

Minutes

Clark County Rural Zoning Commission

Regular Meeting ~ 9:00 a.m.
Thursday, April 13, 2017

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Ken Brust, Chairperson of the Clark County Rural Zoning Commission of Clark County Ohio, called the meeting to order at 9:00 am and asked for the Roll Call.

Present For Roll Call: Mr. Ken Brust, Mr. Wayne Leis, Mr. John Hays, Mr. Bob Jurick and Mr. Larry Spahr.

Absent For Roll Call: Mr. Pete Lane

Chairperson Brust explained how the meeting will be held.

Mr. Neimayer, Senior Planner, stated Mr. Spahr would be a full voting member in Mr. Lane's absence.

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

Approval of the March 9, 2017 Minutes

Motion by Mr. Jurick, seconded by Mr. Leis, to **Approve** the minutes as presented.

VOTE: Yes: Mr. Jurick, Mr. Leis, Mr. Spahr and Mr. Brust.

No: None

Motion carried.

Rezoning Case #Z-2017-01~ Property Owner/Applicant: Ed Kolaczowski ~ Location: 0 Schiller Rd. (PID 010-05-00025-201-023); Bethel Twp. ~ to rezone 1 acre from A-1 to R-1

Chairperson Brust asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located on Schiller Rd. 860-plus ft. west of S. Medway-New Carlisle Rd. and consists of 4.79 acres. The original zoning map adopted for Bethel Township shows the property was zoned A-1 (Agricultural District) and it remains as such today. He stated the Applicant would like to rezone 1.0 acre from A-1 (Agricultural District) to R-1 (Rural Residence District) to allow for a lot split for a new single-family home. The Applicant would like to build a home for his parents and due to the topography of the subject property and its extensive woodlands, the Applicant would like to split off a one (1) acre parcel for the parent's house lot. Mr. Neimayer noted the zoning of the remainder of the subject property would stay as A-1. The CROSSROADS Land Use Plan identifies this area of Bethel Twp. as Agriculture/Rural Residential: "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." Mr. Neimayer stated the subject property can be serviced by public sanitary sewer with on-site well. The public sanitary sewer line runs along the north side of Schiller Rd. The Applicant has already contacted the County Utilities Department regarding hookup. Mr. Neimayer stated the subject area is predominantly a rural residential and agricultural area. Therefore, Staff recommends the Applicant's request to rezone 1.0 acre from A-1 to R-1 to allow for a lot split to build a single-family

residence be approved as presented. Mr. Neimayer noted that the County Planning Commission recommended approval as presented at its April 5, 2017 meeting.

Chairperson Brust asked if there were questions for Staff. There were no questions.

Chairperson Brust opened the public hearing at 9:05 a.m.

Mr. Ed Kolaczowski, 1737 Fairlynn Dr., Beaver Creek, was sworn in. Mr. Kolaczowski stated he wanted the lot to build a home for his parents and himself. He stated he opted to rezone instead of just dividing due to the layout of the land and the setback requirements. He stated the layout of the land as an area of woods with a slope and soggy area. He stated the only area to build the two dwellings was the farmland area near the road. Mr. Kolaczowski stated the rezoning allowed for smaller setbacks needed to position the house where desired.

Chairperson Brust asked if there were questions for the Applicant. There were no questions.

Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case. No one spoke.

Chairperson Brust closed the public hearing at 9:07 a.m. With no discussion from the Board, he asked for a motion.

Action Rezoning Case #Z-2017-01 ~ Property Owner/Applicant: Ed Kolaczowski ~ Location: 0 Schiller Rd. (PID 010-05-00025-201-023); Bethel Twp. ~ to rezone 1 acre from A-1 to R-1

Motion by Mr. Leis, seconded by Mr. Hays, to recommend **Approval** as presented.

VOTE: Yes: Mr. Leis, Mr. Hays, Mr. Jurick and Mr. Spahr.

No: None

Motion carried.

Rezoning Case #Z-2017-02 ~ Property Owners/Applicants: Jack & Judith Woods ~ Location: 2620 Moorefield Rd.; Moorefield Twp. ~ to rezone 10 acres from A-1 to AR-10 for lot split.

