

## Minutes of Zoning Commission

September 28, 2021

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: Ms. Stacy Westervelt, Alternate and Mr. Dennis Williams. Ms. Kristina Alaei; Ms. Marion Perry; Ms. Marlene Walkush and Ms. Laura Weber, Alternate were absent. Ms. Karen Endres, Zoning Inspector and Mr. David Dietrich, Planning and Zoning Coordinator were present.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

### OTHER BUSINESS

#### Big Dipper Road Dedication Plat

Mr. Lateulere read a copy of a letter from the Geauga County Planning Commission to Mr. Jeff Martin of ICP Geauga Lake LLC regarding the Big Dipper Road Dedication Plat – Final Plat, dated September 17, 2021.

### PUBLIC COMMENTS

Mr. Lateulere announced that he just started the Leadership Geauga Program for 2022.

GUESTS: None.

### MINUTES

The approval of the minutes for July 27, 2021 and August 31, 2021 were tabled to the next regularly scheduled meeting to be held October 26, 2021.

### OLD BUSINESS

#### Proposed Zoning Amendment -2021-5 - Site Plan Review

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

Ms. Westervelt seconded the motion that passed unanimously.

The regular meeting was recessed at 7:20 P.M.

## PUBLIC HEARING

Mr. Lateulere, Chairman called the public hearing to order at 7:20 P.M.

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

Proposed Zoning Amendment Z-2021-5 proposes to amend Chapter 109 – Zoning Inspector; Certificates and Enforcement to add Site Plan Review.

The public hearing was advertised in the News Herald on September 17, 2021. Mr. Lateulere read the legal advertisement into the record.

Mr. Lateulere explained the proposed amendment that it is really procedural outlining what that procedure should look like when somebody applies for a zoning certificate. It outlines a multi-step process with three steps where you would have a pre-application process, a conference, come in and talk to the Zoning Inspector and/or any other department representatives that the Zoning Inspector feels is justified, you would then file your application and what happens with the application at that time, what needs to be in that application and then an administrative review process that would happen once that is submitted where it would go to the Police Chief, Fire Department, Service Director and any other agencies that the Zoning Inspector feels the need to do and then determine whether or not the site plan complies with the applicable regulations or whether it does not comply and identify the area of non-compliance and whether or not the site plan should be subject to any conditions, modifications, regulations or standards as noted by the people who are reviewing it and within 30 days the Zoning Inspector would provide that back to the applicant. At that time the applicant shall address all of the items and resubmit six copies to the Zoning Inspector. He said he had a question about where it applied, that it applied to commercial, industrial and professional office and not to single family.

Mr. Dietrich said and no accessory uses.

Mr. Lateulere continued by explaining that if someone were to apply for a new zoning certificate for a business the Zoning Inspector could look at it and say there is a lot more going on here than just operating a business, maybe we should have a conversation because there are access control issues, cars in the road, safety issues with Police and Fire so let's pull in those departments to talk about what their concerns are, this is the mechanism that will do that while still providing a clear outline of a process for an applicant.

Mr. Lateulere read into the record the recommendation of the Geauga County Planning Commission in a letter dated September 20, 2021 in which the Planning Commission recommended approval of the proposed amendment with recommendations.

Mr. Lateulere stated that the Planning Commission is a recommendation to the Zoning Commission and if the Zoning Commission determines that these changes are worthwhile we can make those tonight, live, and recommend approval with modifications and those will get updated before it goes to the Board of Trustees or we can choose to just go forward with the revisions as it is drafted or we can choose to not go forward with it, those would be the three directions we have and suggested looking at what the recommendations are.

1. Section 109.04(c)(1)(ii):

Recommended this section be removed as it is not necessary.

Mr. Lateulere read the following from the proposed amendment:

*“Discussion held during a pre-application conference with the Zoning Inspector and any representatives of the township, as well as any other governmental agencies or departments is not binding and does not constitute official assurances or representations that a site plan and zoning certificate may be approved.”*

Mr. Lateulere said it makes it more clear.

