

Minutes

Clark County Rural Zoning Commission

Regular Meeting ~ 8:30 a.m.
Thursday, June 13, 2013

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Ken Brust, Vice Chairperson of the Clark County Rural Zoning Commission of Clark County Ohio, calls the meeting to order at 8:30 a.m.

Present: Mr. Ken Brust, Mr. John Baird, Mr. John Hays and Mr. Pete Lane.

Absent: Mrs. Jerri Taylor.

Vice Chairperson Brust asks if there are any comments regarding the minutes. Hearing none, he asks for a motion to approve the minutes.

RZC: 6-6-2013: Minutes ~ April 10, 2013 (Regular Meeting)

Motion by Mr. Baird, seconded by Mr. Hays to approve the minutes as presented.

VOTE: Motion carried unanimously.

Vice Chairperson Brust explains how the meeting will be held. Everyone will need to sign in that will be speaking. Staff will present the report and the Board will ask questions to the staff. The proponents will be able to speak followed by the opponents. Everyone will be sworn in before they speak. Rebuttal by the Applicant will follow, if desired.

Vice Chairperson Brust asks the Board if anyone needs to abstain. Hearing none, he asks the Staff to present the case.

Z-2013-2:Rezoning Case ~ Roger & Benetta Insprucker ~ 0.45 Acres ~ Property located at 204 Sycamore Street ~ Bethel Township ~ R-2A (Medium Density Single-Family Residence District) to B-2'S' (Community Business District, Specific Use)

Mr. Neimayer, Senior Planner, presents several maps and exhibits of this case and states that the subject property consists of 0.45 acres and is currently zoned R-2A (Medium Density Single-Family Residence District). The property owners are requesting to rezone the subject property from R-2A to B-2'S' (Community Business District, Specific Use). The specific uses requested are single-family residential and auto (minor) repair. As stated in the rezoning application, this collision center (minor repair) land use "has been operating since 1968 at this location." Buildings on the subject property include: 2-story frame home approximately 1,800 sq. ft.; a block garage approximately 1,500 sq. ft.; shed #1 approximately 60 sq. ft.; and shed #2 approximately 120 sq. ft. The property is serviced by public sewer only.

This rezoning case was initiated from a zoning complaint.

The original zoning map for Bethel Township, adopted on November 3, 1964, shows the subject property was zoned R-2 (One Family Residence District). The current zoning map shows the property as R-2A (Medium Density Single-Family Residence District) in accordance with the 1984 County Zoning Regulations.

The surrounding zoning to the north, south, west and east of the subject property is R-2A with land use being residential. To the south is an O-1 (Office District) property, and further south along Main Street is a B-2 (Business District).

The County Engineer's Department has reviewed the rezoning request and has no objection.

The Clark County Zoning Regulations state: Automotive service stations, with repair facilities and excluding temporary or short-term or long-term outside storage of parts and/or vehicles, is a permitted use under the B-2 zoning district. Automotive Service Station is defined as:

“Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicles accessories may be supplied and dispensed at retail; and where minor mechanical work including motor tune-up, tire servicing, replacement of mufflers, radiator cleaning, repairing brakes and other minor work not involving removal of the vehicle motor, the motor head or crank case, and not involving body work, painting, welding or other work involving noise, glare, fumes, smoke, or other characteristics to the extent greater than normally found in filling stations.”

Automotive Body Shop is defined as:

“Any structure or use intended for collision service, repair or painting of motor vehicles.”

By definition of the above two terms, it would appear that B-3, and not B-2, is the proper zoning district for the intended use. Due to the “pyramid” structure of the Business zoning districts, staff advised the property owners to request the Specific Use designation to limit the use of the property to those being requested.

The CROSSROADS Land Use Plan identifies Medway area (which includes the subject property) as Agriculture/Rural Residential, which reads:

“Predominantly rural portions of the County, where agriculture should remain the priority, are designated as Agricultural/Rural Residential. This designation emphasizes agriculture as the dominant land use, but also recognizes that residential uses are appropriate if very low density in character (less than one dwelling per two acres – gross density) and/or clustered to preserve significant open space features (such as prime agricultural soils)”. “Agriculture/Rural Residential is most appropriate in portions of Bethel, German, Green, Harmony, Mad River, Madison, Pike and Pleasant townships”.

Although the property owners indicate the auto repair business has been operating at the subject property since 1968, the 1964 Bethel Township zoning map shows the property zoned for residential use only. Even with applying the specific use designation, approving the

rezoning request would “formally” bring a business use into an established residential zoned district. This business district would be surrounded by the R-2A residential district.

