

Ch. Fischer called the August 30, 2022 Zoning Commission Special meeting to order at 7:00 p.m.

Ch. Fischer 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.

Ch. Fischer stated that on behalf of the virtual audience, we ask that the public joining in person approach the podium in the event they would like to speak, they will need to announce their name and address prior to speaking, additionally we ask that the audience save personal conversation for after the meeting as additional voices cause confusion for those attending virtually.

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

Audience: Alternate Engleman, Trustee Augustine attended virtually

Ch. Fischer read the public hearing notice.

Ch. Fischer stated he would like to begin where they left off with short term housing. They had started to work through definitions and they were working through restrictions and if they should be conditional.

Ch. Fischer stated they should try to focus on what their goal is for short-term housing. Mr. Spellman asked why this topic was brought to the Commission originally. Ch. Fischer stated he thought it was a result of seeing potential problems in other communities and the Commission was reviewing the topic to see if it makes sense to address it. Ch. Fischer stated a resident has brought up concerns regarding noise from an existing Airbnb and others have inquired with the Zoning Office if short-term housing is permitted.

Mr. Marzullo stated originally the idea was to have definitions for short-term vs. long-term and they did not intend to restrict anything, just have a definition to refer to. Mr. Marzullo stated he believes it is something they need to think about and he feels the definitions are helpful.

Ch. Fischer stated he feels there shouldn't be a definition in the Code if it is never used, a definition is typically used because the term is used substantively somewhere else and it needs to be understood what is meant by that word. Ch. Fischer stated they could keep working definitions and not put them in the Code and just monitor the situation.

Mr. Spellman asked if by having no restrictions or definitions short-term housing is permitted and that was confirmed by Ch. Fischer, wherever residential housing is permitted. Ms. Crew asked about the status of the pending legislature regarding short-term housing, and Ch. Fischer stated nothing has happened since it has moved out of Committee.

Ch. Fischer stated the one option would be to define short-term housing and make it permitted where residential is and then it is in the Zoning Code. Ms. Crew stated that she recalled that originally they discussed definitions and agreed they would wait for the outcome of the legislation before they further discussed the issue, but she agreed with Ch. Fischer that if they were going to define it, they should

identify if it is permissible or not. Discussion followed regarding the possibility of short-term housing in the senior housing.

Mr. Marzullo stated that he recalls they originally discussed a registration process for short-term rentals and possibly impose a fee. Ch. Fischer stated the Zoning Department indicated that would be challenging, and the Fire Department and Police Department indicated that would provide no benefit to them because during an emergency they wouldn't have time to look at the list. Mr. Manley stated if short-term rentals are a conditional use then the registration information could be available that way. Discussion followed regarding the value of having a registration process for short-term rentals and if they should be made a conditional use.

Ch. Fischer asked what is their objective regarding short-term rentals. Mr. Manley stated other than control there is no issue at this point.

Alternate Engleman asked about Bed and Breakfasts, and Ch. Fischer stated that is defined. Alternate Engleman asked if there is a distinction between Bed and Breakfasts and short-term rentals, and Ch. Fischer stated they have 2 separate definitions – one would be owner-occupied, which would be a Bed and Breakfast. Ch. Fischer stated currently the Zoning Inspector determines if a Bed and Breakfast is allowed based on it being a home-based business. Discussion followed regarding conditions that can be placed on short-term rentals.

Mr. Manley stated he sees that the objective of their short-term rental consideration is control, and Ch. Fischer asked what are they trying to control – noise, traffic, safety. Mr. Manley stated yes, they are considering health, safety, and welfare. Ms. Crew stated it sounds like they are trying to control the number of units, and she doesn't see the safety issue as anything different then when a homeowner purchases a home. Ch. Fischer stated the only distinction that he has seen is that short-term housing attracts people who are there mostly for a vacation, which means they might be louder and outside more frequently, which could impact neighbors with noise levels and light. Ch. Fischer stated the Commission has discussed the inability to control noise levels, so maybe they should consider light control, but people often have lights on outside so that is difficult to control. Mr. Marzullo stated, based on their significant discussions about the noise levels at the Scream Park, they determined they really had no way to control it. Further discussion followed regarding noise levels and noise complaints made about the Scream Park.

**Mr. Rushworth, Bellus Road, Hinckley, OH**

Mr. Rushworth stated they complained about the Scream Park at Buzzard Cove repeatedly and the police told them they couldn't do anything about the noise.

Further discussion followed regarding noise and the ability to control and regulate it.

