

Ch. Kalina called the June 6, 2019 Zoning Commission Regular Meeting to order at 7:00 p.m.

Roll found: Kalina, Dermody, Powell, Marzullo, McCarthy

In the Audience: Alternate Michelle Crew, Trustee Schulte, Zoning Inspector Wilson, Fiscal officer Catherwood and Mr. George Smerigan with Tactical Planning. Member Schneider had an excused absence.

Ch. Kalina gave a brief overview of what the Board will be doing this evening:

Minutes and old business: Agritourism and Agricultural zoning in the Township

Ch. Kalina stated that the Township's Zoning consultant Mr. George Smerigan from Tactical Planning is present and the Board will hear comments from Mr. Smerigan and the audience.

Ch. Kalina asked if everyone had an opportunity to review minutes from the May 2, 2019 – there were no amendments.

Ch. Kalina stated he would entertain a motion to accept the May 2, 2019 Regular Meeting Minutes as written.

- Mr. McCarthy moved and V. Ch. Dermody seconded.
- No further discussion
- Ch. Kalina called for roll:
- Roll found: Marzullo - yes, McCarthy - yes, Powell - yes, Dermody - yes, Kalina - yes

Ch. Kalina summarized the background of the topic since last meeting. He stated that at the last meeting there was great discussion about agriculture and agritourism and then Mr. Smerigan went back and made some amendments to proposed language. Ch. Kalina had a conversation with Mr. Smerigan regarding signage for agritourism.

Ch. Kalina believes current signage is harmonious with the neighborhoods and since it could potentially be in the residential neighborhoods the Board would like to review signage language.

Old Business:

Ch. Kalina turned it over to George Smerigan who summarized the Ohio Revised Code with respect to agriculture and the revisions to the language he drafted for the Board regarding agritourism and agriculture. Mr. Smerigan stated the Code allows regulation in platted subdivisions only. The other thing that came up is regulations related to agritourism which is a situation where someone is turning an active farm into a tourist attraction and running it as a business. There are some things that can be regulated and it is reasonable that the Township would want to look at regulating. There is a provision regulating agricultural use in subdivisions with lots less than 1 acre.

Mr. Smerigan stated that the Board would like to set limitations on the keeping of poultry and specifically indicated that they be confined to the property and not running at large and not allowing roosters and a restriction on farm animals and livestock – talking about lots in a subdivision with lots less than 1 acre. Also, there are no regulations for lots between 1 acre and 5 acres, because they are in a subdivision and the Board thought it was important that the accessory, agricultural buildings and structures meet the standard minimum setbacks. The Board has limited ability to regulate agritourism.

A business must have a minimum of 5 acres to qualify. Proposed language states an agritourism operator must have a zoning certificate from the zoning inspector, and show the location, size and height of the proposed structure. State statute allows control of the sign standards. Access to the site must be sufficient for emergency vehicles. Any permanent ground signs can be the same as any other township business, but since the agritourism business would not typically be in a commercial area, the township should have language added specifically for that.

Ch. Kalina thanks Mr. Smerigan and turned it over to Board for comments.

V. Ch. Dermody stated she had a problem after talking to some residents about prohibiting roosters. Stated a lot of people don't know if they are in a subdivision. Stated if people are going to have chickens, they should be able to have a rooster. Ch. Kalina stated he is fine with having roosters also.

Ch. Kalina stated he will explain again before he turns things over to the audience.

Mr. Powell said he is not against roosters personally but he has neighbors who have had to put up with it and feels they can be very noisy. Mr. Powell feels the rest of the language is very good.

Mr. McCarthy also thinks its fine the way it is and asked Trustee Schulte if he has heard of any problems with roosters.

Trustee Schulte stated that he has talked with many people and roosters can be an intrusion on people, in a subdivision.

Ch. Kalina stated they are specifically talking about lots less than an acre.

Trustee Schulte said he understands, but in a small area, the rooster can be heard by everyone. Certainly, people don't like to hear motorcycles and ATV's at 5:00 in the morning. It depends on what people have been exposed to.

Mr. McCarthy stated he has to think about it, but it's hard to know where to draw the line.

