

# **Minutes**

## **Clark County Rural Zoning Commission**

Regular Meeting ~ 9:00 am.  
Thursday, February 10, 2022

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

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

Present For Roll Call: Mr. Ken Brust, Mr. Pete Lane, Mr. Matt Taylor and Mr. Larry Spahr.

Absent For Roll Call: Mr. Wayne Leis and Mr. Bob Jurick.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle and Mrs. Rachel Clime-Ricketts of Clark County Community & Economic Development.

### **Approval of the November 10, 2021 Minutes**

Motion by Mr. Spahr, seconded by Mr. Lane, to **Approve** the minutes as presented.

**VOTE: Yes:** Mr. Spahr, Mr. Lane and Mr. Brust.

**No:** None.

**Abstain:** Mr. Taylor.

***Motion Carried.***

Chairperson Brust explained how the meeting will be held.

Chairperson Brust asked Staff to present the case.

Mr. Neimayer introduced Matt Taylor as the Board's alternate. He indicated that in the absence of Mr. Leis and Mr. Jurick, Mr. Taylor will be a full-voting member today.

### **Rezoning Case #Z-2022-01 ~ Property Owner/Applicant: Fred Messaros ~ Location: 1291 Cold Springs Rd., Mad River Twp. ~ Request: to rezone 151+ acres from A-1 to PD-B to allow for commercial indoor and outdoor recreational activities.**

Mr. Allan Neimayer, Senior Planner, stated that the subject property is located at 1291 Cold Springs Rd. in Mad River Twp., involving Parcel Nos. #180-06-00021-000-088 & 089, and consists of 151+ total acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like to rezone the property to allow for commercial indoor and outdoor recreational activities including the following: haunted house, escape rooms, clown tent, corn maze, live entertainment, pumpkin glow, corn maze Christmas drive thru. Mr. Neimayer noted the majority of the property will continue to be used for agricultural purpose. Mr. Neimayer reviewed slides of existing zoning and land use of the subject area.

Mr. Spahr asked about the classification of Cold Springs Rd. Mr. Neimayer responded from what we know from the County Engineer's Office it is a private drive beyond the gate. Mrs. Tuttle added the County Engineer's Office believes that was an error listing Cold Spring's Rd. back that far, but they need to dig deeper into paper journals to verify.

Mr. Neimayer stated the Applicant's original request was to rezone the property to B-3 (General Business District) to allow commercial indoor and outdoor recreational activities. As non-residential uses, zoning regulations require all parking and related areas to be paved or similar type surface.

# ***Minutes***

## ***Clark County Rural Zoning Commission***

---

Therefore, the Applicant has amended the rezoning request to PD-B (Planned Development-Business District) for commercial indoor and outdoor recreational activities and to allow all parking and related areas to be a non-paved surface.

Mr. Neimayer reviewed the intent of the PD-B District. As public utilities are not available the Applicant will need to work with the Health District, or Ohio EPA, for on-site utilities servicing the recreational activities.

The right-of-way status of Cold Springs Rd. is unclear and the County Engineer's Office is researching this. From the county GIS aerial, Cold Springs Rd. starts out at approximately 20 ft. in width coming off of Dayton-Springfield Rd. for the first 705 ft. then narrows to approximately 15 ft.

The proposed parking area is approximately 3 to 4 acres. The Applicant would like to use this area for agricultural purpose during other times of the year and thus does not want to pave the parking area. Hence the Applicant's reasoning for PD-B zoning vs. B-3 zoning.

The proposed rezoning to a PD-B District would not prevent agricultural use on the property, this in accordance with state law. The Applicant has operated a seasonal haunted house, a commercial use, for many years. Approval of this rezoning request would bring that use into zoning compliance.

If approved as a PD-B District, approval should only be for Preliminary Plan and subject to comments from the County Engineer's Office with regards to the right-of-way status of Cold Springs Rd. In regards to parking and related areas, Staff recommends that, at a minimum, they be a gravel surface due to potential erosion concern, anticipated volume of traffic by patrons, and for safe access by emergency vehicles. Depending on the County Engineer's Office's research on Cold Springs Rd. and its right-of-way status, further conditions of approval may become necessary. Final Plan approval shall be with the Zoning Inspector after receiving sign-off from the County Engineer's Office regarding access and storm water management. At the Zoning Inspector's discretion, approval of the Final Plan shall go before the County Planning Commission.