Mr. Spellman stated he understands both sides and he doesn't see the value in pursuing the short-term rental issue at this time. Ms. Crew stated she believes short-term rentals and Bed and Breakfasts should be treated the same, both as a business, and if they do anything with regard to short-term rentals she would like to see them treated the same as a Bed and Breakfast. Mr. Manley stated he feels that they

should move on to something else. Mr. Spellman asked if they should still consider adding the definitions. Mr. Spellman stated several years ago they made an effort to make the Zoning Code more reader friendly, and he feels adding a definition for short-term rental could be a reader-friendly option. Ch. Fischer stated it could provide more clarity for people who consider purchasing property, but he has concerns regarding Bed and Breakfasts if there are no restrictions, there's a possibility of it turning into a hotel. Ch. Fischer suggested they not include definitions in the Code, and they could keep them for further discussion later if the topic comes up again.

Mr. Marzullo stated they already know there are short term rentals in the community so if someone wants to operate a Bed and Breakfast out of their house, and if they consider a short-term rental and a Bed and Breakfast both as a business, how can they oppose the Bed and Breakfast. Discussion followed regarding short term rentals and Bed and Breakfasts.

Ms. Engleman stated she reviewed zoning regarding short-term rentals in some other Townships, and some define short-term rental, but do nothing else, other Townships have a definition and also define the maximum number of people occupying the rental based on bedrooms. Ms. Engleman stated none are stating if short-term rentals are permitted or conditional but they are starting to set a structure for the future. Ms. Engleman stated she feels there is a pattern that Townships are not sure what to do so why not define it so there is an agreement as to what short-term rental is.

Ms. Crew referred to a spreadsheet she had prepared with the zoning information regarding short-term rentals in various Townships. Ms. Crew stated there were quite a few that had something in their zoning regarding short-term rentals.

Mr. Spellman asked if it could be made a permitted use with conditions stated as a means of giving more guidance. Discussion followed regarding if it's possible to define the terms and, if so, how it could be done. Ms. Crew referred to the spreadsheet she prepared and reviewed some of the definitions that other Townships use.

Ch. Fischer stated they have spent a lot of time discussing this topic, and he would like to hear what direction the Commission would like to move in. Mr. Marzullo stated that he thinks it would be unfortunate to completely remove from the definitions, if it comes up again in the future, there is no guarantee that any one of them will still be on the Board and then all of their work on the definitions could be gone – if the definitions are in the code that can at least be built upon. Mr. Marzullo stated he doesn't have a preference regarding restricting or allowing short-term rentals. Mr. Marzullo stated he believes the short-term owner occupied would have to be conditional and it would have to be registered through the Township. Mr. Spellman stated he doesn't think people will want to pay for a conditional for this. Further discussion followed regarding making short-term rental conditional.

Ch. Fischer asked the Board what they want to do, would they like to consider adding definitions only and then have the Medina Planning Commission and legal review and make their recommendations. Mr. Spellman stated they could put the definitions in and then have the Medina Planning Commission comment. It was decided that they would add the definitions only and present to the Medina Planning Commission.

Mr. Marzullo stated they could possibly consider adding a section on transient housing. Discussion followed.

Ch. Fischer stated they will add the definitions for now and asked Mr. Marzullo if he would like to take the lead on the transient housing section.

Ch. Fischer then referred to the solar energy section 18.5 which discussed screening. Ch. Fischer stated there was discussion regarding this section, which was proposed by 350 Hinckley and, during the discussion, the question came up why there is screening required for accessory components but it's not required in any other section of the Code. Ch. Fischer stated he proposes striking section j. Discussion followed regarding what is an accessory component as it relates to solar.

**Richard Pearl, King Road, Hinckley**

Mr. Pearl stated he is the spokesperson for 350 Hinckley. Mr. Pearl stated there were 2 sections when they were given the boilerplate wording for solar arrays, one of those became Section 18.5j and 18.6j which referred to screening. Mr. Pearl stated that 350 Hinckley asked the Zoning Commission to identify the accessory components that the current code is screening. At the same time, 350 Hinckley was questioning 18.5i and 18.6i, which states electrical and controlled equipment must be secured and they asked why it must be secured when that would be a safety hazard – the homeowner could not go out and turn it off if there was a padlock or the fire department could not turn it off. Mr. Pearl stated that 350 Hinckley asked the Zoning Commission to strike these 2 things. Mr. Pearl described the solar component that he has at his house and the safety features he has in place. Discussion followed regarding how power goes into a home from a solar panel.

Ch. Fischer suggested they keep the labeling requirement, Section i, but remove the securing requirement, Section j. Ch. Fischer stated the Township should have their regulations, which can comply with the power companies' regulations, but they don't want to rely on the power company regulations in the event the power company changes them. Discussion followed regarding requirements by power company.

Mr. Pearl stated 350 Hinckley would like to see both 18.5i and j and 18.6i and j struck. Discussion followed regarding what type of labeling is being required. Mr. Pearl stated at his home at his electric meter there is a warning plaque that there is an array associated with the meter on the other side of the house. Mr. Pearl stated there is also a plaque by the switch itself. Mr. Pearl stated 350 Hinckley is asking to make it simple for homeowners and residents to provide arrays.