Property located at 105 Sycamore Street was approved for rezoning from R-2 to B-1‘S’ on November 4, 1976 with the specific uses being medical doctors, osteopaths, dentists, engineers and attorneys. This property is located adjacent to the B-2 zoning district (Community Business District) along East and West Main Street in Medway. According to the case file, that property had been used for a doctor’s office since 1961. With the adoption of the 1964 Bethel Township zoning map, the use became a legal, non-conforming use. In order to expand the use, a rezoning was necessary.

The building(s) used for the auto (minor) repair business have not been approved for business use under the building code.

Based on the above information, Staff recommends the Applicant’s request to rezone the subject 0.45 acres from R-2A to B-2‘S’ or B-3‘S’ with the specific uses being single-family residential and auto (minor) repair be denied.

On June 6, 2012 the County Planning Commission met and passed a motion to recommend to the Rural Zoning Commission that the subject 0.45 acres be zoned from R-2A to B-3‘S’ with the specific use being single-family residential and auto (minor) repair be approved.

Mr. Neimayer asks if there are any questions.

Mr. Lane asks to see the zoning map to reconfirm what the surrounding properties are zoned.

Mr. Neimayer displays on the screen the zoning map and reconfirms that the immediate area surrounding the subject property is residential. The business district property in Medway runs along Main Street and that is the B-2 district. There was a business many years ago that was located south of the subject property. It was a doctor’s office and the property was zoned O-1. He also states that in the county’s data base there was a rezoning case filed on the subject property back in the 1970’s, but it was withdrawn for some reasons and there is no information as to why it was withdrawn. The B-2 zoned property further to the north was part of the original zoning adopted by Bethel Township in 1964. Several of those properties over time were rezoned to the R-2A District.

Vice Chairperson Brust asks if the Board has any further questions for Staff.

There are none.

Vice Chairperson Brust opens the meeting to the public at 8:40 a.m. and asks for proponents.

Mr. Doug Fannin (Representative for the Applicant), whose address is 205 W. Main Street, Fairborn, states that he has the owner of the property here, Mr. Roger Insprucker, and Mr. Shane Nugent (owner’s stepson and tenant of property). Mr. Insprucker is renting the property to his stepson Shane who owns the auto body shop and who resides at the property.

He also states that Shane Nugent's father bought the property in 1968 and is the one who built the garage and started the minor collision repair business in the late 60's and that Shane was born and raised there and it has always had a body shop on the property. Shane's father eventually sold the property and along the way the other property owners used the garage for the same purpose of minor auto body repair. Mr. Insprucker purchased the property in 2008 and it was in severe disrepair at that time. Shane repaired and remodeled the property and has made vast improvements along the way. He also has continued to operate the minor collision repair business. The garage itself is about 1,500 sq. ft. and holds approximately four cars. When the front door is closed you cannot even tell it is a body shop. The property is in impeccable condition and he feels very strongly that is the basis for the County Planning Commission's decision to recommend approval. There are three neighbors present that will state they have no objection to Shane maintaining his business at the subject property.

Mr. Nugent presents a display board of pictures of the property and how it is being maintained now. He also has pictures of the property in disarray when it was purchased by Mr. Insprucker back in 2008. The pictures show a dramatic change from what it was and how beautifully maintained the property is currently.

Mr. Hays asks for confirmation as to who the actual owner of the property is.

Mr. Fannin responds that Mr. and Mrs. Insprucker are the property owners. Mrs. Insprucker is Shane's mother. Shane Nugent and his wife are the ones that actually reside at the property.

Mr. Nugent states that not only are there three neighbors present to make statements, but he also went around to all of his surrounding neighbors and had them sign petitions in favor of the body shop.

Mr. Fannin reiterates that the complaint was a written anonymous complaint and from everything they can gather and the Board may even confirm with the neighbor's that is it not a complaint from anyone in the surrounding 200 ft. radius of the property. This property does not stand out amongst the adjacent residential zoned properties and is located relatively close to other business district properties located in Medway.

Mr. Brust asks how long the business has been operated by Mr. Nugent.

Mr. Nugent responds that he has operated the business since 2008. He also states that his father started the body shop in 1968 and sold the property in 1983. It was sold with the building being a body shop and it was continued as a body shop through multiple sales after that. So from 1968 to date the garage on the property has been a body shop.

Mr. Hays asks what "minor" auto repair means.

Mr. Fannin responds that Mr. Nugent does not take full collision repair work in where there would be frame work needed or a vehicle that would require a full paint job. The repairs mostly pertain to a door, fender, hood or a section of a car painted.

Mr. Nugent comments that if he has a vehicle that needs a full paint job he will prep it at his garage and then send the car to Maaco.

Mr. Brust asks if he has specific hours of operation at the shop.

Mr. Nugent responds that his hours are from between 7:30 and 8:00 a.m. for opening in the morning and no later than 5:30 p.m. closing time in the evening. He is occasionally open on Saturdays for a half day and closed on Sundays.

Vice Chairperson Brust asks if there are any more proponents that would like to speak.

