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**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING  
September 10, 2018**

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The meeting was called to order at 7:00 p.m. Members of the Commission present were: Mr. Fowler, Ms. Harlow, Mr. Horvath, Mr. Ruehlmann and Mr. Wolfe.

Also present were: Bryan Snyder, Hamilton County Zoning Inspector and Luanne Felter, Zoning Secretary.

**PUBLIC HEARING**

MR. RUEHLMANN convened the public hearing for BZA 2018-10 for the Robert S. Lucke Group at 9541 Lakeside Drive.

MR. SNYDER stated that this is a variance request for an accessory structure on a lot without a principal structure.

The developer of the Lakeside Estates subdivision has constructed a gazebo on a platted parcel of land identified as an 'open space' tract without obtaining the required zoning certificate. The gazebo is near an existing pond that is used for detention for the development and contains landscaping features and a walking trail that leads to the structure. A variance is required because the gazebo is considered an accessory structure since it is located on a platted parcel of land where there is no principal structure. If the development was approved as part of a Community Unit Plan (CUP) a gazebo or other subdivision amenities located on open space tract could have been permitted as part of the overall plan approval. Nevertheless, the gazebo is located in an area that does not have a negative effect on the surrounding properties and the lot will not likely be built upon in the future since it is owned and maintained by the Homeowner's Association.

MR. RUEHLMANN wanted to know if the gazebo is built to code.

MR. SNYDER said that he is not sure a building permit is necessary due to its size.

MR. FOWLER wanted to know if this standard is common because he is not familiar with it and it is confusing.

MR. SNYDER explained that a subdivision cannot contain an open space tract of land unless it is part of a CUP district. This is not a CUP district; it was created as a separate tract of land. Therefore, an accessory structure is not permitted without a principal structure on the property. It is similar to having a shed on a property without a house.

SCOTT LUCKE (Robert Lucke Group, 8825 Chapel Square Drive, Suite B, 45249) apologized for the process being out of order. It is not normal for his company to do business this way. The intent was to build a gazebo and walking path as part of the subdivision but for some reason it was not included on the Final Development Plan. He was told by someone who used to work in the building department that a permit was not required for the gazebo so they went ahead and constructed it. When an inspector came by he told us we needed one and later learned that we needed to go through the zoning process. In hindsight we should have not built the gazebo but it is up to code and we will get it inspected. The parcel is not a buildable lot because of the detention pond and it was graded to the point that you cannot construct a home on the property. Also, it is part of the Homeowner's Association.

MR. WOLFE stated that he has no problem with the gazebo. It adds ambiance to the space and does not have a negative effect on the surrounding properties. Also, it is not a buildable lot but

if the Board has concerns we could add a condition in the Resolution that no other structures be permitted on the property.

MR. HORVATH wanted to know if a similar variance has ever been approved before.

MR. SNYDER stated that there has not.

MR. HORVATH noted that this situation is unique and didn't think it would set a precedent. He made a motion to approve the accessory structure on a lot without a principal structure at 9541 Lakeside Drive with the condition that the gazebo shall be the only accessory structure permitted on the platted parcel of land.

MR. WOLFE seconded the motion and the roll call vote was as follows:

Mr. Fowler – 'aye', Ms. Harlow -'aye', Mr. Horvath – 'aye', Mr. Ruehlmann – 'aye' and Mr. Wolfe – 'aye'.

#### OLD BUSINESS

MR. HORVATH wanted to know what the status of the treehouse is at 10251 Fawncrest Court. MR. SNYDER stated that the case is scheduled for court tomorrow. When the citation was issued it initiated the court process. The judge has continued the case to allow the property owners to go through the appeal process. This will be the first appearance with the judge since the appeal was denied. Also, the Loveland School District has given the property owners a 45-day deadline to remove it from the school's property which has since expired.

#### ADMINISTRATIVE MATTERS

MR. HORVATH made a motion to approve the minutes of the July 9, 2018 meeting. MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Fowler – 'aye', Ms. Harlow -'aye', Mr. Horvath – 'aye', Mr. Ruehlmann – 'aye' and Mr. Wolfe – 'abstain'.

