

## XENIA TOWNSHIP ZONING COMMISSION

### MEETING

May 27, 2014

**THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE MEETING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.**

The Xenia Township Zoning Commission held a meeting on May 27, 2014 at 6:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH, 45385 with the following members present:

Attendees: Virgil Ferguson, Alan King, Willie Washington, Jeffrey Zweber, alternate Donna Randall and Alan Stock, Zoning Inspector/Clerk. Also present was Robert Nutter, guest.

Guests: Robert Nutter, Ulysses Ponder and Mrs. Ponder.

Chairman Alan King called the meeting to order at 6:13 p.m.

A motion was made by Willie Washington to approve the minutes as submitted from the Zoning Commission Meeting on April 22, 2014. Virgil Ferguson seconded. All voted aye. Minutes were approved.

Alan Stock asked when the Zoning Commission would like to discuss Mobile Home District text. The Commission asked how much deliberation it would entail. There was a brief discussion. The definition of park or community is three or more mobile homes. The State has jurisdiction if it is a park or community. The only mobile home park in Xenia Township is on U.S. 68, just south of the Xenia Township office. The Township is not allowed to set the minimum size of parcel for a mobile home park. The State's minimum for mobile home parks is 3500 square feet plus roads. Their minimum size of mobile home is 900 square feet. Alan Stock suggested three things the Zoning Commission might want to do with the Mobile Home District text: 1) Set minimum acres for the Mobile Home District; 2) Set minimum road frontage for the Mobile Home District; and 3) State that Xenia Township mobile home parks or communities are regulated by the Manufactured Home Commission in compliance with ORC 47.81. The Commission decided to discuss Mobile Home District text after the Rural Entertainment and Hospitality text. It will be put ahead of the Sign text discussions.

The Zoning Commission's proposal for Rural Entertainment and Hospitality text amendments which was sent to the Trustees has been returned for revisions. Mr. Stock said the Trustees would like to have ranches defined, to have the word "etc." removed, and to look at considerations in Exhibit A. In Exhibit A specifically the concern was oversight and for how long the oversight would take place. Typically when the BZA grants a conditional use it runs with the land, not the owner. Exhibit A held questions about what the safeguards were for that. Alan King suggested taking out the word "etc." The Commission agreed. There was discussion about the word ranch. In their definition of farm so much is covered in the definition the Commission felt there was no need for the use of the word "ranch". With the phrase "working farm" it seems the word "working" is unnecessary. The Zoning Commission decided to remove the word "working". The State of Ohio says you can farm in any district without restrictions. There was a dispute (in Exhibit A) about whether the Commission meant "zoned Agricultural

District” or “having an agricultural use”. With the proposed definition it would allow Rural Entertainment and Hospitality as a conditional use in any district. What the Commission meant was only in the Agricultural District. Donna Randall said the word “ranch” or “ranching” is also in the definitions for Farm and Animal Husbandry. They might also want to remove those to be consistent. Alan King asked the guest for clarification of his objections at this time.