Marzullo stated that the southern side of 303 between W 130 and Stony Hill is all less than 1 acre and is it considered a platted subdivision. Fiscal Officer Catherwood stated it is a platted subdivision. Mr. Marzullo stated these are areas that are subdivisions with people who have lived in Hinckley for 30 plus years and now the Board would be applying new regulations to a very large portion of the community and it's not really intended for that. He added, that everything will apply to these areas, specifically the rooster language. Mr. Marzullo stated the western most lots – someone has been trying to rezone from residential to commercial, they are platting less than an acre, what's to stop them from putting in agritourism in that area.

Mr. Smerigan stated that it has to be at least 5 acres for agritourism. Mr. Smerigan stated you can't prohibit but you can regulate certain aspects and that's what we are doing, in order to protect adjacent property owners.

Discussion followed regarding agritourism and impact on neighbors.

Mr. Marzullo brought up the less prominent subdivisions because the language would be restricting the agricultural use and a lot of these places have been there for decades.

Mr. Smerigan stated that with an agriculture building the Board has no control over that. The purpose of zoning is to protect neighbors. We are trying to minimize the restrictions, there is no restriction on the size of the ag building, just on the setbacks.

Mr. Marzullo's concern is the Township has come so far as an agricultural community and not sure if this is the path all the community wants to follow, it is common sense, but does this open the door to more restrictions further down the road.

Ch. Kalina stated Mr. Marzullo makes a good point and there is very little that the Ohio Revised Code allows. Further discussion followed regarding restricting agriculture uses and assumptions for the future.

Trustee Schulte stated zoning is fluid, we cannot predict what will happen in the future, and the Ohio Revised Code dictates.

Mr. Marzullo stated zoning sets a tone of what is acceptable in the community and the community says we want to remain agriculture.

Further discussion ensued regarding agriculture buildings on the property line, setbacks and consideration of neighbors.

Ms. Crew stated that a rooster next door isn't any different than a motorcycle next door or a garbage truck. Hinckley is known for its agricultural setting and that's why many of us moved here and likes what the board has done and it's great looking ahead but she has concerns for old developments that look like a street and not a development.

Ch. Kalina stated you can't differentiate between old and new subdivisions. Mr. Smerigan said you can look at dates of subdivisions and have exemptions based on dates. If they are sub-platted prior to a certain date, the Board might be able to consider what date would make sense. The only concern is the defensibility of it.

Zoning Inspector Wilson stated that Hinckley's regulations refer to platting prior to 1970, and since this is already used in regulations this might be the key.

Mr. Smerigan stated that at least that would be consistent in the regulations. That breakpoint would be consistent with the current language and could be defensible.

Mr. Marzullo stated before a decision could be made, he'd like to see a map of where the subdivisions are and determine who is affected.

Discussion followed regarding where to find this information.

Mr. Smerigan stated the County records plats in sequential order, so the information can be found. Every lot split is not a plat, it has to be a subdivision of at least 15 lots at the time it was platted. The subdivision itself has to have 15 lots.

Ch. Kalina stated that he believes this addresses the concerns that have been brought to the Board.

Mr. Marzullo stated these are common sense regulations and this allows the Board to apply them most equitably to people that moved out here thinking they want more space but don't want to live next to a farm and the people who moved here and want to be in the middle of nowhere.

Further discussion regarding doing research on the subdivisions and what areas are subdivisions.

Ch. Kalina thanked everyone for the discussion regarding agriculture and agritourism. Ch. Kalina gave some history on the reason for the discussion and working with Mr. Smerigan. There are a number of Townships in the County who have been addressing these issues, agritourism is an issue because large agritourism, almost commercial-type activities are in some neighborhoods and have created some long drawn out court battles. Also some of the growth that is impacting agriculture in the County and what some of the Townships have been doing since 2016 when the ORC had some amendments to it. These Townships have been going to County Planning Commission implementing regulations that are restricting agricultural and agritourism uses in their communities. Some of these Townships include Liverpool, Montville and Westfield. What our Board has determined in looking at these communities, is that we don't want to be that restrictive. What we are trying to do is find the balance of protecting a neighbor and letting a person use their property the way they want to. The way we go about this is we have worked with Mr. Smerigan in the past and we come up with some ideas and have Mr. Smerigan draft it for us so the Board can review it and what components of our text this will impact. When you make a change to one part of a resolution it impacts other parts of that resolution. This is just a draft document, and the language continues to change and evolve as the Board has follow up meetings. The current proposal that Mr. Smerigan presented this evening, we are talking about 1 acre or less, we are not restricting what anyone can grow. Where there would be guidelines, and we are talking about 1 acre or less, it would be the location of buildings which would have to comply with current setbacks, the agricultural use buildings would follow the setbacks but nothing is in this language about size. The Board also talked about poultry and we've tried to define poultry. The one restriction that is probably the largest is the keeping of farm animals or livestock on 1 acre or smaller lots. Horses, mules or other equine, cattle, sheep, goats, swine, alpaca, llamas, captive deer would be prohibited on lots of one acre or less.

