered use of this room for any civic function. He reviewed the site plan which highlighted the Winbury Center property and the Mutual Security Company property and said the township has made a motion to acquire the Mutual Security property by eminent domain. He continued by saying that the zoning commission wanted them to clear up who owns certain property and said it is currently owned by the State of Ohio as well as the triangular piece and 79' of their property abuts the state property and the rest of the land is owned by an individual property owner with a home. He said they talked to Pete Seliskar of the Geauga County Engineer's Office and he confirmed that the county is in the process of taking over the road. He said he asked how long it will take for the state to turn the property over to the county, they do not know, but the county is ready to receive it.

Mr. Snider said when Rt. 422 was built, Federal money was involved and everything is OK, the paper work just needs to be done. He said the driveway was installed prior to the state taking ownership and it became a driveway leading to the house. He said they (Winbury) did stake the corner and added that the state will only give the county what they have. He added that once you get past the state property, it turns into a driveway for the existing home and there was a temporary use back there for a concrete plant for the freeway.

Ms. Fine asked for an explanation of the flags that are on the west and east sides of Millbrook Drive.

Mr. Snider said they were put there to identify the property owned by the state including the triangular piece and there is about 60' on both sides of the street because they own more than just the street itself and we wanted to try to give the zoning commission members some understanding why this property should be changed and the characteristics of this property is similar or identical to the Winbury Center property because they are both located at the US 422 and SR 306 interchange contiguous to the entrance ramp and the property was not properly zoned. He continued by saying that the Mutual Security property to the east was improperly zoned residential and this piece should be corrected now.

Mr. Weiss said that one major difference with your other parcel is that it is on a road that has a lot of commercial traffic and these parcels are at the end of a residential culdesac.

Mr. Patrick Winslow said that he disagrees and the township is bootstrapping its argument.

Mr. Weiss said the property is at the end of a culdesac.

Mr. Snider said they were talking to Mutual Security about buying the adjacent property but the township came in and are trying to buy it. He asked who decided that the property should be purchased by eminent domain.

Mr. Weiss said that is up to the township trustees.

Mr. Snider asked what the reason is for them to acquire it.

Mr. Weiss said the zoning commission was not consulted and we are only an advisory board to them.

Mr. Snider asked if there was any kind of organized effort to look at this area.

Mr. Weiss said the zoning commission hired D. B. Hartt to look at some areas and this intersection was one of the areas and there was no sentiment to rezone anything on the south side.

Mr. Winslow asked if the consultant/planner or residents said not to rezone.

Mr. Weiss said Mr. Hartt did not recommend rezoning anything else.

Mr. Sheehy said the property is zoned identical to the lot next door.

Mr. Winslow referred to the professional planner and said if his plan says there should be residential three acre zoning with a home in that area, it would be good to know.

Mr. Weiss said the D. B. Hartt Report was done about 2-1/2 to 3 years ago.

Mr. Snider said their position is it is improperly zoned residential and we believe it is not residential especially with the sewer access and the sewer could have been granted for this property, other than the township does not want to give it to us and added that the Winbury Center property was not in the sewer area either. He said the ground water is estimated at 25 GPM like at the Chagrin Road property.

Ms. Sass asked when their other property was zoned to POD if it was prior to the 208 sewer plan and if they have spoken to the county about that.

Mr. Snider said yes and they told me we could apply and get permission from the township trustees and there is no reason regardless of the 208 sewer plan why this property does not have sewer and added the McFarland plant is sized enough to handle it. He said the soil is rated severe and is the exact same soil as on the Chagrin Road property and they would build a similar though smaller building on this site.

Mr. Weiss said the fact is the only access is at the end of a residential culdesac and asked if there is another situation like that in the county.

Mr. Snider said he could not think of one but will look to find one.

Mr. Weiss said it is inappropriate to place a commercial building in the middle of a residential area.

Mr. Snider said the property is next to US 422.

Mr. Sheehy said there are residential homes which are adjacent to Route 422.

Mr. Weiss said those people in a public hearing said that they are perfectly happy in their homes next to the highway.

Mr. Snider said typically there are not homes at an entrance and exit to a highway and asked the zoning commission if they honestly thought a house could be built on this property.

Mr. Sheehy said yes and referred to the large homes in Solon along the freeway.

