

Ch. Fischer called the September 1, 2022 Zoning Commission Regular 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, and Zoning Inspector Wilson

Ch. Fischer asked if everyone had received and reviewed the minutes from the Zoning Commission Regular Meeting on August 4, 2022 and if there were any comments or corrections. Mr. Marzullo suggested an amendment, which was noted on the printed copy of the minutes.

Ch. Fischer stated he would entertain a motion to approve the August 4, 2022 Zoning Commission Regular Meeting minutes, as amended.

- Ms. Crew moved and Mr. Marzullo second.
- There was no further discussion.
- Board was polled.
- All were in favor.

Ch. Fischer stated he would like to discuss a topic that had just come up that was not on the agenda and asked Zoning Inspector Wilson to address the Board on the matter.

Zoning Inspector Wilson stated they had a representative come in from 620 Construction who had built the First Day School Supply Building on Center Road. First Day is proposing an addition to this building and Zoning Inspector Wilson stated he told the representative that this would be on the Zoning Commission October 6 agenda for a site plan review. Zoning Inspector Wilson stated the current building is 46,400 square feet and the new addition would be 32,000 square feet, and he will have the packet to the Board members for the October 6 meeting. Ch. Fischer asked if this addition is on the parcel of the existing building, on the rear of the two parcels, and Zoning Inspector Wilson confirmed. Ch. Fischer discussed Subsection 6B.10 regarding site plan review and stated he asked Zoning Inspector Wilson for the opportunity to review it.

Mr. Marzullo asked if this is on the old building and not the new building – the old building behind the new building. Zoning Inspector Wilson confirmed. Mr. Marzullo asked if they will be seeking a height variance, and Zoning Inspector Wilson stated the building is 28 feet so he doesn't believe they will need any variances, but they will have to look at it closely.

Ch. Fischer stated they had spoken previously regarding nuisances, and there is a system when a nuisance is filed. A form is completed and it is then reviewed and commented on. Ch. Fischer stated that form is then filed, but it's not done in a way that would benefit the Board, so Ch. Fischer asked that a filing process be put in place so these complaints/nuisances can be easily accessed. Ch. Fischer stated it was indicated to him that the top three nuisance complaints are debris/junk cars, overgrown vegetation – grass not being cut, and noise.

Ch. Fischer stated that back in the 2013 amendments to the Zoning Regulation there was a fee charged on a per day basis if someone was in violation of the Zoning Regulations. That was changed in 2013 in Section 12.4 to say that they will only charge what the O.R.C. allows them to charge and that might not be effective, so Ch. Fischer suggested the Board may want to go back and review that so they could possibly give the Zoning Department the ability to incentivize compliance better.

Ch. Fischer stated with respect to previous discussions regarding fees for fencing, the reason the fee schedule doesn't include a fee for fencing is because of the language that discusses a no-fee permit. Ch. Fischer stated that for everything that occurs from a zoning perspective, the Township would like to recover the costs associated with those things. Ch. Fischer stated that for a fence, the Zoning Department does a single inspection once the holes are dug, they are inspecting to confirm that the fencing is the appropriate sizing so it doesn't exceed the 6 foot limit and also, if in front of the house, it has the proper transparency – it can only be 50% opaque. Ch. Fischer stated he assumes they will also try to make sure the fence is within the property lines, to the extent they can. Ch. Fischer stated if they strike out the language that says no fee permit is required for fencing, it will give the Trustees the opportunity to impose a fee as they see fit to recover their costs. Ch. Fischer stated they are not able to charge fees that are a taxation, but they are permitted to recover costs from the work they are performing.