Chairperson Brust asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 2620 Moorefield Rd. and consists of 39.52 acres. The original zoning map adopted for Moorefield Twp. shows the property was zoned A-1 (Agricultural District) and it remains as such today. The Applicant would like to rezone 10 acres from A-1 to AR-10 (Agricultural/Residential District) to allow for a lot split of the existing house site with surrounding land. Mr. Neimayer noted that the zoning of the remainder of the subject property would stay as A-1. He explained the intent of the AR-10 District is to allow low density and very low density residential development in areas deemed unsuitable or unusable for agricultural uses or which will allow limited residential development in a manner so as not to impede agricultural uses.

Mr. Neimayer pointed out the PD-M Zoning to the North, East and West of the property. Because that development never Commenced, further zoning action would be needed to develop that area. Mr. Neimayer said The CROSSROADS Land Use Plan identifies this area as Medium Density

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Residential: "...development (4 to 6 dwellings per acre - gross density) should be directed to existing residential growth areas, where it can be serviced by central water and sewer service." The existing residence is serviced by on-site utilities, but noted there are public water and sanitary sewer lines along Moorefield Rd. The Applicant does not have to hookup to the public utilities. Mr. Neimayer stated the subject area is predominantly a rural residential and agricultural area. Therefore, Staff recommends the Applicant's request to rezone the 10 acres from A-1 to AR-10 to allow for a lot split of the existing house site with surrounding land be approved as presented. Mr. Neimayer noted that the County Planning Commission recommended approval as presented at its April 5, 2017 meeting.

Chairperson Brust asked if there were questions for Staff.

Mr. Leis asked if the area surrounding the 10 acres would remain A-1. Mr. Neimayer responded yes.

Mr. Jurick asked if the PD-M had a time limit and if it had expired. Mr. Neimayer stated yes, and he noted that the owner would have to go back through the zoning process in order to develop the land.

With no further questions for Staff, Chairperson Brust opened the public hearing at 9:12 a.m.

Chairperson Brust asked if the Applicant wished to speak. The Applicant was not present.

Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case. No one spoke.

Chairperson Brust closed the public hearing at 9:13 a.m. With no discussion from the Board, he asked for a motion.

Action Rezoning Case #Z-2017-02 ~ Property Owners/Applicants: Jack & Judith Woods ~ Location: 2620 Moorefield Rd.; Moorefield Twp. ~ to rezone 10 acres from A-1 to AR-10 for a lot split.

Motion by Mr. Jurick, seconded by Mr. Hays, to recommend **Approval** as presented.

VOTE: Yes: Mr. Jurick, Mr. Hays, Mr. Leis and Mr. Spahr.

No: None

Motion carried.

Rezoning Case #Z-2017-03 ~ Property Owner/Applicant: Noelle Gehm, O.D. ~ Location: 10551 W. National Rd.; Bethel Twp. ~ to rezone 1.37 acres from A-1 to O-1 for an optometry office.

Chairperson Brust asked for the Staff Report.

Mr. Neimayer stated the subject property is located at 10551 W. National Rd. and consists of 1.37 acres. The original zoning map adopted for Bethel Twp. shows the property was zoned A-1 (Agricultural District) and it remains as such today. He said the Applicant would like to rezone the subject property from A-1 to O-1 (Office Business District) for a new optometry office. In addition to renovating the existing house for the new office use, the Applicant proposes to add a 22 ft. by 25 ft. (550 sq. ft.) addition on the east side of the building. The intent of the Office Business District is to

reflect existing office uses at different locations throughout the unincorporated areas of the County, and to allow a “mix” of business and professional office establishments with existing dwellings along major thoroughfare frontage that is undergoing transition.

The CROSSROADS Land Use Plan identifies this area as Agriculture/Rural Residential: “predominantly rural portions of the County, where agriculture should remain the priority, are designated as Agricultural/Rural Residential. He stated the residence had been serviced by on-site utilities but, per the Health Dept., the existing septic and leach field must be abandoned and the new office building must be connected to the sanitary sewer line along W. National Rd., which is owned by the Village of Donnelsville. Mr. Neimayer stated the Applicant is working with the Health Dept. regarding this matter in addition to the provision of water service (i.e., under the Health Dept. or the Ohio EPA).

Mr. Neimayer stated the off-street parking requirement for a medical office is three spaces for each examination room, plus one space for each doctor or employee. He noted the submitted site plan shows 15 total parking spaces including one handicap space and two exam rooms. Mr. Neimayer stated the proposed addition on the east end of the building would not comply with the front setback requirement of the O-1 District. Staff has already reviewed this setback issue with the Applicant. Pending rezoning approval, the Applicant can either file a variance application requesting a reduction to this setback or modify the site plan as necessary, which would require reconfiguring the parking area.

