

Ch. Marzullo called the November 4, 2021 Zoning Commission Regular meeting to order at 7:06 p.m.

Ch. Marzullo stated that this meeting is being recorded for transcription purposes only and the written minutes and attachments, if any, will serve as the official record of this meeting.

Roll found: Marzullo, Fischer, Schneider, Crew, Manley

Also in attendance: Alternates Wrubel and Arline and Trustees Augustine and Kalina

Ch. Marzullo asked if everyone had received and read the minutes from the Zoning Commission regular meeting on October 7, 2021 and if there were any comments or corrections.

Ch. Marzullo stated he would entertain a motion to approve the October 7, 2021 Zoning Commission Regular Meeting minutes.

- Mr. Manley moved and Mr. Schneider second.
- There was no further discussion.
- Ch. Marzullo called for vote to approve.
- All were in favor, Ms. Crew abstained

Ch. Marzullo stated there is no New Business for this month and they would move into Old Business, which includes the subject matter list. Ch. Marzullo stated they have been discussing the short-term rentals and multi-unit buildings and what, if anything, should be done. Ch. Marzullo stated they previously brought up the possibility of an additional business district in the Township as well as the Text Amendments that would remove 18.5 and 18.6 I and j, both of which have to do with screening on alternate energy supplies.

Ch. Marzullo stated they spent a large portion of the last meeting discussing short term rentals and how they would define it and how they could put something into the regulations that would make sense and follows along with the overall spirit of the resolution. They previously discussed how many and what is a short term rental. Ch. Marzullo stated they are trying to address the Airbnb and VRBO avenues of renting out a house and whether or not they need to put something into the resolution. Ch. Marzullo stated he would like to hear Ms. Wrubel's input because she has dealt with this in some other communities.

Ms. Wrubel stated she worked with the LaGrange Township Zoning Board and she provided proposed definitions which were ultimately adopted. Ms. Wrubel stated the language for the definition of a short term rental that was adopted by LaGrange read: Any dwelling unit, structure, or other lodging unit that is leased, let, or rented to any person for sleeping or overnight accommodation for less than 30 consecutive days, and, here it doesn't apply to Hinckley, in the R-1 or A Districts, which are the residential, agricultural districts – or those rentals commonly associated with Airbnb Incorporated, VRBO or other online short term rental affiliates. Ms. Wrubel stated this may not be a problem in Hinckley right now, but they are looking at the fabric of what is changing in society and this will be an issue at some point.

Mr. Fischer asked what the issue was in LaGrange, what made them want to tackle this topic. Ms. Wrubel stated that generally speaking these sorts of rentals were being used for parties, people would rent them for a weekend and have a big party and cause disturbances. What was affecting LaGrange was transient people coming in and out, and the zoning was for a residential neighborhood, and it is being used as a hotel. For example, in some homeowners associations there is no screening for who is coming in and out, they didn't know if there were sex offenders living there for example, so LaGrange felt those sorts of rentals were only appropriate in the Business Districts.

Albert Velasquez, 1979 Pine Ridge Trail

Mr. Velasquez asked Ms. Wrubel if she knows how many Airbnbs there are in LaGrange and Ms. Wrubel stated she is not aware and Mr. Velasquez said there is one. Mr. Velasquez stated there are many loopholes in that language. Mr. Velasquez stated residents' families are using these rentals, the party situation is not really happening in Northeast Ohio. Mr. Velasquez stated that Airbnb is now screening renters. Mr. Velasquez asked why they are discussing if there is not a problem, there are 4 short term rentals in the Township. Mr. Velasquez stated he owns properties that are used as Airbnbs not in Hinckley, and the people that rent them are family members of people who are in the Cleveland Clinic. Mr. Velasquez stated his properties are very well-kept and as soon as Airbnb determines a property drops below a certain level, they won't list them. Airbnb is used by people who are usually just renting for a few nights, maybe family members who are coming in for a family wedding and these people don't want to stay in a hotel. Mr. Velasquez stated he is concerned about regulating something that isn't an issue.