Ch. Fischer read through the Chapter 3 definition of structure with respect to their discussion regarding ponds and stated that section indicates that a pond is a structure. Ch. Fischer stated the Zoning Department is only using it as a structure for purposes of a permit, which is what the Board thought they were doing, but it is confusing because it's technically an accessory structure and really should meet those setbacks, which are inconsistent with the setbacks that they have for ponds. Also, the Zoning Department is not using it in their calculation of the sizing of an accessory structure relative to the primary building. Ch. Fischer stated one option to resolve this is to remove ponds and lakes from structures and leave Chapter 4 to say for purposes of a permit it constitutes a structure and just leave it out of the definition.

Ch. Fischer stated he believes these were the questions raised during their previous work session, and if anyone has any questions regarding these topics Zoning Inspector Wilson is available to address them.

Mr. Manley asked Zoning Inspector Wilson how he typically is made aware of fences. Zoning Inspector Wilson stated they signed up for emails through OUPS, and when they see an email regarding a fence, a packet is sent to the homeowner letting them know they need a permit. Zoning Inspector states this has been very effective.

Zoning Inspector Wilson stated that another nuisance that they get involved in is abandoned houses and they have looked at this closer over the past few months. Ch. Fischer stated this is a long process and

nuisances are a challenge, and they need to look into how they can better enforce the related regulations. Ch. Fischer stated he knows the Township has been looking into this, but he doesn't know if that is a matter for the Zoning Commission other than looking at the fee structure. Ch. Fischer stated he believes this is more about what the Trustees and the Zoning Department can do.

Mr. Spellman asked who governs and defines the process, and Ch. Fischer stated he believes it is the Trustees. Trustee Augustine confirmed that regarding abandoned houses she is working with Medina County Planning Commission for grants.

Trustee Augustine stated that the Township's other Zoning Inspector is the one that handles all the nuisance complaints. Trustee Augustine stated that she recently discussed with the Zoning Inspector that she would like to go over everything for the top 5 nuisance homes in the Township, which she believes is a good starting point. Mr. Spellman stated that in terms of the process itself, he heard they send 3 letters every 30 days or so – Mr. Spellman asked if the O.R.C. drives this process or if it's through the County, and Trustee Augustine stated it is reviewed and commented on by legal. Trustee Augustine stated she has looked into hiring outside legal help with regard to nuisance complaints, this could be a more efficient process. Mr. Manley stated he had previously requested hiring outside help with certain issues.

Ch. Fischer stated he believes they could collectively look at things and if they are looking at outside consultants, they need to consider how they will recover those fees. Ch. Fischer stated they need to determine if they can use the O.R.C. or if they have to amend their Zoning Code to allow for this. Further discussion followed regarding how fees are assessed and what they will do moving forward regarding nuisances.

Ch. Fischer stated that he would like to go through the proposed amendments by page order, attached hereto as Appendix I, which they have previously discussed and make sure there everyone is in agreement with what is being proposed. Ch. Fischer then shared the document with the proposed amendments on the screen and began to review the proposed amendments in order and all were agreed to except the following:

Ch. Fischer stated that with regard to the definitions for short term rentals they had 28 days and at some point it was expanded to 30 days, and he reminded everyone that a lot of tenancy agreements have a fix term of one year and then after that it can continue as a month to month so they may want to consider 28 days instead of 30. Everyone agreed to keep it as is.

Mr. Marzullo stated that in Section 16.2 he would like to request a change in the third line – instead of *and* it should read *an*. This was agreed upon.

Ch. Fischer asked for comments from the board regarding leaving ponds and lakes as structures within the definition of structure. Mr. Spellman stated he is fine with it as is. Mr. Marzullo asked about the duration – a retention pond vs an actual pond. Discussion followed regarding the matter and it was decided that they would keep the suggested amendments.

Alternate Engleman stated that in Chapter 6 in the first paragraph, it should read 7 sections outlining each of the districts.

Mr. Spellman stated that in Chapter 6, Section E - Accessory Uses - item number 6 the same language should be amended as in Section D. Discussion followed regarding language referring to rear and wall mounted solar arrays and how to make that language consistent. It was decided to remove number 5 and amend 6 to say alternative energy uses pursuant to Chapter 18 and then it will be renumbered.