Mr. Snider said it is a foolish concept because this is along an entrance/exit ramp to a major freeway and added that they will test it. He said it is foolish to put a house on this property.

Ms. Fine said there is 79' of frontage and 150' is required for a commercial district.

Mr. Snider said their position is when the trustees came in to purchase the Mutual Security property it was a predatory act, so why not pursue all the property along there and added that the township will pay one million dollars for that property.

Ms. Sass asked if they have spoken to the township trustees.

Mr. Snider said yes but they did not want to usurp the authority of the zoning commission.

Ms. Sass asked when they spoke to the township trustees.

Mr. Snider said in December when he made application for the church and was denied by Mr. McIntyre for no reason at all, they (Winbury) met with their attorney to straighten it out and contacted the trustees about their bad experience and they told us to go to the board of zoning appeals. He said they (Winbury) have been kept in the dark about the Mutual Security property because it has all been done in executive sessions and they have no information at all.

Ms. Sass asked if they have approached the trustees about selling their property to the township.

Mr. Snider said they talked to them informally, but they (trustees) have not gotten back to them.

Ms. Sass asked Mr. Snider if he would consider approaching the trustees at a public meeting.

Mr. Snider replied by saying yes.

Mr. Weiss asked about the status of the church application before the board of zoning appeals.

Mr. Snider said the church had to withdraw its application.

Ms. Sass asked Mr. Snider when he talked to Mr. Hart of ODOT and Mr. Seliskar of Geauga County if there was a time-frame for the property to be transferred to the county.

Mr. Snider said there is no time-frame.

Ms. Sass asked if the county planning commission has been made aware of this proposed road dedication.

Mr. Snider said they should know, but he would be happy to let them know and asked when the county planning commission is going to make a determination, is it not part of the due diligence to find out.

Ms. Sass said that the zoning commission did not know but it is not a bad idea to ask the county planning commission to re-examine this issue in light of this road dedication.

Mr. Snider said if this is pre-determined, the zoning commission might as well vote on it now so we can get on our way.

Mr. Weiss referred to the parcel next door and how it is zoned and said if you look at the boundary line on the adjacent parcel between residential and POD, it is lined up across the street on Bainbridge Road with a non-residential use.

Mr. Sheehy said there is enough to the west of that line that is zoned residential.

Mr. Snider said if Mr. Hartt feels this should be zoned residential, he disagrees and the township knows it will not hold up and they want to stifle the re-zoning.

Ms. Fine asked if this property is re-zoned, what would be put there.

Mr. Snider said a photography or dance studio or a corporate headquarters, but no fast food restaurants.

Ms. Fine said but the commercial zoning would allow that.

Mr. Snider said there are uses in CB that we believe would not be attractive to this area and deed restrictions could be placed on the property plus the market itself would determine the use.

Mr. Weiss recessed the public hearing at 8:30 P.M.

Mr. Weiss reconvened the public hearing at 8:35 P.M.

Mr. Weiss obtained a copy of the D.B. Hartt report from the zoning office and said that the zoning secretary could make a copy of it for Mr. Snider. He said it was received by the trustees on January 13, 2001 but the project started in the middle of 1999. He said there are four maps relating to the intersection of Bainbridge Road and Rt. 422 and one of the areas is marked for community facilities at this intersection. He said the maps and policies are to re-enforce sensible zoning and there was no recommended change to your parcel.

Mr. Snider said they would like a get a copy of the report.

Ms. Sass said the report is used as a planning tool.

Mr. Snider asked who owns the property across the street.

Mr. Weiss said the township owns the property.

Mr. Snider said it was previously owned by Tony Campane and zoned other than residential.

Mr. Sheehy said it is zoned R-3A.

Mr. Weiss said part of it is zoned CB and the rest is zoned residential.

Mr. Snider said he believes that Mr. Campane wanted to change the zoning to CB but then it was purchased by the township and that is the pattern that the township is doing.

Mr. Weiss said the township is going to build a police station on that site.

Mr. Snider said it is a pattern that the township purchases land like the Mutual Security property when the owner wants the zoning changed.

Mr. Weiss said there was never an application or a public hearing on that property.

Mr. Snider said there were discussions on it.

Mr. Weiss said a number of people along Rt. 306 and E. Washington Street came in for discussions and wanted their property re-zoned.