On 1-5 acre lots, the only thing the Board would be putting into place is when the agricultural structure is being built it would have to meet the minimum setbacks of the district they are building in. That is it with agriculture uses.

Agritourism would be permitted on lots of 5 acres and larger. We would ask the individuals to come before the Board and let the Board know the location, sizes and heights of proposed buildings and structures including any signs for agritourism. The reason is to provide the information to Zoning Inspector and safety inspectors and they can tell the Board if safety vehicles can get in the driveways. The Board is not regulating parking or parking surfaces. The Board is just asking for the location and that will be shared with the safety services for their input. The Board would also be asking for a description of what the agritourism operation is and how it complies with the Ohio Revised Code as agritourism and for emergency contact information.

This is a summary of what is proposed, based on current regulations in the county this provides the most latitude and is the least restrictive, allowing people to use their property freely.

Ch. Kalina then turned it over to the floor:

Don Levandowski -- 185 W. 130th St.

I think everyone in the Township should have a rooster. If everyone had a rooster then maybe the city people wouldn't move in. Everyone wants to move to the country and then change to the city. Neighbors can blast music at night and cops can't do anything until after 11:00 pm at night, but a person can't have a rooster crow in the morning.

Ch. Kalina thanked Mr. Levandowski for his comments and stated duly noted and the comments will be taken into consideration.

Heidi Yatsko -- 915 Center Rd.

I have 5 acres and I do an agritourism camp. Youth come in 4-H and non 4-H and I teach them all type of agricultural needs from bees, to syrup to animals, they grow little gardens, kids come 3 times, spring, summer and fall.

They get dropped off at my house, I teach them for 2 hours, they are educated well and they are amazed. Concerned about that because it's not a business coming in. Also, she is a 4-H advisor for 26 years, 4-H is the largest youth group in the U.S. They have animals for 6 weeks, the goats, sheep and small little hoofed animals, those children learn team work, independence, resilience, compassion for people, animals, and community and they go out in the community. Beautiful learning opportunities and if you tell them they cannot have the baby chickens, they are not going to make the \$200.00 at the fair, they are not going to learn hard work. So roosters are male chickens. The Board would be taking away a lot of learning opportunities for our youth and the great past and work ethic. So when taking into consideration the small lots and teeny birds and the learning environment, maybe put a clause in for the 4-H. She stands and speaks for over 88 clubs in Medina County.

Ch. Kalina stated he appreciates her comment. There is no restriction on keeping poultry, only that they be contained.

Kaitlyn Laugesen -- 2185 Hinckley Hills Road

Ms. Laugesen stated she grew up in Hinckley, probably a 5th generation in Hinckley, lived in a little subdivision and she had animals, and had 4, 4-H projects on ¾ acre successfully and was able to pay for college with the 4-H projects. Now putting laws in telling kids they cannot raise animals on a ¾ acre lot to sell them. When raising steers for a project you are not letting them run free, the kids work with them every day. They are raised better than some dogs. Discussed how much acreage to raise certain animals. She is now an agricultural teacher and has her degree in Agriscience Education and one of her goals is to go in cities and teach city people how to raise animals on small lots. She has started teaching families in Cleveland who have less than ½ an acre how to raise goats on small lots properly. The kids raising sheep for fair, they get them January 1 and they are gone by August, the kids are trying to make money for their future. She went to Ohio State, and she had 12 goats raising them in the City of Columbus. She would like both daughters to raise animals and doing 4-H projects to put themselves through college. She discussed her education and degrees. She is a very active participant in 4-H. In general, she grew up on Stony Hill and had a good relationship with their neighbors and their neighbor had horses. She feels like the Board is hitting these people kind of hard.