Mr. Spellman stated that in item #2 – where it states accessory structures, excluding accessory buildings, swimming pools and fences it is not clear – Ch. Fischer stated that what this is saying is that the exclusion is accessory buildings, swimming pools and fences so he could possibly put parenthesis around this to make that clearer and they could then wait for comments from Medina Planning Services and legal regarding that clarification suggestion. Alternate Engleman suggested starting with the excluded items instead, discussion followed, and it was decided to use the parenthesis.

Mr. Spellman stated that in item #3, there is a reference to hot tubs, but it's not clear what can be done with hot tubs. Ch. Fischer stated that in Section 4.12 dealing with swimming pools under (a) - there is language discussing swimming pools, so the only definition is in this language that states something above ground or below ground that holds more than 2 feet of water --- a hot tub would meet that. Ch. Fischer stated this could require a bit of discussion so possibly they might want to hold this for later discussion and not include in the current packet, but he wants the Board to be aware that currently the Zoning Department is interpreting hot tubs as swimming pools, and they have to be 15 feet from the house and this requires a permit. Further discussion followed. and Ch. Fischer suggested they could continue to explore this. It was agreed to discuss this issue at a later time.

Ch. Fischer stated that in Section 6R2.6, the language for accessory buildings was worded differently than in 6R1 so the amendment was made to make the language consistent, which everyone agreed to.

Discussion took place regarding using the word historic or historical and it was decided to use historic consistently through the Code.

With regard to the language amending the zoning districts, Mr. Marzullo stated that he believes they agreed to change the zoning at Bellus and Route 606 to residential – but it seems a simpler solution would be to move the section on W. 130th and Boston into B-1 and maintain just two business districts. Ch. Fischer stated that the reason they decided to keep it separate is because there are regulations with respect to the size of the buildings that can be there and also it has its own identity. Ch. Fischer stated he also wanted to note that within the B-3 District, they are not allowing an automobile service station, it's currently not allowed or conditional within the B-2 District. A concern was expressed that charging stations will not be allowed in the B-3 District. Ch. Fischer stated that this goes along with the amendments they would be looking at as part of how they define automobile service station and fuel, and then work through that. Ch. Fischer stated that he feels it makes sense to discuss that at the same time they discuss automobile service station language, and then they can determine if it makes sense to allow alternative energies within the B-3 district that are distinct from gasoline and other fuels.

Ch. Fischer stated that in Chapter 7, regarding a topic that they haven't discussed yet, pertaining to applications submitted to Township Board of Zoning Appeals, the language currently states that the fee will be paid at the original hearing of the permit holder. Ch. Fischer stated that the Zoning Department is actually receiving the fee when the application is submitted and not at the hearing, so he suggests the amendment so it goes along with current practice.

Ch. Fischer stated that another topic that has not been previously discussed among the Board members is the language on page 83 of the Zoning Code regarding violations and revocations. Ch. Fischer stated there is no provision in the current language describing how a conditional use ceases, so he is suggesting they make the language for a conditional use consistent with the language used for a legal non-conforming use, which states if you don't continue to use the conditional use for a period of two years the Township can remove the conditional use.

Ch. Fischer stated that sometime in the past the Zoning Appeals Boards made this a condition, but, Mr. Manley stated that in seminars he has attended, the attorneys have requested that Zoning Appeal Boards not include this as a condition.

Ch. Fischer stated that he feels it is better to have the specific language written and ask for an opinion on it, so he would rather include this language and get feedback and then review once they receive the feedback. Ch. Fischer stated this is something the Zoning Department has asked them to consider. Mr. Manley stated he believes the language needs to be very strong to give the Zoning Inspector the opportunity to make a decision.

Ch. Fischer stated another item he thinks they should consider, at a later time as a text amendment, is notice requirements for these types of situations where a conditional use will cease. Mr. Spellman stated he would like to get the Medina Planning Services feedback on this suggested amendment.