Mr. Schneider stated they are in a meeting to discuss the matter and he would like Mr. Velasquez to answer some questions. Mr. Schneider asked who Airbnb is and Mr. Velasquez stated they are a booking site. Mr. Schneider questioned if it's a brokerage company that people go through to rent their house, so it's being used as a business and Mr. Velasquez stated yes. Mr. Schneider stated in this situation they are dealing with people they don't know and there are many questions associated with this and that is what they are concerned with. Mr. Schneider stated that they are here to learn and look for a dialog to determine exactly what the zoning needs to be or not be and that is their job, they are not here to say they don't want it, they are trying to figure out what it is and what they are doing with it. Mr. Schneider stated that they understand what Mr. Velasquez wants and they would like to continue their meeting, and Mr. Schneider thanked Mr. Velasquez for his input.

Mr. Manley asked Mr. Velasquez if he is saying that there are no problems so they don't need to discuss it and Mr. Velasquez stated there are many issues to consider with this matter. Mr. Velasquez stated it sounds like they are trying to regulate it.

Ms. Wrubel asked Ch. Marzullo to make a point of order because they had not asked for public comment yet, so Ms. Wrubel asked for a ruling on the point of order that they get through the Board's discussion first.

Ch. Marzullo asked Mr. Velasquez to take his seat and if Mr. Velasquez has any further questions he can raise his hand and they can address the questions at that time.

Mr. Fischer stated that one of the things that Mr. Velasquez said was that they are trying to provide restrictions, and Mr. Fischer stated he's not even sure if Airbnbs are permitted under their current zoning regulations. Mr. Fischer reviewed the definition of a dwelling and stated that in order to get an Airbnb into a residential district it would have to be primarily used as a residential purpose. Mr. Fischer stated that he doesn't know if an Airbnb is necessarily a residential purpose, so when they work through these matters, they might incorporate a definition that enables Airbnbs to be within a residential district or at least clarify what is meant by a residential purpose. Mr. Fischer stated the premise that Airbnbs are allowed under the current language is questionable.

Ch. Marzullo stated that as they look at the idea of an Airbnb, it is a business, do they look at a short term rental as a permissible business in a residential district. Ch. Marzullo stated he believes the consideration is if they allow businesses in homes currently. Mr. Manley stated yes they do.

Ch. Marzullo stated if they are going to define short term rental and long term rental they need to determine what is considered short term – these are terms that would need to be discussed. Ch. Marzullo stated one other thing he was contemplating is if someone is coming in for a weekend and they need a place to stay is that something they want to limit, do they want this to become a primary function of that residence. Ch. Marzullo stated these are the questions that he is considering on this matter.

Ms. Wrubel stated that in the Ohio Sixth District Court of Appeals they determined that even short term rentals are technically a residential use unless they are otherwise limited by the Township zoning code, so that has been determined in some capacity, and that is one of the reasons she brought to the Board's attention. Ms. Wrubel stated also that she has represented hundreds of condominium and homeowners associations throughout northern Ohio and they often have issues with these type of short term rentals and many of the associations choose to prohibit them. It's not so much renting out the whole house, it's more about renting a room or a finished walk out basement all year. So there is also the issue of a single family residence being used as a multi-family residence and how do they regulate that and what impact is that having on our services and that sort of thing.

Ch. Marzullo stated that this is something they've discussed in the past as far as single family and multi family and the code is clear that they are single family homes. They struggle with the definition of family – what happens when an organization buys a home and puts multiple different people in it, is that necessarily a single family home and is that something they want to or should include or exclude from the resolution. When looking at it from the idea of renting out a finished basement to a niece or nephew is that still single family. Ch. Marzullo stated they need to put something in the resolution that gives the zoning inspector the opportunity to determine what they are trying to establish. Ch. Marzullo stated that this is really a complaint driven system, and if someone is renting out their finished basement and there are no issues then there's no problem. The resolution is there for when there are issues so they can be remedied.

Mr. Schneider stated they discussed this before and they came up with family includes anyone who is a relative. Mr. Schneider stated that to rent to someone who is not family it is no longer a single residence, should there be a separate address? These are the type of things that should be considered. Mr. Schneider stated this is a business run by an external entity. Discussion followed.