Mr. Snider said they (Winbury) can get Mr. Friedman under testimony that he believes this property was improperly re-zoned and he believes Mr. Campane came in to re-zone his property to something other than residential and when the township feels they have a piece of property that will not hold up to residential, they purchase it. He asked if anyone knows why they did not attempt to purchase all the property along there.

Mr. Weiss said many times people have come in and talked informally and the township does not purchase their property.

Mr. Snider said it is a pattern because the trustees purchase property when they believe the zoning will not hold up.

Mr. Weiss asked if it does not make sense to purchase property around the town hall.

Mr. Snider said he would like to know if Mr. Hartt recommended that they purchase that property.

Mr. Weiss said there is no recommendation in the report that they purchase any property.

Mr. Snider asked what the reason is behind the Mutual Security purchase.

Mr. Weiss told Mr. Snider that he would have to talk to the trustees and added that they had previously planned for open spaces and that is why they have executive sessions to discuss the purchase of property.

Ms. Sass said she has not spoken to the township trustees as to why they make decisions to acquire property and referred to the comments about not seeing parks along freeways and said when she drives to Columbus, she sees parks along the freeway.

Mr. Snider said he does not want his property to become a park and they (township trustees) are purchasing the Mutual Security property so it won't become commercial. He continued by saying that they did a lot of things at the Winbury Center and we don't see a negative to the township. He said he has witnessed homes being built at freeway intersections and it is foolishness at that and he would not want to live there and it is not an appropriate use of the property and does not understand why they are being railroaded by the township. He said that Mr. Desiderio recently said that Chagrin Falls was being a predator and unfriendly and that is the way we feel.

Ms. Sass asked how long the Winbury Group has owned the property.

Mr. Snider said he is not sure but it was purchased before the freeway went in and they were required to purchase all of it.

Ms. Sass said that the Winbury Group owned the property when the township hired D. B. Hartt and asked Mr. Snider if he attended any of those meetings.

Mr. Snider said he was not aware of them.

Ms. Sass asked Mr. Snider if he ever contacted the township to be notified of meetings.

Mr. Snider said yes, but not formally.

Mr. Weiss said the township had a Citizens Advisory Committee (CAC) that consisted of about thirty people and there were various articles in the newspaper about it and it was not a hidden project.

Mr. Snider asked if these people were property owners or residents.

Mr. Weiss said the thirty people were diverse, from different subdivisions and different business people so there was a mix of different types of people on the committee.

Mr. Snider asked how it got organized.

Mr. Weiss said it was advertised in the newspapers so the township trustees received several resumes. He said D.B. Hartt selected the people and recommended the diverse group to be on the committee.

Ms. Sass told Mr. Snider that he can ask the township to notify him and asked if he can search his records to find a request that he has submitted to the township for notification.

Mr. Weiss said that the zoning commission worked well with the Winbury Group in the past and the township approved a change in zoning but the residents passed a referendum overturning the decision and the township did not offer to buy your property so it goes against your conspiracy theory.

Mr. Snider said they have a wonderful property in Winbury and now they are being shut out by the trustees and with the tone of these statements, the zoning commission is going to deny this application.

Ms. Sass told Mr. Snider that Franklin's Row in Solon is beautiful and his level of integrity is top-notch but this is a different circumstance and we as the zoning commission have an obligation to explore every aspect of this application thoroughly before making a recommendation to the township trustees.

Mr. Snider said that as far as the zoning commission doing a thorough job, he applauds that but as far as it coming off a residential street, the township by its actions has forced us to use the residential street. He said they could have joined with Mutual Security but by being stifled by the township, you are leaving us with a problem and we do not believe legally we can put a new home there.

Mr. Sheehy said there are those that would pay if a township park is next to the property and it could be desirable for a residential home.

Mr. Snider said they have been around since 1987 and there have been several township trustees and they are still coming to meetings.

Mr. Sheehy said the zoning commission has no idea what the trustees have planned for that property.

Mr. Snider said they (Winbury Group) need to find out what their plans are because they sent us here without knowing, so how can the zoning commission say they have enough information.

Ms. Sass said that the township trustees have authority to take property by eminent domain for certain reasons and a park is one of the them and added that she did not know if down the road they could change the use of it and added that townships are different from municipalities.

Mr. Snider said even if the township keeps the Mutual Security property as a park, we are saying there is a problem here and it needs to be addressed at the same time.