Ch. Fischer stated that in Chapter 11 things are referred to as a business not as commercial, so the proposed amendment would be to say planned business or industrial development instead of commercial.

Ch. Fischer read through the language for final site plan and noted that what is not listed there is subdivisions and planned business and industrial developments which are listed in the preliminary site plan. Ch. Fischer stated he believes the language should match for preliminary and final site plans

Ch. Fischer referred to new construction of all permanent uses in the business and industrial district – they don't have final site plan for conditional uses. Ch. Fischer stated the senior housing was a conditional use and they just did a final site plan where they reviewed and identified significant landscaping modifications, which the Board of Zoning Appeals permitted them to do.

Discussion followed regarding language in 11.7 and 11.8 regarding the criteria and process for site plan reviews.

Mr. Pearl asked Ch. Fischer to read the title of Chapter 17, and Ch. Fischer stated it reads *Establishment of Riparian Setbacks*. Mr. Pearl asked Ch. Fischer to read Chapter 17.1.c and d and Mr. Pearl asked the members of the Zoning Commission if they know what the language in these sections means. Mr. Spellman stated that Section c refers to the Stormwater Management Phase II, which deals with the northwest and northeast corner of Hinckley, to his best recollection. Mr. Pearl stated there is no such thing as a Hinckley Township Phase II Stormwater Management Program, and Mr. Manley stated that there was and it was done. Mr. Pearl stated it can't be found in the Zoning Office, and he is requesting if the Board would revisit this for new business.

Ch. Fischer stated they can put it on the list, but he cannot guarantee when they will be able to address it, but he does want to point out that neither of the items Mr. Pearl referred to are regulations of the Zoning Code. Ch. Fischer stated in other words it is not saying that something has to be done in compliance with this, it is just saying that what they have done is in compliance, but it's not an imposition on any person because it's not a regulation.

Discussion followed regarding where to find information regarding this topic, and Mr. Pearl stated his concern is with the wording in Section c.

Ch. Fischer finished review of the remaining suggested amendments and then asked for comments.

Ms. Crew asked when a measurement is taken from the property line for a driveway setback, how is that measured. Ms. Crew stated if the driveway is raised above your neighbor's property, the base is wider than the top of the driveway, how is that measured, from the base or the top of the driveway. Discussion followed. Ms. Crew read proposed language regarding the setback measurements for a driveway. Ms. Crew stated she believes this is something they should discuss in the future and discussion continued regarding the measurement and drainage issues. It was determined by the Board that they would add this item to the list of future discussions.

Ch. Fischer stated the last item they need to discuss is the map amendment, which is attached as Appendix 2. Ch. Fischer explained the proposed map amendment, which was displayed on the screen. The Board members agreed this is what they had discussed.

Ch. Fischer stated in addition to their proposed changes, he would like to send a list of proposed grammatical issues to Medina County Planning Services, attached as Appendix 3.

Ch. Fischer asked if there were any other comments or questions, and there were none.

Ch. Fischer stated he would entertain a motion to amend the text of the Zoning Resolution and District Map and forward the proposed amendments to the Medina County Planning Commission for consideration.

- Ms. Crew moved and Mr. Spellman second.
- There was no further discussion.

- Board was polled.
- All were in favor.

Fischer – yes; Crew – yes; Marzullo – yes; Manley – yes; Spellman – yes

Ch. Fischer stated he would entertain a motion to set a public hearing on the proposed amendments for October 6, 2022 at 6:30 p.m.

- Mr. Manley moved and Mr. Marzullo second.
- There was no further discussion.
- Board was polled.
- All were in favor.

Fischer – yes; Crew – yes; Marzullo – yes; Manley – yes; Spellman – yes

Ms. Crew asked if the residents in the area of the suggested map amendment changes will be notified of the public hearing. Ch. Fischer stated because the rezoning will affect more than 10 parcels, the statute is different regarding posting, but Ch. Fischer will suggest they do individual letters.

