

XENIA TOWNSHIP ZONING COMMISSION

PUBLIC HEARING

July 19, 2016

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 July 19, 2016 at 6:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH, 45385 with the following members present:

Attendees: Jeffrey Zweber, Virgil Ferguson, Donna Randall, and Alan Stock, Zoning Inspector/Clerk.

Chairman Jeffrey Zweber called the meeting to order at 6:00 p.m.

Jeffrey Zweber explained that this public hearing was for considerations of text amendments to the zoning resolution to include Agritorism. Jeffrey Zweber advised that the first item on the agenda was verification that the proper procedures had been met. Jeffrey Zweber advised that the zoning amendment was received on the July 1st and was then sent to Regional Planning, whom then set a date for a public hearing on July 7th. A notice was printed in the newspaper on July 9th. Jeffrey Zweber advised that the written notice does not apply since the topic here was a text amendment that affects the whole Township. Jeffrey Zweber said that Regional Planning got the zoning text change and sent their response to the Zoning Commission. Jeffrey Zweber said that the recommendation from Greene County Regional Planning was exhibit three in their packets. Jeffrey Zweber read the discussion, which said, "The new law allows townships to regulate Agritorism operations but substantially restricts how. The staff of Regional Planning and a representative from the prosecutor's office met with the Township Zoning Inspectors' group in April to discuss a draft of model regulations. The regulations could be set up as either permitted or conditional uses. The proposed amendments submitted by Xenia Township regulates to the conditional use process. The proposed amendments do not include definitions for Agritorism provider, farm and agricultural production and conservation practices provided in the Regional Planning handout. These definitions all work together in determining whether a property is a farm and eligible for Agritorism. The proposed amendments do not contain any supplemental regulations regarding setback size of Agritorism structures and parking. They also do not contain any requirements for the applicant to prove the property is an active farm and the proposed use offers any educational entertainment regarding historical or cultural aspects of agriculture. The recommendation is, with the above in mind, that the proposed amendments be modified to include the definitions in the handout and to include supplemental regulations as a guide for the Board of Zoning Appeals to use in allowing Agritorism uses." Jeffrey Zweber advised that the Commission had already heard the presentation, and that there would be no public comments due to the lack of a public audience. Jeffrey Zweber formally closed the public comments section of the hearing and moved on to Commission deliberation. Jeffrey Zweber advised that when this was last discussed, the definition for Agritorism was copied out of the handout and the text in the ORC was placed on page one of the working copy of the Zoning Resolution. Jeffrey Zweber advised that the Commission had said their definition of farm was different from the ORC's definition of farm. Jeffrey Zweber advised that they went through all the zoning districts and selected AE, R-1, RM, IG, B-3, M-1, and M-2 as places to add Agritorism to the list of

conditional uses. Jeffrey Zweber said that he would like to discuss the two comments given by Regional Planning. He advised that the first comment was about the definition, and the second regarded any guidance for the Board of Zoning Appeals regarding things like setbacks and parking and what the applicant has to provide to prove the property is an active farm and what the planned use is. Jeffrey Zweber advised that, in terms of parking, setbacks, size of the lot, and various things like that, his preference would be to leave that to the Board of Zoning Appeals to discuss with the Administrator. He said that he thinks the Township is covered in terms of all conditional uses for zones.

Alan King asked if this was not covered in section 404, which covers setbacks and things of that nature.

Alan Stock advised that one of the recommendations from Regional Planning was that there should always be a set number for setbacks from property line, or from building to building. Alan Stock advised that during the many discussions, a set amount did not always fit. He advised that that was why the site plans, the use of the property, and things of that nature were so important. Alan Stock advised that there are guidelines for this, as Alan King had mentioned. Alan Stock advised that they also look at the latest guidelines that have been laid out by the ORC.

Alan King asked if this was going to be a situation where they go with either one set of guidelines or another because both are completely different.