Ch. Kalina stated he appreciates her passion and appreciates that she shared all that information with the Board.

Ms. Laugeson asked if anyone had any questions. Discussion followed regarding lot sizes and different developments.

Ms. Laugeson asked if people are moving into a development would that be a question for the Homeowners' Association, if animals would be allowed versus the Board. Would people take that into consideration when moving into Hinckley. Maybe that's something to possibly look into instead of the Board setting the rules.

V.Ch. Dermody stated that the Board is not setting rules for the HOA, the Board is trying to make a basic structure for all across the Township and then if a HOA decides they want to limit it more they can do that.

Ms. Laugeson stated no hoofed animals in a subdivision isn't fair, discussion followed regarding this.

Kathryn Laugesen -- 2176 Ridge Rd.

Ms. Laugesen stated that she agrees with Matt - 100% where you are going with what you said and I am glad you pointed out all those points and I agree. My dad was President in the 70s of the Chamber of Commerce I believe if people don't want to be around farm animals then they shouldn't live in Hinckley. I don't think it's fair that people are moving in and expect us to change for them. I want her and Lily to have the opportunities that Kaitlyn had, they learned values in their animals through 4-H and made a lot of money on their market animals and that is something you learn in this environment. I just wanted to point that out. I don't think we should limit these kids.

Ch. Kalina thanked her for sharing.

Ms. Dermody stated that it's not always people looking to buy in Hinckley, it's people who maybe have been in Salem Court and have lived there a long time and maybe someone comes in next door on a very small lot who wants to have a large animal, it can affect long time Hinckley residents also if there's nothing in place and that's what we are trying to balance.

Jim McClintock -- 2205 Stony Hill Road

Mr. McClintock stated directly from page 54 of the Hinckley Comprehensive Plan 2015 - Key Themes, Item 1 - maintain small town feel, #2 keep agricultural uses active in the community. Right here in the Master Plan.

Mr. McClintock further stated: Scientifically lot size will have nothing to do with the sound a rooster makes. There is no science involved that I have heard here tonight about dbs and the sound levels, all I have heard about is feelings, if you are going to talk about roosters then use some science, tell us how many dbs will be heard and how loud it will be and how many dbs are permissible because that is how sound is measured and that's how sound regulations are implemented. Second, we shouldn't be instituting any regulations because a Trustee is getting complaints and he is tired of hearing it. No regulation will prevent people from being obnoxious. Laws don't make people behave. Picking on 1 acre or less, you are picking on probably 40% of property owners in Hinckley live on lots that are less than 1 acre so you are picking on them, a pretty big group of people that you are limiting their property rights

much as you did when you passed regulations on no outdoor boilers. HOA's, encourage HOA's to pass all the regulations that they want in their communities. Zoning rules often simply attack property rights and finally just because you can make a regulation doesn't mean you should. Thank you.

Richard Pearl -- 1785 King Road

Mr. Pearl stated: I agree with everything the Board said about roosters, especially liked Matt's comments regarding why are we doing this. I live on an acre and a half on King Road and to the east I have a 12 acre parcel with up to 55 horses to the east I have another 12 acre lot with perhaps 15 cows and pigs next to that is a lot less than 1 acre with a rooster. I do have some complaints about a neighbor on a small lot that has a dog. What is the definition of agricultural use, can I have a garden in my front yard?

Ch. Kalina stated that agricultural production and agricultural use are different from the Ohio Revised Code than agritourism law. What size lot are you referring to.

Mr. Pearl stated that he doesn't think our zoning code has a definition for agriculture use.

Mr. Smerigan stated that agriculture is defined in the state statute, the Township cannot define it differently than the state statute. The State has amended the definition of agriculture at least 8 times in the last 12 years. The definition can change anytime because we have to use the state statute.

Martha Catherwood -- 501 Ridge Rd.