Staff recommends the Applicant’s request to rezone the subject property from A-1 to O-1 be approved conditioned that before a Certificate of Zoning can be issued, the following items must be resolved: 1) review and approval from ODOT for access to the new office development; 2) approval from the Health Dept. and/or Ohio EPA regarding water provisions; 3) all necessary approvals for connecting the office building to the public sanitary sewer; and 4) zoning compliance of the proposed addition. Mr. Neimayer noted that the Planning Commission recommended approval as presented with the same four conditions at its April 5, 2017 meeting.

Chairperson Brust asked if there were questions for staff.

Mr. Hays asked Mr. Neimayer to clarify Condition 4 of the recommendation. Mr. Neimayer stated the proposed addition would have to meet the setbacks, have BZA approval or be relocated. He stated this condition states for the record that those items will be resolved.

Mr. Jurick asked if the junkyard behind the property was in compliance. Mr. Neimayer stated the junkyard was in operation before zoning. Therefore, it was grandfathered in.

Mr. Spahr asked about the public sewer. Mr. Neimayer stated the Applicant is working with the Health Department and the nearest hookup is Donnelsville. Mr. Spahr asked if water was available. Mr. Neimayer stated no. The office development would be serviced by private well and that the Applicant is working with the Health Department and Ohio EPA on that matter.

Chairperson Brust opened the public hearing at 9:23 a.m.

Chairperson Brust asked if the Applicant wished to speak.

Ms. Noelle Gehm, 10408 Charmwood Lane, was sworn in. Ms. Gehm stated she planned to renovate the exterior and gut the interior to allow for setup of exam rooms. She stated she is currently

practicing in town and is outgrowing that space. She stated there is a lot of traffic on W. National Road and she thought it would be a good location and it could help grow her business.

Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case. No one spoke.

Chairperson Brust closed the public hearing at 9:24 a.m. With no discussion from the Board, he asked for a motion.

Action Rezoning Case #Z-2017-03 ~ Property Owner/Applicant: Noelle Gehm, O.D. ~ Location: 10551 W. National Rd.; Bethel Twp. ~ to rezone 1.37 acres from A-1 to O-1 for an optometry office.

Motion by Mr. Hays, seconded by Mr. Spahr, to recommend **Approval** as presented with the following conditions: 1) review and approval from ODOT for access to the new office development; 2) approval from the Health Dept. and/or Ohio EPA regarding water provisions; 3) all necessary approvals for connecting the office building to the public sanitary sewer; and 4) zoning compliance of the proposed addition.

VOTE: Yes: Mr. Hays, Mr. Spahr, Mr. Jurick, and Mr. Leis.

No: None

Motion carried.

Rezoning Case #Z-2017-04 ~ Property Owner: Allan Pohlman ~ Applicant: Gabrielle Dent ~ Location: 4690 S. Tecumseh Rd.; Mad River Twp. ~ to rezone 5.98 acres from A-1 to PD-M for a photography studio, a Bed & Breakfast, and an event venue

Chairperson Brust asked for the staff report.

Mr. Neimayer stated the subject property is located at 4690 S. Tecumseh Rd. and consists of 5.98 acres. The original zoning map adopted for Mad River Twp. shows the property was zoned A-1 (Agricultural District) and it remains as such today. He stated the Applicant would like to rezone the subject property from A-1 to PD-M (Planned District-Mixed Use) for a photography studio (outdoor studio space), a Bed & Breakfast, and a 2,000 sq. ft. shelter building for an event venue hosting small to medium side weddings. The PD-M provides flexibility for a variety of land uses arranged in such a way as to develop a plan permitting a mixture of types of buildings and uses in harmony with each other which are not provided for in any of the other "PD" District.

Mr. Neimayer stated the CROSSROADS Land Use Plan identifies this area of Mad River Twp. as Agriculture/Rural Residential, "Predominantly rural portions of the County, where agriculture should remain the priority". Mr. Neimayer explained the subject property is 5.98 acres in size of which approximately 3.7 acres is located in Flood Zone A leaving just over two acres on the north side of the property outside the floodplain. He noted the Applicant will need to work with the County Engineer's Dept. on proper access point(s) for the proposed use of the property. For the intended uses, off-street parking requirements would be: bed and breakfast: 1 space per unit, plus 1 space for each employee; photography studio: 1 space per 200 net sq. ft. (to be confirmed); and event venue: 1 space per 3 seats. He also noted zoning regulations require parking areas for a non-residential use to

be a paved/hard surface. Mr. Neimayer referenced the submitted site plan, and pointed out the planned parking area would be located between the house and the shed.