Ch. Fischer stated they will strike 18.5i and j and 18.6i and j. Also in 18.7g they will strike the last sentence that refers to the accessory components being screened from view from public right of way and adjacent properties. Mr. Spellman pointed out that section also has the labeling comment so that would be removed also.

Ch. Fischer stated in 18.8 that roof mounted solar arrays are permitted in the B-1 and B-2, so it is amended to include the B-3. Ch. Fischer stated 18.8 also includes that ground mounted electrical equipment should

be labeled and secured so that will be deleted and the language regarding screening will be removed. Ch. Fischer stated he believes this deals with the Alternative Energy section.

Ch. Fischer stated he would like to deal with a couple miscellaneous items, and he referred to Section 4.9 which deals with fences. Ch. Fischer stated the Zoning Department never required a permit fee for fences, and they would like to now require the same permit fee as other accessory structures because the same inspection is required for fences and accessory structures, so the Township is trying to recoup the cost for the inspection, which is a \$75.00 fee. Ch. Fischer stated they would like to remove the language regarding no fee for fencing so the Township has the option to charge the fee for a fencing permit. Discussion followed regarding fences that are for agricultural uses and what determines if it's an agricultural use.

Ch. Fischer asked if the Board members agree with the request to remove the fee language, and Mr. Manley asked for clarification on why inspections are done on fences. Ch. Fischer stated fences are accessory structures so they require an inspection and further discussion followed regarding the inspections and the fee.

Ch. Fischer referred to the language in Section 4.5 of the Code pertaining to Similar Use findings and stated he feels it is very similar to the Duncan Factors and something the Board of Zoning Appeals should be looking at and not the Zoning Commission. Ch. Fischer stated he has discussed this with the Zoning Department and they agreed this should be a function of the Board of Zoning Appeals, so Ch. Fischer suggested they change the language to say the "Board of Zoning Appeals" instead of the "Zoning Commission shall grant". Ch. Fischer stated they will ask the prosecutor to review.

Mr. Marzullo referred to Section 4.8 about a process of reporting or following up on nuisance regulations and he believes that ties into everything they were talking about earlier with the short term rentals because it does specifically say nuisances are prohibited. Mr. Marzullo stated they clearly have a noise nuisance regulation but they have no way of following up or filing it. Mr. Marzullo asked if they want to expand that to show a method to capture any complaints. Mr. Spellman stated it is pointing out the obvious, and Ms. Crew stated it is basically generic language. Mr. Marzullo asked if there is anything in the Township that captures nuisance complaints. Discussion followed regarding a log maintained with complaints.

Ch. Fischer stated he can inquire about this and they will have to decide if this should go into the next text amendment. Ch. Fischer stated if they don't vote on Thursday for the text amendment they can't move forward until January due to the way the Zoning Commission's schedule aligns with the Medina County Planning Commission's schedule.

Discussion followed with what could be done with a nuisance log and the language in Section 4.8. Mr. Marzullo stated if they are receiving consistent complaints about a particular topic, then those are the topics the Commission should focus on discussing. Ch. Fischer stated they could reach out to the Zoning Department to find out about any complaints received. Mr. Manley discussed what happens from his observation regarding complaints received at the Township.

Mr. Rushworth asked if light should be included in the nuisance discussion.

Mr. Pearl stated that a couple years ago a neighbor pumped water onto their property for over 3 months, 24/7 and it flowed across Mr. Pearl's property and killed a lot of plants and trees on his property, the water then flowed onto the other neighbor's property, across their horse field and into the horse barn. Mr. Pearl stated when he went to the Zoning Inspector to discuss it, it was indicated that it was a Health Department issue and it wasn't a nuisance. Discussion followed.

Ch. Fischer asked if the Board would like to look into nuisance language now or continue the discussion for later. Ms. Crew stated if they want to elaborate on nuisances they should define it. Mr. Marzullo stated it might be worthwhile to discuss nuisances after this text amendment because there is nothing they can do about it so there is no urgency. Ch. Fischer stated he agrees, and he also believes the nuisance topic will require a lot of discussion.

Ch. Fischer referred to Chapter 5 Section 5.2 and stated he suggests amending it to include the new name for the B-2 District and the addition of the B-3 District within the listing of the Zoning Districts.

Ch. Fischer referred to Chapter 6 subsection 6R1.3 Conditionally Permitted Uses, Short-Term Dwelling and Short-Term Owner Occupied and stated he will remove the language because they are tabling this with just definitions. Mr. Marzullo stated in 6R1.2.d they should include solar. Discussion followed regarding the language.