Mr. Fischer stated if they want to consider adding a definition, they could always consider this be a conditionally permitted use in a residential district and then the Board of Zoning Appeals would be reviewing it prior to approval. Ch. Marzullo stated he is curious how long a sexual predator can be in a residence without having to notify. Ms. Wrubel stated she doesn't know the answer, but that once residence is established it has to be within 30 days, but she is not sure what counts as established. Discussion followed regarding this matter.

Ms. Crew stated that some HOAs have rules that sexual predators are not allowed to reside anywhere in the subdivision. Mr. Fischer stated that might be a fix for HOAs, but there are a lot of homes in the Township that are not part of an HOA. Ch. Marzullo questioned the legality of that and Ms. Wrubel stated that being a sexual offender is not a protected status.

Mr. Fischer asked if there are any other Townships within Medina, besides LaGrange, that have added this type of language, and Ms. Wrubel stated she doesn't know because she hasn't looked into that.

Ch. Marzullo asked if Ms. Wrubel has seen any other frustrations with the short term rentals. Ms. Wrubel stated that it comes down to a necessity that a lot of us feel that we need in our neighborhoods that were mostly owner-occupied and some communities feel that it's not necessary that they are owner-occupied, but having transients certainly undermines the neighborhood feeling and being able to know who's next door to you. Discussion followed.

Mr. Valesquez stated that Airbnb checks on everyone that is renting through them, and Ch. Marzullo stated that they are not the only source of short term rentals. Ch. Marzullo stated for example someone could advertise on Craigs List and obtain applicants that way. Ch. Marzullo stated they need to provide something that provides a safety net.

Mr. Schneider stated that going through a brokerage there is a filter of some sort, but the Board also have to look at the idea of individuals renting out their properties on their own. Mr. Schneider stated that individual rentals fall under a different situation and should be considered also during their discussions.

Ch. Marzullo stated he thought it would be worthwhile for everyone on the Board to do some research into what regulations currently exist and continue discussions next month. Ch. Marzullo stated they still need to identify what they are trying to establish, whether they want to limit, encourage, or define.

Ms. Crew stated she has considered a B&B, she lives on the Metroparks and her property is prime for horse people coming through the area. Ms. Crew stated she has considered what she would need to do to allow for a B&B.

Ch. Marzullo stated the next topic are the multi-unit buildings. Ch. Marzullo stated he believes the intent was to discuss if there should be any verbiage regarding multi-unit buildings in the Business District. Ch. Marzullo stated he doesn't believe there is any right now.

Mr. Fischer stated he thought that this was pertaining to a residential district and the idea of group homes. Ch. Marzullo stated he thought the multi-units were separated from the short term units

because, in the residential, there can't be multi-units. Ms. Crew stated she thought it came from the discussion regarding Pride One Senior living, which Ch. Marzullo stated is in the Business District. Ch. Marzullo stated there isn't anything in the resolution currently and do they want to add something.

Mr. Manley asked what the purpose would be, there are places with mother-in-law suites, is that what they are talking about. Discussion followed. Mr. Manley stated that potentially in-law suites could be turned into an apartment with an income stream.

Mr. Schneider stated he thinks one of the reasons they stopped discussing in-law suites is because it was a family member in a single-family home. Mr. Schneider stated once they start using it as a rental with no family member living there, it actually violates the existing code of a single residence. Discussion followed.

Ch. Marzullo stated that he believes they began the discussion of multi-unit buildings specifically in a Business District and if they don't want to put limitations on the number, the height is limited, they need to consider whether they want to put a size limit on multi-unit buildings based on the size of the property. Ch. Marzullo asked what do they see as a multi-unit building that will fit into the Township.

Ms. Crew asked if that would fall under the Strategic Plan that they are working on. Mr. Manley asked how much property is available in the Business District to do anything with. Further discussion followed.

Frank Oriti, 5 River Road, Hinckley

Mr. Oriti asked where is the Business District they are talking about.

Mr. Fischer used the map to show Mr. Oriti where the Business Districts are.

Ch. Marzullo stated he is also contemplating the Industrial District because apartments could also be built there. Discussion followed.