Chairman's Report

Ch. Fischer stated the next regular Zoning Commission meeting will be October 6, 2022, which will immediately follow the public hearing for that same date.

Ch. Fischer stated that Trustee Augustine has been working very hard on a consultant for design standards. With respect to that, Trustee Augustine spoke with an attorney who works closely with Montville Township and other Townships, worked in the County Prosecutor's office and works at a government rate. Ch. Fischer asked if they want to pursue this.

Ch. Fischer stated they can consider 2 options, the first being the Board would craft the language and then have it reviewed by a design consultant or the second would be the design consultant works with them and does the initial drafting of the language and they refine it with the consultant. Ch. Fischer stated this would be predominantly for the B-3 District.

Ch. Fischer asked does the Board want to put language together themselves and then bring in the consultant or work with the consultant together from the beginning. Discussion followed and Mr. Manley stated he would like the Board to draft the language and then bring a consultant in. Ch. Fischer stated he feels this is something they should start to consider.

Ch. Fischer stated that Denise Testa from Medina Planning Services has offered to hold training for them on September 21. The Zoning Commission, the Board of Zoning Appeals, and the Zoning Department are all invited, and they are thinking of recording the training session so other Townships can receive a copy if they were not able to attend the previously held training session. Ch. Fischer stated everyone is invited

to attend, it's Tuesday, September 21 at 6:30 p.m. Trustee Augustine stated there is a virtual option to attend.

Ch. Fischer thanked Trustee Augustine, Suzanne Peterlin, and Zoning Inspector Tom Wilson and Fire Inspector Gabe Gerbasi with all of their help with the amendments. Ch. Fischer stated the Zoning Department has additional amendments they would like to make, and he would also like to see the Board look at front yard setbacks for Conservation Developments. Ch. Fischer stated he knows Mr. Marzullo would like to discuss the automobile service stations and nuisances and the alternative energy issue that Mr. Pearl has discussed.

Ch. Fischer asked the board if they had anything else.

Ms. Crew stated that earlier in their discussion regarding nuisances, it was brought up that there is a form to complete but there is no way to file it, so where are these kept. Ch. Fischer stated they are kept in generic folders, so they will be working on organizing this.

Ms. Crew stated she has concerns that nuisance definitions might not be tight enough. Discussion followed regarding this.

Mr. Marzullo stated he sent everyone the email from Mr. Larsen and wanted to confirm that everyone received it. Mr. Marzullo stated that Mr. Larsen sent a picture of a party at an Airbnb in the Township and expressed his concern regarding the Airbnb. Ch. Fischer stated he followed up with the Zoning Department regarding this, and they did not receive complaints. Ms. Crew stated she would be interested if there were complaints. Further discussion followed regarding what the complaints are.

Mr. Manley stated that Mr. Pearl had asked about the conditional use issued to the Buzzards Cove and to the best of his memory no conditionals were ever placed on that property. Ch. Fischer stated he asked the Zoning Department if Buzzards Cove was a legal non-conforming or a conditional, and it seems they treat the outdoor recreational as an outdoor non-conforming use, not a conditional. Ch. Fischer stated the restaurant would be a permitted use because B-1 allows restaurants as a permitted use.

Mr. Spellman had nothing. Trustee Augustine thanked everyone for their work and alternate Engleman had nothing further.

There were no public comments.

Ch. Fischer entertained a motion to adjourn the September 1, 2022 Zoning Commission Regular Meeting.

- Mr. Spellman moved and Ms. Crew second.
- No further discussion.
- Board was polled.
- All were in favor.

The Zoning Commission Regular Meeting was adjourned at 8:53 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2022

Marcus Fischer, Chairman

Michelle Crew, Vice-Chairman

Matt Marzullo, Member

Dave Manley, Member

Bill Spellman, Member