Mr. Lane asked about Mad River being adjacent to the property and are there any restrictions on development in that area. Mr. Neimayer responded I do not believe the proposed use of recreational activities would have an impact on the Mad River.

Mr. Neimayer stated the Clark County Planning Commission met on February 2, 2022 to hear this case. Following their review and discussion, they moved to recommend to the Rural Zoning Commission approve the rezoning case as requested by the Applicant under the PD-B Preliminary Plan approval with the Final Plan approval to be with the Zoning Inspector after receiving sign-off from the County Engineer's Office.

Chairperson Burst asked, this is essentially to clean up the zoning, and this isn't an ongoing concern. Mr. Neimayer responded yes plus it is an expansion of the commercial activity.

With no further questions for Staff, Chairperson Burst opened the public hearing at 9:17 am. and asked if the Applicant would like to speak.

Fred Messaros, Applicant, 1291 Cold Springs Rd., was sworn in

Chairperson Burst asked the Applicant about the holidays, would this give you an opportunity to build on the fourth of July other than fall and winter. The Applicant responded we do not foresee that. The Applicant explained he wants to get started on one of those buildings for the escape rooms as soon as possible.

# ***Minutes***

## ***Clark County Rural Zoning Commission***

---

With no further questions for the Applicant, Chairperson Brust asked if anyone wanted to speak in favor of this rezoning request. There were none. He then asked if anyone wanted to speak in opposition of the request.

Sharron Bittner, 3950 Dayton Springfield Rd, was sworn in. Ms. Bittner explained she lives in the house off of Cold Springs Rd. and we do not have an issue with what the Applicant is doing. We do have an issue with the dirt. She would like to see Cold Springs Rd. paved; the dirt is unreal. They (cars from the Haunted House) fly up and down this road. There needs to be more speed limit signs.

Chairperson Brust asked so you are talking about the parking lot area. Ms. Bittner responded I do not have a problem with the parking. But when they come off the road, it needs to be black topped. Chairperson Brust stated that would be the township's responsibility.

The Applicant stated according to my deed I own the road (Cold Springs Rd.). And according to the deed, since Ms. Bittner uses my road, I have to give her 60 day notice if I ever decide I do not want her to use it. Mrs. Tuttle added that at the Technical Review Committee meeting, the County Engineer's Office stated that part of that road appears to be public right-of-way (up to the gate). The County Engineer's Office is further researching this matter. Mrs. Bittner then asked, so we need to go to the township? Mrs. Tuttle responded the best thing is for the Applicant to work with the County Engineer's Office.

Mr. Spahr asked about the adjacent commercial property. Mrs. Tuttle responded that is the medical marijuana plant.

Chairperson Brust asked what the distance was from the gate to the end of the road. The Applicant responded about 300 to 400 feet. The Applicant added if Ms. Bittner wants some black top I can pay for that. At least from the street to her driveway. The unpaved road slows cars down. When it is a smooth surface they tend to fly down it. Mr. Spahr asked would you be able to put in speed bumps. The Applicant responded maybe something temporary for that month.

Etta McMann, 3960 Dayton Springfield Rd., was sworn in. Mrs. McMann explained she lives in the little house that is right next to the road. When trucks go up and down there you cannot breathe. During Halloween, you cannot breathe she adds. This is an everyday issue but at the holidays it is worse.

Mr. Lane stated if the Applicant were to blacktop back to the gate that should solve the problem. In other words beyond the gate if you kept those unpaved, you have a good distance. Chairperson Brust added and with it paved to the gate it would be a clear demarcation of where the public right-of-way is.

Mr. Spahr asked who owns the pole barn at the back by the gate. Ms. Bittner responded that is our barn. Before my husband passed away we use to own a dump truck business. Chairperson Brust stated so with the dump truck business your husband used to own, you have been use to the dust. Mrs. Bittner responded my husband was strict on the drivers.

Chairperson Brust asked what kind of issue it would be to pave back to the curve (the gate). The Applicant responded that is a good ways back and about 30 to 40 feet wide. I do not have a problem paving back to her driveway. Mrs. Tuttle stated if the Board makes that part of the motion or stipulation that it be dependent upon the County Engineer's Office's findings.