Ch. Marzullo asked the Board if multi-unit buildings are something they want to keep on the subject list. Mr. Manley stated he believes it should be set aside and revisited at some point in the future. Mr. Manley stated the committee that is being put together to discuss the Strategic Plan may want to address this.

Ch. Marzullo asked Trustee Augustine if the committee has been appointed yet and Trustee Augustine stated no. Ch. Marzullo asked if Trustee Augustine had any idea when the committee meetings would begin and Trustee Augustine stated no. Trustee Augustine stated if they want to make a list of topics they can be addressed.

Mr. Fischer stated that he thought the discussion regarding group homes came up a couple months ago after Ms. Wrubel mentioned it. Mr. Fischer stated he knew that Ms. Wrubel provided a new definition that she had used for a group home and maybe that can be used.

Ch. Marzullo stated that was one of the things they discussed, which is what happens when it is an organization as opposed to an individual and they are bringing in a number of people who are clearly not in the same family.

Mr. Fischer stated that because the agenda is published they might want to add it as a topic of discussion for the next meeting. Ch. Marzullo asked Ms. Wrubel for a recap of the matter, which was discussed at a previous meeting, and possibly expand on the matter so the Commission in general can consider how they want to proceed.

Ms. Wrubel stated the topic was not trying to limit a situation where someone lived in a home and had to have a caregiver 24/7 and have people in and out – that wasn't the issue. They all understand there will be health situations arise as we get older. Ms. Wrubel stated the conversation was more about a situation in a residential district where there is a single family home and there are multiple unrelated individuals who are living in that home and there is actually a business that either owns the home or is renting out the home and it's a for-profit enterprise. They are renting out the facility and using it almost as a healthcare facility where there are caregivers in and out. Ms. Wrubel stated that there are not only issues with whether a business is being run at the location, but also food and beverage is being made and consumed in mass quantities if there happen to be a lot of people living there. Ms. Wrubel stated the parking situation could be an issue between caregivers and visitors, as well as county transportation services. Ms. Wrubel stated in her experience with her HOA clients, the issue was it is being run like a business but there is really no one overseeing the individuals who are supposed to be the caregivers. Ms. Wrubel stated she is not proposing to prohibit this sort of home, but possibly putting them into the Business District so it's not in the Residential District, especially because there are multiple employees coming in every day.

Ch. Marzullo stated they do have assisted living as a conditional use in the Business District. Mr. Fischer stated that in Residential, as a conditionally permitted use, they have institutions for human care and they also have, as an accessory use, adult family homes. Mr. Fischer stated he thinks they need to work through what is a group home, whether it is an adult family home, is it a conditional use or an institution for human care or is it something different. Ms. Wrubel stated she believes adult family homes are an accessory use, but not otherwise defined. Mr. Fischer stated it's the same for institutions for human care, it is undefined.

Ch. Marzullo stated if they are going to conditionally allow anything, they need to have a definition of it as well as determination as to where it can be.

Ms. Wrubel suggested a proposed definition for an adult family home or group home – **Any structure, building, residence, or place operated by a person or entity other than the residents of the structure, building, residence, or place in which 3 to 10 unrelated persons reside for a period of 24 hours or more and which is used or intended to be used for the purposes of leasing rooms, providing meals, and/or providing personal services, personal care, supervision, and protective care, but not skilled nursing care designed to assist residents to adjust to society in the community except those foster family homes licensed by Children and Family Service agencies.**

Ch. Marzullo asked if they were to use that definition would the institution for human care still be a conditionally permitted use in any of the residential areas or should it become a business district function. Mr. Fisher stated he thinks they have to start with a definition, because until something is defined it is hard to say where it should go. Mr. Schneider stated he agrees they should have definitions. Mr. Schneider stated he did have a property used by a 501(c)(3), a battered women's shelter, in Dayton, which is a City so there are different rules than a Township. Mr. Schneider stated he gave the property to the 501(c)(3).

Mr. Manley stated they have a situation where the art gallery is – once the property owner passes on it belongs to the Cleveland Art Museum and when he was on a different board previously, he questioned how they know what to do with it so it's in their best interest.