Mr. Neimayer stated the subject area is predominantly a rural residential and agricultural area and the Applicant's proposed uses are appropriate for the property's location taking advantage of its natural features. He explained the PD-M District is the only zoning district that allows for mixed (residential and non-residential) uses. If the rezoning is approved, the Applicant will need to file a Floodplain Development Application for review and compliance under the floodplain regulations. In addition, the Applicant will need to comply with the county's stormwater management requirements.

Mr. Neimayer stated Staff recommends the Applicant's request to rezone the subject property from A-1 to PD-M be approved as presented. Mr. Neimayer directed the Board to the County Engineer's Department's letter that was received after the Board packet was sent out. Mr. Neimayer explained that the second (south) access point was the better of the two access points. He stated it will be best to eliminate the one on the curve. Mr. Neimayer also noted the Board could designate the area near the road as a no build/no landscape area to help with visibility. He noted that the parking shown on the proposed site plan may be too much and if some spaces were to be eliminated, less pavement would be needed. Mr. Neimayer noted that the County Planning Commission met on April 5, 2017 and recommended approval as presented with the following items be resolved before a Certificate of Zoning is issued: 1) compliance with floodplain regulations as applicable; 2) resolving site access issue with the County Engineer's Department; and 3) compliance with the county's stormwater management regulations at its April 5, 2017 meeting.

Chairperson Brust asked if there were questions for Staff.

Chairperson Brust asked Mr. Neimayer if there was clear sight from the proposed access point. Mr. Spahr stated no, he thought the elevation change prevented good sight. Mr. Neimayer responded there was an incline and that he was suggesting a no build area for visibility.

Chairperson Brust asked if parking is reduced, could the storm water detention be done in the same area. Mr. Neimayer stated yes and noted that gravel would also reduce the detention needs.

Mr. Jurick stated gravel is more pervious than pavement and he felt it was a better fit for the long term. He asked if the BZA had to grant approval for the gravel. Mr. Neimayer responded no. He noted that because this is a Planned District (zoning request) gravel could be approved with the rezoning.

Mr. Hays noted that there is a big drop from the house to the proposed parking lot.

Mr. Spahr noted an access point is very limited due to the elevation of the land.

Mr. Neimayer stated the access would have to be worked out with the County Engineer's Department.

Mr. Jurick asked if the property was near the quarry proposed for expansion. Mr. Neimayer responded yes and explained that the applicant was informed of that issue.

Mr. Neimayer noted that if the Board had questions for the Applicant, they could table this rezoning request due to the Applicant not being present.

Chairperson Brust opened the public hearing at 9:41 a.m.

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Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case.

Doug Fisher, 4894 S. Tecumseh Rd. was sworn in. Mr. Fisher stated he was not against the rezoning, but wanted to know if there are any noise ordinances. Mr. Neimayer responded it would be a general nuisance. Mr. Fisher asked if there is a time of operation indicated. Mr. Neimayer responded no.

With no one else to speak against the case, Chairperson Brust closed the public hearing at 9:45 a.m. With no discussion from the Board, he asked for a motion.

Action Rezoning Case #Z-2017-04 ~ Property Owner: Allan Pohlman ~ Applicant: Gabrielle Dent ~ Location: 4690 S. Tecumseh Rd.; Mad River Twp.~ to rezone 5.98 acres from A-1 to PD-M for a photography studio (outdoor studio space), a Bed & Breakfast, and an event venue

Motion by Mr. Hays, seconded by Mr. Spahr to **Table** this case until the May 11, 2017 meeting as the Applicant was not present.

VOTE: Yes: Mr. Hays, Mr. Spahr, Mr. Jurick and Mr. Leis.

No: None

Motion carried.

Zoning Text Amendment Case #ZA-2017-01 ~ Initiated by the Rural Zoning Commission regarding ~ Agricultural Use and Keeping of Animals: Chapter 2, Section A, Footnote 32; Chapter 2, Section B, Footnote 17; Chapter 8, Section H, 7; and Chapter 10 Definitions

Chairperson Brust asked for the staff report.