Mr. Weiss told Mr. Snider that it worked very well on the other side and we had many meetings before you (Winbury Group) submitted the amendment application to the zoning commission and we discussed a lot of issues and they were worked out, but by submitting an amendment before us, the issues have to be worked out in a public hearing.

Ms. Sass said she would like to hear public input on this.

Mr. Ted Seliga of North Spring Valley Drive stated that he will express his opinion as a resident. He said the freeway is a dividing line between commercial and residential and all of the development took place north of the freeway and since the township acquired the Frohring funds, the trustees looked at areas of the township and one of the decisions was to purchase the Campana property to allow the township facilities to expand. He said he has to speak against this proposed amendment because it does not fit and he would hate to see this property re-zoned to anything other than residential and there is nothing to stop the applicant from developing it as residential. He said the trustees have a plan for the Mutual Security property and the purpose is to fit it into the whole town center concept.

Mr. Weiss suggested that Mr. Snider acquire a copy of the D. B. Hartt report and the Phase II Storm Water Management Plan and the town center plan because they are the three most recent documents that deal with township regulations.

Ms. Sass asked Mr. Snider if he has spoken to the township trustees recently.

Mr. Snider said no, but he is not opposed to it.

Ms. Sass asked Mr. Snider if he would consider getting on the township agenda in a public session and ask the trustees if they would be willing to purchase this property and if he would like to continue the public hearing one more time. The second question is to find out the time period from the state regarding the road dedication. She said she would call the planning commission to see if the road dedication has importance and if yes, if they will re-examine this issue. She referred to Mr. Snider talking to Mr. Gus Saikaly regarding the 208 sewer plan and said she would like to have Mr. Saikaly attend a zoning commission meeting to talk about that because she would like to hear that from Mr. Saikaly. She said lastly that Mr. Snider thought he placed a written request with the township regarding meeting notification. She said she will check with Susan Angelino, Clerk regarding that request.

Mr. Snider asked why the road dedication is important because the state said they could use the road.

Ms. Sass said it could take care of the frontage issue and the zoning commission wants to know when it will be offered to the county or township and it ties into the county planning commission's recommendation.

Mr. Snider said he is not pushing for a vote but told the zoning commission members that they have to satisfy themselves. He said he will check it out but Mr. Hart from ODOT may say it will take six months to a year and added that Mr. Hart is puzzled and he asked what is the problem.

Ms. Sass asked if the triangular piece is part of the road.

Mr. Snider replied yes.

Ms. Sass said she will call the county planning commission to see if it will make a difference.

Mr. Snider said he thinks a small professional office building or dance studio could be placed back there on the property and it is less of an issue than the Winbury Center even though there are two houses on that street and if the township does not want commercial, we don't believe we can put a residential home back there and we did not know what zoning amendment to request because originally we thought about a shopping center on the Winbury Center site and we don't think residential works. He said he may accept POD zoning or it could be acquired by the township or traded with the other Mutual Security piece on the north side where we already have an interest. He said by keeping it residential, the township is causing a taking and while we own the property we will not go to residential. He said they will contact the township trustees to see if they will re-zone the property or trade with us.

Mr. Sheehy said that nobody is questioning Winbury's ability to do great work, the question is the correct place. He told Mr. Snider that a lot of his arguments are guess work on his part and said he would be willing to recess the public hearing again to address Ms. Sass' concerns and to give the applicant time to talk to the trustees.

Mr. Weiss made a motion to recess the public hearing at 9:31 P.M. and to reconvene the public hearing on April 24, 2003 at 7:45 P.M. and to request that the Bainbridge Township Board of Trustees issue a purchase order for the services of a court reporter.

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 reconvened at 9:31 P.M.

Mr. Snider stated that he appreciated the zoning commission's time and added that he thinks Bainbridge Township is a beautiful place.

OTHER BUSINESS

Residential Care Facilities

The zoning commission held a discussion with Mr. Ted Seliga regarding residential care facility zoning.

Storm Water Management Workshop

Mr. Weiss reported that there will be a Storm Water Management Workshop to be held April 24, 2003 at Westwoods Park in Russell Township.

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 9:39 P.M.

Respectfully submitted,

Linda L. Zimmerman
Zoning Secretary

David Weiss, Chairman

Date Approved: April 24, 2003