Ch. Marzullo stated he received an email from 350 Hinckley that they wanted to point out that the text amendment regarding the removal of 18.5I and J and 18.6I and J fell off of the Old Business on the agenda for this month. Ch. Marzullo stated they could add that back on the Old Business list for the agenda. Ch. Marzullo stated regarding the conversation involving working with the BZA for the potential for creation of the new business district, whether all business districts should be in the same pool – Ch. Marzullo would like to have that conversation but he believes it would be best to discuss with the BZA first.

Ch. Marzullo asked the board members to continue to keep track of the subject matter list and to add items when they think of something they want to discuss. Ch. Marzullo stated they will work on the definition for short term rentals and work on getting regulations from surrounding areas so they have a lot of information to use to create what is best for the Township.

Ch. Marzullo stated that as far as multi-unit buildings, everyone is in agreement that they want to hold off until they get some sort of guidance from the commission that will be looking at the comprehensive plan. Ch. Marzullo stated they want to add group homes and potentially the piece regarding charitable ownership of homes and properties.

Ch. Marzullo discussed the Chairman's report:

Ch. Marzullo read into record an email he received from Nikki Long a copy of which is on file in the Zoning Office. Ch. Marzullo discussed some of the questions brought up in the email – Ch. Marzullo stated that Mr. Manley volunteered for the position on the steering committee for the strategic plan and Mr. Manley will do an outstanding job. Trustee Augustine stated that Mr. Manley was the only one that submitted an application on his own accord. Mr. Fischer stated that Mr. Manley has been on 3 prior committees and he has been on the BZA, so Mr. Manley brings a wealth of knowledge. Ch. Marzullo stated that as far as the water and sewer, he doesn't know and cannot speculate what would happen if water and sewer crept into the R-1, but if someone wanted to rezone property to R-2 they would have to submit a request to the zoning commission, it is a long, laborious process. Mr. Fischer stated that will always be the case with any zoning change. Ch. Marzullo stated as far as the Redwood Falls plans, he doesn't know why or if the Township wanted the easement.

Trustee Augustine stated that based on her notes from Medina County Planning Commission back in November or December, 2017, that was a recommendation that planning put in, it was not a Township easement. Ch. Marzullo stated as far as the width of the easement, he doesn't know, it's not something they would deal with and as far as the HOA getting the ten acres, Ch. Marzullo stated his understanding is that the 20 acres is all part of the Redwood Falls HOA, the 10 acre easement is now in the preserved land, it is still a 20 acre lot, but 10 of those acres can never be developed, they remain wooded in perpetuity. Mr. Fischer stated that he thought Mr. Schneider had brought this up a few meetings ago and Trustee Burns had looked into it and confirmed the transfer of the property did take place.

Mr. Schneider stated that's why they made the change, anything to do with a development of that nature has to have entrance and exit via that development and not off of a different roadway. Mr. Schneider stated this is the reasoning behind that, the 20 acres was actually put into the development but the access wasn't through the development so that's why they made that change so that makes it easy for everybody in the future, that was one of the reactionary things they came up with. Ch. Marzullo added, the second point that was included, no lot can be larger than 4 times the median lot size.

Ch. Marzullo read another email into record from Nikki, a copy of which is on file in the Zoning office, regarding a business that monitors the conservation easement at Redwood. Ch. Marzullo stated that when he first heard about the business being cancelled, it was a moot point because they went back and filed and they are an operating business at this point. Ch. Marzullo stated he is unaware of any conflict of interest. Ch. Marzullo stated he doesn't believe any organization is getting money from the HOA to preserve the property at Redwood.

Jim Larsen, 20 Carr Road, Hinckley

Mr. Larsen stated that according to the legal documents the Redwood HOA pays the business entity a fee and they didn't seem to notice when they no longer existed. Mr. Larsen asked why a third party entity can't be monitoring all the conservation easements, not only at Redwood, but wherever else there is a conservation district and what is the situations at the other conservation districts – do they have a business entity monitoring their compliance.