Mr. Hillary Terrell, whose address is 110 E. Main Street, states that he has been a resident of Medway for fifty years. He knew Shane's father very well and had no complaints with him as well as no complaints with Shane either. He knows that Shane has put a lot of work into fixing up the property and it looks very nice. He is in favor of the rezoning.

Mr. Shawn Lawson, whose address is 201 Sycamore Street, states that he did not know Shane before he moved into the property. He did know Shane's father because Shane's father and his father worked in the same business. Shane's stepfather bought a property that was in severe disrepair and within a matter of months there were drastic improvements made. It went from a house that was not livable and a building that was not serviceable to a beautiful property today. In this particular neighborhood there are a lot of concerns about the rental properties that are there which are in disrepair and some are not livable and are vacant. They spent months fixing the property up before they moved in and since then he has become a phenomenal neighbor. You cannot even tell there is a collision repair shop there. It is virtually a garage when the doors are closed and you cannot tell what is going on inside. The property is very clean and well kept and there are no junk cars sitting around. If there are vehicles under repair, they are sitting behind the fence. He has no complaints about the business being there.

Mr. Phil Crenshaw, whose address is 824 Savin Hill Court in Fairborn, states that he owns the properties at 208 and 210 Sycamore Street that are adjacent to Shane's property. He now rents the property since he has moved to Fairborn. He comments that Shane has been a good neighbor and he has done a great job cleaning up the property. Medway needs some economic growth. Shane should maintain the body shop there maybe grow the business to where he could hire more people. The town needs to keep the businesses to keep it growing. The history of the property has been well documented and he reminds the Board that it was an anonymous complaint letter from a person who would not even show there face. He is in favor of the rezoning to business.

Vice Chairperson Brust asks for opponents.

There are none.

Vice Chairperson Brust closes the public meeting at 8:53 a.m.

Mr. Baird asks Mr. Neimayer how many times the property has changed ownership since the latest zoning map that indicates the R-2A zoning.

Mr. Neimayer responds, according to Shayne Nugent, four times.

Mr. Baird asks if there was a problem with zoning why was this not brought up before now.

Mr. Neimayer responds that no one has complained until now. There was an anonymous complaint filed and that is why the rezoning is being requested. He possibly thinks that someone is new to the neighborhood, has identified something that does not seem right, and submitted the complaint that has led us to this point.

Hearing no further questions, Vice Chairperson Brust asks for a motion.

There was discussion amongst the Board members regarding what is allowed in the B-2 versus the B-3 zoning districts as well as defining the specific use of the property.

RZC: 6-7-2013: Z-2013-2: Rezoning Case ~ Roger & Benetta Insprucker ~ 0.45 Acres ~ Property located at 204 Sycamore Street ~ Bethel Township ~ R-2A (Medium Density Single-Family Residence District) to B-3'S' (General Business District, Specific Use District)

Motion by Mr. Hays, seconded by Mr. Baird to recommend **Approval** of rezoning case Z-2013-2 from R-2A to B-3 'S' as presented.

VOTE: Motion carried unanimously.

Zoning Regulations – Discussion of Definitions and Proposed Amendments ~ Chapters 1 thru 4

Mr. Neimayer proceeds with asking if the Board had any questions with regards to the definitions that were reviewed last month. There were none. He proceeds by saying that Chapter One is mostly editorial changes such as typos and wrong references. Throughout the document when you are referencing numbers such as 2 acres – it will appear in number form and spelled out i.e.; two (2) for clarification. He points out that on page 1-4 in Section E; he has added the Eastern Edge Overlay Zoning District (EEOD) and the Specific Use Control District (S) to the current zoning districts. On page 1-7 under OS Open Space Overlay District he recommends that “should” needs to be “shall”. He explains that “shall” is something you would have to do or not do instead of “should” being interpreted a recommendation.

Mr. Neimayer states that on page 1-7 under the Eastern Edge Overlay Zoning District (EEOD) the highlighted area is in question as to how it needs to read.

Mr. Brust comments that it should read “by maintaining independence, through interlocking...” seems to make the best sense. He also states that the word “through” could also be “though”.

There was a discussion between the Board Members. It was determined that Staff should review that sentence more closely and come back with a proposal as to how that sentence should read.

Mr. Lane asks that with regards to the open space overlay he knows that in some of the park districts when talking about recreational activities there is reference to specifying “non-competitive” activities meaning they do not end up with a bunch of ball fields and soccer fields. Is there any thought about referencing something like this for the open space areas.

Mr. Neimayer responds that it is not handled like a planned district which would require a site plan for where the development will be including the ball fields, concession stands, parking, etc. This could be asked for but the open space in general does not currently require that. Clark County does not have a site plan type process. If you do not have to rezone, there still could be concerns raised as to how traffic will get in and out, how parking will be addressed and is most likely in low areas possibly in the flood plain or at least where there is a pond. To have a review process of how the development will be laid out would be beneficial, but again Clark County does not have that type of process.