Ms. Westervelt said she thinks so.

Mr. Lateulere said they may well be right that it is not necessary because it is a pre-app meeting but he doesn't think it is doing a service to anybody who uses our zoning.

The Zoning Commission was in agreement to keep Section 109.04(c)(1)(ii).

2. Section 109.04(c)(3)(i):

Recommend changing “concerning the following items” to “concerning the items listed below:” and relocating the last sentence *“If no response is received within twenty (20) days after the date of transmittal, then it shall be determined that no comments are to be submitted.”* to after the list.

Mr. Lateulere said it only works if you take both of their comments together and he is not inclined to make a change because if you add a sentence at the end of the list that sentence is more like a footnote, it is more difficult to see and comprehend that as part of the overall paragraph.

The Zoning Commission was in agreement to keep Section 109.04(c)(3)(i).

3. Section 109.04(c)(3)(i)(b):

Recommend “b” be deleted and incorporated into item “a” as follows: *“Whether the proposed site plan complies with the applicable regulations and departmental or agency standards. If the site plan does not comply, the agency shall identify the items of non-compliance by citing specific sections of the regulations or standards.”*

Mr. Lateulere said you are going to find one of three things, it does comply, it does not comply and whether it should be subject to, our whole resolution is set up that way.

The Zoning Commission was in agreement to keep Section 109.04(c)(3)(i)(b).

4. Section 109.04(c)(3)(iii):

Recommend changing “*If a revised site plan is not approved....*” to “If a plan or revised plan does not comply....”

Ms. Westervelt said it insinuates that it is not just simply it wasn't approved, it wasn't approved because it did not comply so maybe that makes sense to have it in there, it is not an opinion, it didn't comply so that is why it wasn't approved.

Ms. Endres asked comply with what.

Ms. Westervelt said good point.

Mr. Lateulere said the way he reads it, an applicant is resubmitting with six copies of a revised site plan and a digital version for the Zoning Inspector's consideration, the Zoning Inspector then has to determine if it complies, the Zoning Inspector can approve it or not approve it. If the Zoning Inspector determines it does comply it will get approved. In the zoning resolution in the section, and he doesn't have it in front of him but where we talk about the Zoning Inspector's authority, they have the authority to approve it or deny it, you don't have technically the authority to make a qualitative choice if something complies or not, it complies and it gets approved at that point or doesn't get approved.

Mr. Dietrich said that is generally how it works, if it complies it is approved.

Ms. Endres said at the preapplication meeting she will talk to somebody about what they can do to change their plans.

Mr. Dietrich said you try to head off problems if you can but people spend a lot of money on site plans and at the end of the process get dinged, the idea is to do it at the front end.

Mr. Lateulere said he would be inclined to keep it the way it is, he just thinks it is easier to pass it on to the trustees as an approval.

The Zoning Commission was in agreement to keep Section 109.04(c)(3)(iii).

Ms. Endres said she wanted to go over her interpretation, the only time this would be required if there is going to be an application involving a site plan so she is not expected to send signs or accessory uses, if a new business moves in and we get them registered, they would not have to go through this, it is only when there is some kind of a change to the actual property.

Mr. Lateulere said he thinks it is at the Zoning Inspector's discretion, if somebody wants to come in and modify the inside of a strip center for a daycare use, that is probably something Police and Fire should be consulted on because it would be changing the interior use into a use that requires more public health and safety.

Ms. Endres said a whole different category of users.

Mr. Lateulere said yes, it could come into fire suppression systems and access and the number of occupants, it is fire code issues potentially and Police need to know that there is a potentially licensed childcare facility because that will impact some of their community policing policies that they have so he thinks it does say at your discretion.

Ms. Endres said for example today she approved commercial alterations inside of a professional office building, that wouldn't have needed to go through the process and she just wants to be sure, not sending it through the process that she is not acting contrary to the intent of the amendment.