Jeffrey Zweber advised that this was what he wanted to talk about next. He wanted to talk about the discussion regarding making changes to section 400 that covers ingresses, setbacks, egresses, parking lots, entrances, and things of that nature.

Alan King asked if agriculture in airports was covered in this section and if the changes would affect it.

Jeffrey Zweber advised that agriculture in airports had its own number.

Alan Stock asked if the Zoning Commission intentionally left out B-1, B-3, and M3.

Jeffrey Zweber advised that during the discussion, he did intend to leave out M3 because that involves mining, Jeffrey Zweber said that he believed they left out B-1 and B-3 because they neither one currently have any conditional uses.

Alan Stock advised that he had originally believed that it was the intention of the state to make Agribusiness in any district, and therefore the Zoning Commission's intent was to make it available in every district.

Jeffrey Zweber advised that this was their original intention, but that changed when they reach the B-1 and B-3 districts, which had no existing conditional uses. Jeffrey Zweber advised that his other expectation was that there would not be any B-1 or B-3 properties that would qualify. He advised that the odds that they would find a B-1 or B-2 property in the Township that meets all of the requirements is highly unlikely. Jeffrey Zweber said their selections were purposefully. Jeffrey Zweber advised that trailer parks and planned unit developments were also not put in.

Jeffrey Zweber asked if the Commission wanted to do anything in regards to changing the words that would go into the conditional use.

Virgil Ferguson asked if there was an acreage limit with the new state law.

Jeffrey Zweber advised that there was not really, and that there are two ways a lot can be a farm. Jeffrey Zweber advised that you could have ten or more acres of agricultural production on your property, or you can be smaller than that as long as you earn \$2,500.00 gross income from agricultural production on the land. He advised that if you had a B-1 lot that made that much money then it would be possible.

Alan King asked if an example of this would be a fish farm or something of that nature.

Jeffrey Zweber advised yes.

Alan King asked if adding a section for conditional uses and putting agritorism would mess everything else up.

Jeffrey Zweber advised no, and said that IG only had one conditional use. Jeffrey Zweber advised that this was something they could do. He said that after they make a motion, they could bring this back up as an amendment. Jeffrey Zweber advised that the other issue that Regional Planning mentioned was the definition of agritorism. He informed that their recommendation was to put all of the definitions they gave into the Zoning Resolution. Jeffrey Zweber advised that the issue with this was that it breaks the Zoning Commission's definition of farm. Jeffrey Zweber advised that it was his intention, and he believed the Zoning Commission's as well, to use the definition for agritorism that the ORC provided. Jeffrey Zweber advised that if the ORC ever amends or changes the definition of agritorism, the changed definition is the definition. Jeffrey Zweber advised that his intention was that the other definitions would be included for reference. He asked for any thoughts on risking it by taking a looser definition.

Alan King said that he believed using the definition of agritorism provided by the ORC for reference is fine. He said that he was not sure what kind of problems the Zoning Commission would run into if the legislation changed.

Jeffrey Zweber advised that what Alan King was saying was that if the state amends the definition of agritorism, and they have this extraneous text in their code, does the extraneous text before the change have any legal meaning.

Alan King asked if it would behoove them or if it would be incumbent upon them that if the state legislation were to change that they would have to hold a public hearing to change the definition and update it in their own text. He asked if they had the junk cars reference to the ORC.

Alan Stock advised that towers and trailer parks also referred to the ORC.

Alan King asked if they had the current text of the ORC included in their Zoning Resolution for junk cars, trailer parks, and towers.

Alan Stock advised that he thought they just referenced the ORC. Alan Stock advised that the definition they had for junk cars was not current.

Alan King read the paragraph on page twelve of the Zoning Resolution under junk cars that referenced the ORC section 505.173, and asked if that was not current.