**Robert Nutter** said it was explained to him this was to help farmers who were trying to make it. This is an agricultural detail and not necessarily for everyone zoned Agricultural District. He said the biggest infractor of zoned Agricultural happens to be Kil-kare. If the text amendment is passed in this form they could have things that were turned down because they are zoned Agricultural. If it is for farmers, you need to make sure it is an operating farm that meets the CAUV definition (if it makes \$2,000 it is a farm). Mr. Nutter’s attorney was trying to eliminate the ambiguity. If creating entertainment, it will create a nuisance in some form. The nuisance could be in the form of noise, dust, or traffic. He wonders how the nuisances will be controlled. He asked what the intent of the Zoning Commission was. Alan King responded they want to take the liberal use of person’s ownership of their property to do pretty much what they want to do with it as long as it does not infringe on the freedom of other people. That is always an issue such as saying how much noise is too much noise. They rely on the Board of Zoning Appeals to have those specific limitations in the conditional uses they grant. Mr. Nutter said that is a false reliance. You are relying on people you never gave the tools to deal with the problem; you are creating more problems; and neither you nor the Trustees are able to control the problems when they do occur. Their way to control the problem is waiting until it gets over with. He said the lawyer from Greene County said we will just let everybody sue everybody else. He questioned why have zoning at all with that attitude. Alan King said on the other hand, just because it is a problem for him doesn’t mean it is a problem. Mr. Nutter said there are a few hundred other Township residents who consider it a problem also—meaning Kil-kare. He asked when rural entertainment becomes a business. Mr. King answered a farm is a business. He said we do need to make the text as clear as possible. Jeffrey Zweber asked how much farming is required to be done on a piece of property to qualify for the conditional use for rural entertainment and hospitality. Writing it simply as a conditional use listed with other conditional uses under Agriculture would mean anyone in an Agriculture District could apply for it. Mr. Nutter said many businesses should be zoned commercial. He said passing this text amendment would give Kil-kare the freedom to do anything they want to do, and he said maybe that is the unspoken intent. Mr. Stock said Mr. Nutter is questioning the integrity of the Zoning Commission, the Board of Zoning Appeals and himself and he does not appreciate it. He also said everything has revolved around Kil-Kare since Mr. Nutter came in. Mr. Nutter said he is not questioning their integrity; however, he is questioning methodology. Methodology leads to lots of trouble. Alan Stock said the best place to stay is calling it unintended consequences. Mr. Nutter said unintended consequences is definitely the problem and the group is about to create a whole lot more if they pass text the way it is. Mr. Stock said the intent is checks and balances with the Zoning Commission working along with the Board of Zoning Appeals. Mr. Nutter said he would attend more things at Xenia Township if he was within 500’ to get notification about hearings. Things that are nuisances should be broadcasted to those affected by the nuisances and not limited to the 500’ notification rule. Alan Stock answered that was brought to this Board, asked, answered and changed. Mr. Nutter said that was a good start, but unfortunately you can hear Kil-kare 16 miles away. Alan King said they cannot deal with specifics, for example Kil-kare, they have to make general rules for everyone with good will to make it work. No one is 100% happy.

**Ulysses Ponder** asked about Alan King's comment and said no one spoke in favor of this at the Trustees' meeting. Alan King relayed the reason the text had come about. He spoke about friends of his that have a farm, in another township, had started doing weddings on the side to help support the farm. Their neighbor complained and the zoning board eventually shut down their business of hosting weddings. Mr. King thought they should deal with this in a proactive manner in Xenia Township. Mr. Ponder said they built a home in the 1950s when Kil-kare was already here. They have loved it here and raised a family here, but see how things have grown out of control.

**Mrs. Ponder** stated they have come to meetings numerous times to ask for this to be monitored. Jeffrey Zweber said this seems to be the root of the concern—how it will be monitored. The question is how broad the conditional use is and enforcement of the conditional use. Alan Stock said the crux was meant to be on a working farm and shall coexist with the operation of the working farm. Jeffrey Zweber said in the Zoning Resolution Agricultural District the only permitted uses without BZA approval are farms, specialized animal raising, one single family dwelling, and churches and parish houses. Alan King said they cannot rewrite text just so Kil-kare would not be allowed to do things. Virgil Ferguson reiterated that they were not thinking of Kil-kare when they began on this text--they were thinking of places like the Pumpkin Barn and Schwartzkopf Farms. Alan King said they try not to be too specific. Three things Trustee Scott Miller requested they add to text: 1) Size of event by area on property (number of people per acre in use); 2) number of people allowed; 3) how often events could be held. The Board of Zoning Appeals can put restrictions on any of these events and it can allow things the Zoning Commission cannot. Alan King advised the group to give more thought to this text and come to the next meeting with more ideas.

The next meeting will be June 24 and discussion of Rural Entertainment and Hospitality text will continue. After that will be discussion of Mobile Home District text.

Jeffrey Zweber made a motion to adjourn the meeting. Virgil Ferguson seconded. All voted in favor. Meeting adjourned at 7:49 p.m.

ATTEST:

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Alan D. Stock, Zoning Clerk