Mr. Lateulere said he thinks this gives you the ability to, when you look at something, could you not grant a zoning certificate for a daycare if it complied with zoning, probably not, you probably have to but he thinks it is a good opportunity for you to have a conversation with them and say you know they want to do the daycare, that is great, however you would really like to pull in Police and Fire because it will impact some of their community policing and how fire protection looks at it, it may involve some building and fire code stuff so you would really like to pull them in so that we can get their answers first.

Ms. Endres said so she still has that discretion.

Mr. Lateulere said he thinks you do the way he reads it.

Mr. Dietrich said we had talked about that discretion.

Ms. Endres said we talked about it and she swore she saw a version with it in there.

Mr. Dietrich said you have it but then we talked about actually stating that but that is not in this version.

Ms. Endres said she knows that she saw a version at one point that had it in there.

Mr. Dietrich said it is not in this version but he knows we talked about that. He said as Mr. Lateulere said it is within your discretion without saying it.

Mr. Lateulere said he had it in his head that it was within your discretion as the Zoning Inspector.

Mr. Lateulere solicited comments for the proposed amendment. None.

Mr. Lateulere solicited comments against the proposed amendment. None.

Ms. Westervelt moved to close the public hearing.

Mr. Williams seconded the motion.

Vote: Mr. Lateulere, aye; Ms. Westervelt, aye; Mr. Williams, aye.

The public hearing was closed and the regular meeting was reconvened at 7:42 P.M.

Secretary's note: After some discussion it was determined that the original text of the proposed zoning amendment that was reviewed tonight by the Zoning Commission was forwarded to the Planning Commission for review instead of the text with the Zoning Inspector's modifications.

The Zoning Commission was in agreement to recommend approval of the proposed zoning amendment with the Zoning Inspector's modifications as follows:

**Note: Modifications are in Bold Italics.**

<b>109.04 ZONING CERTIFICATE APPLICATION.</b>
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(c) Site Plan Review Procedure

As a part of an application for a zoning certificate, ***and at the sole discretion of the Zoning Inspector***, the applicant shall follow the site plan review procedure set forth herein ***only*** for ***proposed*** principal permitted, ~~or~~ conditional, ***or nonconforming*** buildings, structures, and uses on a lot ~~being developed or redeveloped~~ pursuant to Section 109.03 within any Zoning District; ***provided, however, said procedure shall not apply to a proposed residential dwelling unit or an accessory building, structure, or use thereto. Provided, however, the regulations herein shall apply only to conditional buildings, structures, and uses in the R-3A and R-5A Zoning Districts except Cluster Development in accordance with Sections 135.04 and 139.04.***

(1) Step 1: Pre-application Conference

- (i) At his/her option, an applicant may meet with the Zoning Inspector and other departmental representatives of the township, as well as any other governmental agencies or departments as may be appropriate to discuss the initial concepts of the proposed site plan and general compliance with applicable provisions of this Zoning Resolution prior to the formal submission of an application for a zoning certificate.

- (ii) Discussion held during a pre-application conference with the Zoning Inspector and any representatives of the township, as well as any other governmental agencies or departments is not binding and does not constitute official assurances or representations that a site plan and zoning certificate may be approved.

(2) Step 2: Application

- (i) The applicant shall submit the review fee **required as a part of an application for a zoning certificate**, a completed zoning certificate application form, and six (6) copies of the site plan and a digital version of it to the Zoning Inspector. **If fully completed, The the** Zoning Inspector shall stamp the date of receipt on the application and plan. The plan shall be drawn to scale and contain sufficient information as required by the application form to ensure compliance with this Zoning Resolution.
- (ii) A site plan shall include all of the elements set forth in the zoning certificate application form as well as the following components, if applicable **as determined by the Zoning Inspector**: a photometric plan (see Section 161.12), a Water Management and Sediment Control (WMSC) plan (see Chapter 159), and a signage plan (see Chapter 173). The Zoning Inspector may require additional information so as to ensure compliance with this resolution, including but not limited to, a traffic impact study to be prepared by a qualified traffic engineer.