Ch. Fischer referred Subsection 6R1.6, which deals with accessory buildings and structures within the Residential Districts. Ch. Fischer suggested that in a1 they strike out structures, so accessory buildings, which would basically be barns, shall not be closer than 15 feet. Ch. Fischer stated he then suggests adding a Section 2, which would say accessory structures excluding accessory buildings, swimming pools and fences, shall not be closer than 5 feet from the principal building, shall have the front yard setback the same as Section 1 and conform to the side and rear the same as 1. The reason is because of gazebos and trellises and other patio-type structures that people wouldn't want 15 feet from their home. Ch. Fischer stated people have wanted to put a structure closer to their home than 15 feet and, because of this limitation, they can't. Ch. Fischer stated as they looked through the language they discussed the 15 foot requirement with the Fire Department to determine where it comes from. Ch. Fischer stated there is language in the fire code that deals with an open flame and having it a certain distance from the home.

Mr. Spellman asked if Ch. Fischer is suggesting accessory buildings stay 15 feet from the home and add another section for accessory structures, excluding accessory buildings, swimming pools, and fences, this would be excluded from the accessory structure language. Ch. Fischer confirmed. Mr. Spellman asked if a shed could be built within 5 feet, and Ch. Fischer stated no because that is an accessory building which still requires 15 feet. Mr. Spellman stated buildings and sheds are structures by definition. Ch. Fischer stated that is correct but they are also buildings, so the narrower of the two is an accessory building, so an accessory building shall not be closer than 15 feet. Further discussion followed. Mr. Spellman stated he sees the intent, but is not sure of the definition of building versus structure and Ch. Fischer stated he just wanted to introduce it.

Ch. Fischer read the definition of building and then stated because a shed is enclosed it constitutes an accessory building, but a gazebo is not enclosed by walls that are solid or have windows and it is not intended to shelter persons, animals, or property so it is an accessory structure. Ch. Fischer stated every accessory building is an accessory structure, but not every accessory structure is an accessory building. Mr. Manley asked about the rain shelters that protect kids when they are waiting for the school bus. Ch. Fischer stated he is proposing a broadening of the language and his intent is to allow gazebos and those types of structures closer to the house than sheds that might contain more flammable materials. Further discussion followed regarding the purpose of the proposed language.

Mr. Marzullo referred to Section 6R1.6.a.2.d regarding the area of the rear yard occupied by an accessory building/structure and asked if ponds and lakes should be exempted from the calculation. Discussion followed regarding ponds and sections of the Code relating to ponds.

Ch. Fischer stated he also amended a section for swimming pools and suggested the language should read swimming pools shall not be closer than 15 feet from the principal building. Ch. Fischer stated the challenge is that people will also want hot tubs close to their home, and the way it is currently written, and the way in which Ch. Fischer proposes, they cannot be closer than 15 feet because a hot tub is basically the same as a swimming pool according to the current language. Ch. Fischer stated he considered various language options for hot tubs to evaluate whether they can be separate from swimming pools. Ch. Fischer stated what he came up with does not restrict swimming pools any more, but he could not find a way for hot tubs to be closer than 15 feet to the home, so he asked the Board to think about that.

Ch. Fischer stated that he has excluded fences from the 5 foot setback and the 15 foot setback and suggested that fences should comply with the requirements of Section 4.9, which will basically enable fences to abut the property line.

Mr. Spellman stated regarding the hot tubs, he looked at a couple different municipalities and townships and as it currently is written a swimming pool and hot tub are considered the same, some municipalities treat it as one definition and other Townships define separately. Mr. Spellman stated if they want hot tubs to be allowed closer they will have to define each separately. Mr. Marzullo asked why swimming pools can't be closer than 15 feet, and Ch. Fischer stated he believes the idea behind the 15 foot requirement is that the Fire Department can't get ladders close to the house if the pool is close and also they wouldn't want children jumping from the roof into the swimming pool.

Ch. Fischer asked for public comment.

Mr. Pearl stated that accessory structures were amended in the May 1, 2019 amendments so he suggested the Board might want to refer to the minutes to find out why that was amended and it may give some clarity on ponds and hot tubs.

There were no more comments from the Board or the public.

Ch. Fischer stated the next meeting will be their Regular Meeting on Thursday, September 1 at 7:00 p.m.

Ch. Fischer entertained a motion to adjourn the August 30, 2022 Zoning Commission Regular Meeting.

- Ch. Fischer moved and Mr. Manley second.
- No further discussion.
- Board was polled.
- All were in favor.

The Zoning Commission Special Meeting was adjourned at 8:58 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2022

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Marcus Fischer, Chairman

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Michelle Crew, Vice-Chairman

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Matt Marzullo, Member

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Dave Manley, Member

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Bill Spellman, Member