# ***Minutes***

## ***Clark County Rural Zoning Commission***

Mr. Taylor asked if they (Ms. Bittner and Mrs. McMann) have an entrance off of Dayton-Springfield Road. Mr. Neimayer responded no. Mr. Taylor added the boundaries look unclear from the GIS map.

Chairperson Brust asked, if the County Engineer's Office decides it (the paving) is up to the township and the township says no then what happens? Mrs. Tuttle responded they (the Applicant and the township) would need to come to an agreement.

Mr. Lane stated if you had to put in that road to buy it, it suggests to me that that is a private road.

There was further Board discussion on the public right-of-way. Chairperson Brust explained, this Board does not have any authority to interact at this point in time with the road matter other than putting in a stipulation that contingent upon the Applicant and the township resurfacing the road.

Hearing no further discussion Chairperson Brust closed the public portion of the hearing at 9:43 am. and asked for a motion.

**Action on Rezoning Case #Z-2022-01 ~ Property Owner/Applicant: Fred Messaros ~ Location: 1291 Cold Springs Rd., Mad River Twp. ~ Request: to rezone 151+ acres from A-1 to PD-B to allow for commercial indoor and outdoor recreational activities.**

Motion by Mr. Lane, seconded by Mr. Taylor, to **Approve** the rezoning case as presented as follows:

1. Preliminary Plan approval only.
2. Final Plan approval shall be with the Zoning Inspector after receiving sign-off from the County Engineer's Office regarding access and storm water management. At the Zoning Inspector's discretion, approval of the Final Plan shall go before the County Planning Commission.
3. Allow all parking and related areas to be a non-paved surface.
4. Findings of the County Engineer's Office regarding the responsibility for the surface of Cold Springs Rd. and a mutual agreement/solution between the Applicant, the county and township trustees.

**VOTE: Yes:** Mr. Lane, Mr. Taylor and Mr. Spahr.

**No:** None.

***Motion Carried.***

Chairperson Brust called a recess at 9:46 am.

Chairperson Brust called the meeting back to order at 9:55 am.

**Rezoning Text Amendment Case #ZA-2017-01 ~ proposed amendments regarding agricultural uses and the keeping of animals ~ Initiated by the Rural Zoning Commission on 3-9-2017.**

Mr. Neimayer reviewed the purpose of this proposed text amendment. It was Tabled per direction from the County Prosecutor's Office due to proposed legislation that was introduced in the General Assembly. Now, Staff is requesting the Board withdraw this case.

# **Minutes**

## **Clark County Rural Zoning Commission**

### **Action on Rezoning Text Amendment Case #ZA-2017-01 ~ proposed amendments regarding agricultural uses and the keeping of animals ~ Initiated by the Rural Zoning Commission on 3-9-2017.**

Motion by Mr. Spahr, seconded by Mr. Lane, to **Withdraw** Case #ZA-2017-01.

**VOTE: Yes:** Mr. Spahr, Mr. Lane and Mr. Taylor.

**No:** none

***Motion Carried.***

### **Staff Comments**

Next scheduled meetings: March 10 & April 14, 2022.

### **Board Education/Training.**

Mr. Neimayer explained board training for the upcoming months. He then gave a presentation on land use planning tools available to the Board: the comprehensive plan; the zoning code and subdivision regulations (see attachment of the PowerPoint).

The Comprehensive Plan analyzes the community's development trends such as land use patterns; roads; utilities; open spaces; others (locally determined) to prepare recommendations on how the community should develop to meet its pre-determined goals. The Plan's goals and policy guidelines are used for mapping out the community's future development and growth. The Plan helps account for future demand for services including public water and sanitary sewer, roads, police and fire protection – plus schools and public open spaces.

The Zoning Code brings the comprehensive plan recommendations into reality by directing the physical development of land and the use of property typically by dividing the community into separate land use (zoning) districts and identifying what land uses are allowed within each district.

Subdivision Regulations establishes the procedures and standards to be followed when a parent parcel of land is divided into two or more parcels.

Mr. Neimayer concludes by explaining why we zone: to implement the land use recommendations of the comprehensive plan to protect the health and safety of the community.

### **Adjournment**

Motion by Mr. Spahr, seconded by Mr. Lane, to **Adjourn.**

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 10:26 pm.

---

Mr. Ken Brust, Chairperson