Ms. Catherwood stated: I came because of those old platted subdivisions so I appreciate the Board addressing that. What prompted this amendment? As a Trustee I don't recall a lot of complaints about animals. I know there is an amount of animals that should be maintained on a small acre, you shouldn't exceed a reasonable amount, growing up a lot of the houses on our street were 1 acre and they had a horse and chickens. Within reason these animals can be maintained very well on a small lot. I don't know that it's actually types of animals, it may be quantity.

Ch. Kalina stated to answer the question where the topic comes from is more from the County on an educational standpoint then necessarily complaints. At the end of last year, the County started holding educational sessions on agritourism and so this is more from those seminars.

Ms. Catherwood questioned if this is more proactive than reactive. She then asked what happens to the people who currently do have animals on 1 acre. She asked, if the zoning amendment does go into effect, is it going to be a complaint basis or how is it going to be addressed?

Mr. Smerigan stated that they would be grandfathered in. They would have to document that with the Zoning Inspector and you can't make zoning regulations that are retroactive, it can't stop something already occurring, it only stops something going forward. The regulation would only apply going forward. If someone already had an animal on their property and they were able to verify that they had it prior to the date of the regulation they are grandfathered and they can keep it for as long as it lives.

Ms. Catherwood questioned if that becomes a process of accounting to the Township in monitoring.

Mr. Smerigan stated no because to answer the second part of your question, this will be a complaint generated situation, the Zoning Inspector will respond to complaints about animals in subdivisions, he

won't be doing animal inventories. So what will happen is he investigates the complaint and if someone has an animal and they can verify they had the animal prior to the date of the regulation, then they are grandfathered.

Mr. Marzullo asked what happens if they can't verify. These are animals that have a life span and if they die after a year or two does that mean they can't get another one or are they grandfathered as long as they own the property.

Ch. Kalina stated you have 2 years, if you don't keep that going for a 2 year period, then there is something for the Zoning Inspector to fall back on.

Ms. Catherwood said she raises the question because these are things to address while working on the Code, the enforcement part of it.

Ch. Kalina stated just so the public is aware, there are Townships in the County who have Zoning Inspectors who actively seek out violations and Mr. Wilson does not do that, he operates more on a complaint basis.

Ms. Laugesen from the audience stated her concern goes back to 4-H – so if the animal is at the end of his life, then does that mean that they can't get another animal.

Discussion followed regarding having animals and their life spans and the fairness to families who have children that are years apart.

Ch. Kalina stated those are great points and all comments are duly noted and taken into consideration by this Commission.

Wayde Kertcher -- 2482 Kellogg Road

Mr. Kertcher stated: Just for his understanding if it's less than 1 acre he can't have a rooster or livestock but 1 acre less than 5 you can. I have exactly 1 acre can I have a rooster. A lot of people don't know if they are in a subdivision. I heard the comment that 40% of Hinckley would be dictated by this, that it could affect 40% of Hinckley.

Ch. Kalina stated that it's a subdivision, that's the difference. A platted subdivision of 15 homes or more and what is a 1 acre lot are 2 different things.

Mr. Kertcher went on to say: My question is this will affect a vast majority of Hinckley residents who have been here a long time. Do we really want to go down that road, what will that do to our rural community? Has this been that drastic of an issue that we need to go this way.

Ch. Kalina stated he appreciates the comments and asked if there were any final comments from the board.

V. Ch. Dermody stated she thinks it will be interesting to see when we look at the platted subdivisions how much of the community will be affected. It may be a smaller amount or a bigger amount, but it will be a really good thing to look at and we'll go from there.

Ch. Kalina stated there is a lengthy public hearing process that takes place whenever there is a resolution that is put forward. So this is something that the Board will continue to work on and the

Board will take all of your comments into consideration as we do that. The Board could simply decide we are not going to do anything or decide to heavily modify or change this. Once the Board makes the decision, the public hearing process begins and a motion would be made by the Board to hold a public hearing and to forward the amendment to the County Dept. of Planning Services. They have a professional planner on staff and they review language and they provide feedback prior to the public hearing. The public hearing is advertised in the local paper, the Medina County Gazette and on the website.

Ms. Dermody stated it is usually on the board (marquee') in front of the Historical Society House.