Mrs. Jennifer Tuttle updated the Board on how agricultural use and keeping of animals is defined according to the Ohio Revised Code and revisited the slides presented at the March meeting. Mrs. Tuttle then reviewed the proposed zoning text amendments regarding agricultural use and the keeping of animals. She explained the proposed updates Chapter 2, Section A, 32; Chapter 2, Section B, 17; Chapter 8, Section H, 7, a) and b) and definitions in Chapter 10. Mrs. Tuttle noted that there were no changes since the previous presentation. She explained at the request of the Rural Zoning Commission she had gathered more research on the keeping of animals on lots of one acre or less. Mrs. Tuttle presented the slides of each township with the percentage of lots in subdivisions that would be affected.

Mrs. Tuttle explained that she reached out to the local OSU Extension Office, but was referred to the Miami County office. Mrs. Tuttle shared the information she had been given from the OSU Extension Office of Miami County. Mrs. Tuttle then informed the Board what staff recently learned about House Bill 175 (allowing animals on residential lots) after the County Planning Commission meeting. She directed the Board to a copy of the proposed bill that was passed out. Mrs. Tuttle explained it might be best to table the proposed zoning text amendment until Staff can discuss this with the county prosecutor's office. She also stated she did not know the timeline for the bill.

Chairperson Brust opened the public hearing at 9:57 a.m.

Chairperson Brust asked if anyone wished to speak for the amendment. No one spoke.

Chairperson Brust asked if anyone wished to against the case.

Ms. Sherry Chen, 5545 Ballentine Pike, was sworn in. Ms. Chen stated she did not want to address 4-H, but wanted to view the amendment on a larger scale. She stated she wanted the Board to consider small livestock on small acreage, food insecurity, human health, right to raise and eat food and resilience (provide for self) and basic human rights to feed ourselves and others. She stated Cleveland has allowed it and even Franklin County with chickens, ducks and rabbits. She thanked the Board for being flexible and considering her request.

Ms. Jenny Woolery, 3520 Cambridge Dr., was sworn in. Ms. Woolery stated she was not for or against the proposed amendment, but had questions. Ms. Woolery asked if the amendment included bees. Mr. Neimayer responded yes. Ms. Woolery asked about zoning enforcement if HB 175 was to pass. Mr. Neimayer responded the proposed amendments are to clean up language to mirror Ohio Revised Code and if House Bill 175 passed, it would trump local zoning code. Ms. Woolery stated she lived in Terra Cela Subdivision and asked for draft copies to share with the subdivision's residents. She mentioned enforcement was an issue from the homeowners' side. She indicated there were several issues with animals already in the subdivision. Mrs. Tuttle stated she would provide draft copies to Ms. Woolery. Mr. Spahr asked that Staff to stamp the copies as draft before giving out to the public.

With no further questions, Chairperson Brust closed the public hearing at 10:06 am. With no further discussion among the Board, he asked for a motion.

Zoning Text Amendment Case #ZA-2017-01 ~ Initiated by the Rural Zoning Commission regarding ~ Agricultural Use and Keeping of Animals: Chapter 2, Section A, Footnote 32; Chapter 2, Section B, Footnote 17; Chapter 8, Section H, 7; and Chapter 10 Definitions

Motion by Mr. Leis, seconded by Mr. Hays, to **Table** Case #ZA-2017-01 to allow Staff to discuss with the county prosecutor's office.

VOTE: Yes: Mr. Leis, Mr. Hays, Mr. Spahr, Mr. Jurick and Mr. Brust.

No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meeting is Thursday, May 11, 2017.

Mr. Jurick asked Mr. Neimayer for an update on the Enon Sand and Gravel Quarry. Mr. Neimayer stated it was Staff's opinion that the area behind Echo Hills Subdivision has never had zoning approval or any part of the area considered grandfathered in. He also stated that other areas that Enon Sand and Gravel has acquired may not have had zoning approval either. He stated Staff was working to identify the original gravel pits at the time of the adoption of zoning. Staff plans to meet with the county prosecutor's office to further discuss this issue. With regards to conditions of the

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BZA, Mr. Jurick asked if a modification is made, would an Applicant have to go back through the BZA. Mr. Neimayer responded yes.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 10:12 am.

Mr. Ken Brust, Chairperson

Mr. Thomas A. Hale, Secretary