Mr. Fischer stated he can give some context to the matter, he is the President of another development that is part of a conservation easement and their conservation easement specifies that it shall be enforced by the HOA and that it may be enforced by the Township, so what they do is when there is a violation they will send out a notice that says you've done something on conservation land, please stop, they generally copy the zoning department so they are aware. They generally handle it themselves, although the Township does have the right to come in and enforce it. Mr. Fischer stated the resolution says that the owners of the restricted open space shall, in accordance with the provisions of the ORC, grant conservation easement to any of the entities listed in ORC provided that the provisions in the granting of the conservation easement are acceptable to the Township Board of Trustees, so the Township had to approve of it, then the terms of the easement contain appropriate provision for assignment of the easement to another entity authorized to hold conservation easements under the ORC in the event that the original grantee becomes unwilling or unable to ensure compliance with the provision.

Mr. Fischer stated he assumes there is a provision that allows either the Township to come in and monitor over it or there is a provision that it falls back to another entity that is allowed within the Ohio Revised Code, so that is how these are managed.

Mr. Larsen asked if the Township has any active way to monitor whether or not the compliance is enforced, they rely on the HOA to determine compliance.

Mr. Fischer stated they absolutely have the right to inspect the property and inspect themselves, they don't have to rely on the HOA, the HOA is required to, but the Township also has the right to do it, at least as it's written in the HOA where Mr. Fischer lives.

Trustee Kalina thanked Nikki for including him in the email so he was able to do some research into the situation. Trustee Kalina reached out to Mr. Sumodi and he was not aware of the situation and Trustee Kalina personally met with Mr. Crane and he was not aware of the situation, he said he was never notified of the expiration of the filing. Trustee Kalina stated that Mr. Crane immediately filed once it was brought to his attention and he is active in the subdivision, he has been in contact with residents and they have done some plantings. They are getting ready to turn it over to the HOA, so it will be in the hands of the homeowners and at that point it is policed by the homeowners.

Ch. Marzullo thanked Trustee Kalina. Ch. Marzullo stated that they had an educational seminar with Denise Testa from the Medina County Planning Commission explaining the role of the Medina County Planning Commission, how they interact, what kind of input they provide. Ch. Marzullo stated that he hopes everyone got a lot out of it.

Ch. Marzullo stated that last evening at the Medina County Planning Commission they voted on the Kubala Farms subdivision and they approved with modifications. Ch. Marzullo stated they have not yet applied for a permit from the Township and there are quite a few modifications that will be necessary to meet the modifications provided by the Medina County Planning Commission.

Ch. Marzullo stated that's all he had and asked if anyone else wanted to discuss anything.

Mr. Fischer stated he spoke with Suzanne regarding anything that's come through the zoning office that they may want to prepare to discuss, and Suzanne said she had generated a list a couple years ago and she will provide the list so they can review.

Trustee Kalina stated that there are several members whose terms will expire at the conclusion of this year – Mr. Manley, Ms. Wrubel and Mr. Arline. Trustee Kalina asked them to notify the Board of Trustees in writing by November 15 of their intentions regarding whether they wish to return and be reappointed and the Board of Trustees will consider that at their organizational meeting.

Ron Wayda, 1575 Kuder Road, Hinckley

Mr. Wayda wanted to speak regarding his experience with short term and long term rentals, he has done both. Mr. Wayda stated he has done short term rentals for the past 20 years and before VRBO and Airbnb, it was difficult, but VRBO and Airbnb have a really good business model regarding checks and balances. Mr. Wayda stated it's his experience that people that stay in short term rentals just need a

place to hang a hat, they are here to visit the Metroparks or other places. Mr. Wayda stated that long term rentals were more of a headache, and he doesn't do those any more. Mr. Wayda explained that he doesn't have to accept renters, he can say no. Mr. Wayda suggested the Board go to the websites and get to know how they work. Mr. Wayda stated he would be glad to share his experiences and answer any questions they might have.

Frank Oriti, 5 River Road, Hinckley

Mr. Oriti stated he seconds that.

There was no further business or comments.

Ch. Marzullo entertained a motion to adjourn the November 4, 2021 Zoning Commission Regular Meeting.

- Ms. Crew moved and Mr. Fischer second.
- No further discussion.
- All were in favor.

The Zoning Commission Regular Meeting was adjourned at 8:36 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2021

Matt Marzullo, Chairman

Marcus Fischer, Vice-Chairman

Bruce Schneider, Member

Michelle Crew, Member

Dave Manley, Member