Jeffrey Zweber advised that the paragraph was not as clean as the one they have now. He advised that when he drafted the section up, he had copied the first sentence from the ORC. Jeffrey Zweber advised that he did not like that paragraph. He also advised that the inconsistencies that Alan King was worried about had occurred here because there were technically two different definitions of junk cars given. Jeffrey Zweber advised that he believed the intent was to use the ORC's definition for junk cars. Jeffrey Zweber said the other thing he would suggest is that they handle this situation as they did the renumbering.

Alan King advised that the junk car issue could be fixed with some punctuation.

Jeffrey Zweber said that this was something they could do. He suggested they take out the "as if" clause out of what they pass. He informed that he did not believe this would prevent them from putting in an appendix or anything in the document that is for reference. He shared that the staff, when the Zoning Resolution is published, can go to the appendix or notes page in the back, which is not a part of the actual resolution but helps with clarity. Jeffrey Zweber advised that you could say something along the lines of "see ORC references on page" and have the appendix or not page in the front of the Zoning Resolution or the back.

Alan Stock that they could also list the ORC website.

Alan King asked if Alan Stock had said they had referred to the ORC for their section on trailer parks.

Alan stock advised that eight pages were eliminated when they put, "The R-MH is regulated by the Manufacture Homes Commission in compliance with chapter 47.81 of the Ohio Revised Code of the Ohio Administrative Code. Alan Stock advised that this was on page seventy-five. Alan Stock advised that they may not have lost exactly eight pages, but they did lose at least four.

Jeffrey Zweber advised that Stephanie Hayden, from the Greene County Prosecutor's Office, informed they need to explicitly say that they are aware they had been preempted as well. Jeffrey Zweber shared that if they do not, it is assumed that they did not know they were preempted and everything gets thrown out. Jeffrey Zweber shared that the motion before them was to recommend the insertion of a definition of agriotrism in section 201 of the Zoning Resolution. The motion was also amended to add agritorism as a conditional use in the following sections: Agriculture section 400.4.13, District E section 401.4.7, R-1 section 402.4.6, Residential Multi-Family section 403.4.5, IG section 405.4.2, B-3 section 408.4.5, M-1 section 409.4.2, and M-2 section 410. 4.9. Jeffrey Zweber asked for a second and advised two amendments would be considered, Alan King seconded the motion.

Jeffrey Zweber suggested that the first amendment was to amend the definition of agritorism to the ORC definition.

Alan King asked if the first definition was in the motion.

Jeffrey Zweber advised yes because that was the definition they had come up with at the last Zoning Commission meeting and was what they had brought with them. Alan King seconded the amendment. Jeffrey Zweber asked if there was any further discussion.

Alan King advised that he liked it because it was nice and simple.

Jeffrey Zweber said they could vote on the motion and the amendment now.

Alan Stock advised that only one amendment could be made per motion, so the Zoning Commission had to go ahead and vote.

Alan King asked if he could include the second amendment to add conditional uses to B-1 and B-2 and list agritorism to the original amendment or not.

Jeffrey Zweber clarified that they would end up with his original amendment with the inclusion of Alan King's amendment to include conditional uses to B-1 and B-2. He asked Alan King for the amendment.

Alan King shared that he would like to amend the proposal to change the definition of agritorism to have the same meaning as in section 9.10.80 of the Ohio Revised Code. He also wanted to propose that under sections B-1 and B-2, agritorism be listed as a conditional use, and the two sections be renumbered to accommodate that.

Jeffrey Zweber added that the conditional use for B-1 agritorism would be section 401.4.1. For B-2 it would be section 407.4.1. Virgil Ferguson seconded the motion.

Jeffrey Zweber asked for any further discussion. There were no further comments. Roll Call: Virgil Ferguson-aye, Donna Randall-aye, Jeffrey Zweber-aye, Kent Harbison-aye, Alan King-aye. Motion PASSED by a vote of 5-0.

Virgil Ferguson made a motion to adjourn, Alan King seconded the motion. The meeting was adjourned at 9:30 p.m.

ATTEST:

Alan D. Stock, Zoning Clerk