Mr. Neimayer states that throughout the entirety of the zoning regulations the County Health Department is now referred to as The Clark County Combined Health District. Zoning Inspector is also identified now as Zoning Administrator. On page 1-14, Section O – Commentary, this section is being deleted all together because if something needs to be explained it needs be through the zoning text itself. There should not be a need for commentary in this type of document.

He proceeds with Chapter Two in saying that there were wrong references in this chapter and the corrections are all in red. Note that under the conditionally permitted uses that #11 has been changed to read Nursing Homes, Convalescent Homes and Assisted Living Facilities, deleting the term Rest Homes. This brings a more up to date description of those types of living quarters. Under #17 it will now read Garden Centers, Greenhouses and Landscaping Business. Throughout this document the use of “factory built” or “mobile” home is now referred to as manufactured home(s). On page 2-4 he points out that new cell towers are exempt from local zoning and goes through a state review board. However, they do have to obtain a local building permit due to the main structure and electrical needs. So the referencing of #22 will include “To the extent permitted by ORC 519.211.”

Mr. Brust states so in other words, if someone wants to put a cell tower up in the county, they have to build it to the counties building code.

Mr. Neimayer responds that is correct.

Mr. Brust asks if the county has any input as to where the cell tower can and cannot be located.

Mr. Neimayer responds the county has no direct say as to the placement of cell towers.

Mr. Neimayer proceeds with page 2-5 under #3 principal permitted and conditioned uses. It now states that under the R-1, R-2, R-2A and R-2B zoning districts that there are to be no agricultural and related buildings and structures. However, that does not remove someone if they have an R-1 zoned property and is 5 acres or more in size. You can have agriculture on any zoned property, including industrial, according to state law in unincorporated areas. There is local zoning if the property is less than 5 acres following the state law on agricultural use and definitions. On page 2-17 under #27; there needed to be clarification as to a maximum height for a fence or solid wall. Through a discussion with the County Planning Commission, they recommended that it should read "with a solid wall or fence with a height of eight (8) feet."

Mr. Brust asks if the 8 foot fence would be for a business that is engaged in storage.

Mr. Neimayer responds yes. He would actually encourage people to do landscaping because it is more appealing opposed to a fence or wall.

Mr. Neimayer states that on page 2-19 for the AR-1 Zoning District the maximum lot size reads 2.5 acres and this would conflict with the AR-2 district which starts with a minimum of 2 acres. He believes the intent is that it should read 1.99 acres maximum lot size.

He proceeds with page 2-21 under Procedure for the Specific Use Control, under A. 3., there is clarification as to how the "County Commissioners" are referenced throughout this section. Under A. 4., under the County Commissioners, instead of the unanimous vote required to vote differently then what is recommended by the Rural Zoning Commission, it only needs to be a majority vote. State legislation already made this change. It just needs to be incorporated in our zoning regulations. Under B. 2., the last sentence should read "the County Commissioners have acted upon" instead of "has acted upon."

Mr. Neimayer states that Chapter 3 has mostly editorials and typos. He does note that this chapter pertains to the overlay zoning districts that do not have any proposed substantive changes to them. He points out that page 3-5 begins the Eastern Edge Overlay District and was created by the Eastern Edge Corridor Plan which was a joint plan by the City of Springfield, Springfield Township and Clark County. This plan was designed to set higher development standards for that corridor.

Proceeding with Chapter 4, again there are mostly editorials and typos being corrected. On page 4-7 there is clarification to 4. b) as far as the titles of the state building codes. Section H of this chapter makes reference to “manufactured” homes and omitting “mobile”.

He states that concludes the review of Chapter 1 through 4. He asks the Board to review Chapters 5 through 7 for discussion at the July meeting.

Discussion to move next month’s meeting to Thursday, July 18, 2013

Mr. Neimayer states that due to Fourth of July falling on the first Thursday of the month and anticipating that most people will be taking an extended time off, the County Planning Commission has moved their meeting to July 10th. Because the CPC has to make a recommendation to the RZC, the Rural Zoning Commission meeting needs to be rescheduled. Mr. Neimayer recommends moving the RZC meeting to Thursday, July 18, 2013 at 8:30 am. Board members agreed to moving the meeting to July 18th.

Staff Comments

Mr. Neimayer states new rezoning case has been filed and confirmed the July meeting will be on Thursday, July 18, 2013.

Adjournment

RZC: 6-8-2013: Adjournment

Motion by Mr. Hays, seconded by Mr. Baird to adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 9:30 a.m.

Mr. Ken Brust, Vice Chairperson

Mr. Thomas A. Hale, Secretary