(3) Step 3: Administrative Review

- (i) After determining that the zoning certificate application is **fully** complete, the Zoning Inspector shall transmit copies of the proposed site plan and the digital version of it within five (5) days to the following recipients, if applicable: Police Chief, Fire Department Chief, Service Director, and any other governmental agencies or departments as may be appropriate for review and comment. The recipients of the plan shall respond in writing to the Zoning Inspector within twenty (20) days after the date of transmittal concerning the following items **listed below**. If no response is received within twenty (20) days after the date of transmittal, then it shall be determined that no comments are to be submitted.
  - a. Whether the proposed site plan complies with the applicable regulations and departmental or agency standards;

- b. Whether the proposed site plan does not comply with the applicable regulations and departmental or agency standards and to identify where non-compliance exists by citing specific sections of the regulations or standards;
  - c. Whether the proposed site plan should be subject to any conditions, modifications, regulations or standards as noted by the respective recipients of the plan; or conditions, modifications or regulations as required by the Zoning Inspector that will ensure that the proposed ~~site development or redevelopment~~ **building, structure, or use** is in compliance with the applicable regulations set forth in this Zoning Resolution or that of the department or agency.
- (ii) The Zoning Inspector shall prepare his/her comments ***based upon the applicable provisions of this Zoning Resolution*** and compile the comments and recommendations from the recipients and complete a written staff report within thirty (30) days and forward it to the applicant.
  - (iii) The applicant shall address and resubmit six (6) copies of the revised site plan and a digital version of it, taking into consideration the comments and recommendations in the staff report. Within thirty (30) days of receipt of the revised site plan, the Zoning Inspector, upon finding that all of the conditions, modifications, regulations, and standards in the staff report have been met, shall stamp, sign, and date the revised site plan approved and transmit a copy of it, along with the zoning certificate, to the applicant. Copies of the revised site plan, as approved, shall be transmitted by the Zoning Inspector to the affected recipients as a matter of information.

If a revised site plan is not approved ***based upon the applicable provisions of this Zoning Resolution***, then it shall be returned to the applicant by the Zoning Inspector, and the conditions, modifications, regulations, and standards in the staff report that have not been met shall be cited in writing. An application for a zoning certificate shall not be deemed complete unless and until the revised site plan is in compliance with the staff report.

- (iv) ***If the Zoning Inspector has denied a fully completed application for a zoning certificate and the affected site plan, an application for an appeal for a variance or Zoning Inspector error may be completed and submitted by the appellant and considered by the Board of Zoning Appeals pursuant to Chapter 117 of this Zoning Resolution.***

Proposed Zoning Amendment Z-2021-5 – Site Plan Review

Ms. Westervelt 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 for Site Plan Review which is an amendment to Chapter 109.04 as submitted and reviewed by the Planning Commission, their comments taken into consideration attached hereto: Z-2021-5 *with modifications* listed above.

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

Mr. Lateulere, aye; Ms. Westervelt, 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)

Proposed Zoning Amendment – PUD (Planned Unit Development)

The Zoning Commission discussed the proposed amendment for PUD (Planned Unit Development) and was in agreement to keep it on the agenda under Old Business.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated July 26, 2021, August 9, 2021 and August 23, 2021.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated August 19, 2021.
3. Copy of letter to Mr. Jeff Martin, ICP Geauga Lake LLC from the Geauga County Planning Commission, dated September 17, 2021. RE: Big Dipper Road Dedication Plat – Final Plat.
4. Ohio Revised Code – Section 519.021 – Planned-unit development regulations, dated October 21, 1997.
5. County Advisory Bulletin (CAB) from the County Commissioners Association of Ohio, dated October 1997. RE: Optional Approaches to Planned Unit Development Zoning.

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

Mr. Williams seconded the motion that passed unanimously. The meeting was adjourned at 8:12 P.M.

Respectfully submitted,

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Linda L. Zimmerman  
Zoning Commission Secretary

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John Lateulere, Chairman

Date Approved: October 26, 2021