Ch. Kalina continued that after the public hearing is held, the Board can then decide again if they decide to take no action, to modify or send to Board of Trustees for their review. We are recommending to the Board of Trustees, we don't change zoning, we analyze, review and make recommendations. The Board of Trustees then start their own public hearing process where the residents have a 2nd opportunity to talk to their elected officials. They can either deny the whole thing or they can modify or approve. So there is quite a bit of feedback that takes place, because you have County Planning Services, and the Zoning Commission has a public hearing and the Trustees hold a public hearing.

Mr. McClintock from the audience stated this is not a whimsical discussion, this Board has hired, with the Trustees paying for it, a professional advisor to have input so there is definitely some interest on the Trustee's side and this Board's side in putting forth new regulations or you wouldn't have hired a professional. This is serious stuff.

Ch. Kalina stated we have had discussions for the past 3 months but that doesn't necessarily mean what is here is what gets approved. This is a process and Hinckley is a unique community and that is why we didn't take what Montville has in place and say that is what works for us. We are very unique so we are looking at it from the standpoint of what we think would fit our community and we are very fortunate to have a professional planner to work with because our goal was to provide the least restrictions.

Ch. Kalina thanked Mr. Smerigan for his efforts and for coming to the meeting. The next meeting would be on the 4th of July so his recommendation would be to cancel the July 4 meeting and reconvene in August.

A resident asked if it was possible to change the date of the August meeting because a lot of families with 4-H would be in the middle of fair week. Ch. Kalina stated that nothing would be approved at the August meeting it would be a follow up discussion and hopefully answer on the number of subdivisions.

Mr. Marzullo stated that one of the things that stands out is that initially the Board got into it with the interest toward agritourism and added on AG use, he believes most of the community is open to the regulations for agritourism, if it's split apart then it gives the Board the opportunity to get something on the books about agritourism and then gives time to work on agriculture use and do it in a way that make the most sense for the community.

Ch. Kalina agreed and believes the more critical part is the setbacks and that could be where the Township could have the most challenges. Discussion followed regarding same.

Ch. Kalina stated at this point the Board won't take any action toward agritourism or agriculture uses. Due to time limit the Board won't be discussing in-law suites. The Board doesn't have any new

business. But if something new comes up the Board should consider changing the date of the July 4 meeting so there wouldn't be a long wait. Discussion followed.

Ch. Kalina stated that the Chairman's report was already given in the conversations with Mr. Smerigan about signage. Adding, he believes signage is critically important because it impacts a lot of people when done poorly. With signage we are talking about agritourism not agriculture.

V. Ch. Dermody shared a copy of the Zoning Regulations of Hinckley Township in 1959.

Ch. Kalina entertained a motion to cancel the July 4, 2019 Zoning Commission Regular Meeting because of the 4th of July holiday:

- Mr. McCarthy moved and Mr. Marzullo seconded.
- There was no further discussion.
- Ch. Kalina called for a vote to cancel the July 4, 2019 Zoning Commission Regular Meeting with the understanding that if any new business comes before the Board, they will hold a special meeting for the purpose of reviewing the new business.
- Roll found: Kalina - yes, Dermody - yes, Powell - yes, McCarthy - yes, Marzullo - yes

Ch. Kalina asked if anything else from the floor and Mr. McClintock commented that his father was a Zoning Inspector in Hinckley in the early 1960s and the main focus was junk cars.

Ch. Kalina then thanked everyone for participating. He stated this is what community is all about and there is no closer form of government than Township government. Neighbors talking with neighbors about community.

Ch. Kalina entertained a motion to adjourn the June 6, 2019 Zoning Commission Regular Meeting.

- Mr. Powell moved and Mr. Marzullo seconded.
- No further discussion.
- Ch. Kalina called for a vote to approve by saying Aye and/or if any abstained/opposed.
- All were in favor

The Zoning Commission Regular Meeting was adjourned at 9:00 p.m.

Recording Secretary, Judi Stupka

Minutes Approved _____, 2019

Chris Kalina, Chairman

Diane Dermody, V. Chairman

Calvin Powell, Member

Excused Absent
Bruce Schneider

Matthew Marzullo, Member

Sean McCarthy, Alt. Member