MR. RUEHLMANN noted that the Board needs to review the revisions to the bylaws which was prepared by Ms. Felter. He suggested we go through it page by page.

MS. FELTER noted that she made a mistake under Article 1 (Organization and Officers). The duties listed in items 8 and 9 were changed to reflect what the responsibilities are for the County and Township but I later realized that all the responsibilities fall under the Township Administrator/Township Zoning Inspector who in turn can delegate the tasks. Therefore, the new text for items 8 and 9 will be stricken and the original text will be reinserted.

The words "Staff Secretary" have been changed to "Zoning Secretary" in the bylaws since that is how all documents are signed.

Under Article II (Meetings of the Board) the wording under paragraph 1 has been changed from "Organizational meetings *shall* be held in December and June even though no appeals may be scheduled" to "Organizational meetings *may* be held in December and June even though no appeals may be scheduled." This change is necessary since the Board does not schedule organizational meetings.

MR. HORVATH wanted to know if the whole paragraph should be stricken. MR. SNYDER recommended the Board keep it just in case a meeting needs to be scheduled in the future.

MS. FELTER noted that the page number in the appendix for Appeal Fees was changed to Pg. A-1-3 to reflect the current page.

The Board did not object to any of the mentioned changes.

MR. WOLFE wanted to go back to Article III (Appeals). Under paragraph 5 it indicates that “the plats and plans shall be drawn to scale under the seal of a registered engineer or architect.” Most of the plans we receive are not to scale but he would like them to be.

MS. HARLOW agreed that the plans should be drawn to scale but it is unreasonable for the Board to require applicants to submit plans from a registered engineer or architect for something simple as a fence.

MR. RUEHLMANN wanted to know what the requirement is.

MR. SNYDER stated that his office requires a survey if it is an appeal for new construction like a single family home. However, if it’s an appeal for a shed, garage or fence they don’t require one because it is too expensive for the applicant. They also don’t require an appeal to provide the names and addresses of the owners all abutting lots within a two hundred foot radius as listed under “c” paragraph 4 because we do that.

MR. WOLFE stated that he would like the plats and plans submitted drawn to scale so it’s easy to read.

MR. HORVATH suggested we require plats and plans be drawn to scale but strike out “under the seal of a registered engineer or architect” since it is a heavy burden for the applicant.

MR. RUEHLMANN directed Ms. Felter to strike out paragraph 4 under “c” since Zoning already provides the names and addresses of the owners within a two hundred foot radius and to renumber the paragraphs accordingly. Also, in paragraph 5 omit the words “under the seal of a registered engineer or architect”.

MS. FELTER stated that under Article VI (Hearing of Cases) the order was changed in paragraph 2 to reflect that the Township Zoning Inspector will be heard first then the appellant instead of the other way around since that is the way the hearings have been done.

MR. FOWLER stated that he would like to describe why it is being done in that order so the public will understand. He suggested we change the sentence to read “The Township Zoning Inspector or his representative and any other persons on behalf of the County or Township Administrative Staff will be heard first to describe the facts of the case and the reasons for denial.”

MR. RUEHLMANN agreed and directed Ms. Felter to change the sentence in the bylaws.

MR. FOWLER also suggested that under Article V (Notice of Hearing) we include a section that requires public hearings be posted on the Township’s website. Currently, only residents that live within 200 feet of an appeal are notified of the hearing but the case could be of interest to others in the neighborhood. By posting it on the website this would take the onness off the Township and make the residents more responsible for what’s happening in their community.

MS. HARLOW agreed and noted that the hearing for the telecommunications tower was a good example.

MS. FELTER noted that notices are already posted on the website.

MR. RUEHLMANN directed Ms. Felter to include in the bylaws under Article V (Notice of Hearing) section (e) to read “Notice of such public hearing shall be posted on the Symmes Township’s website not less than ten (10) days prior to the date of hearing.”

MS. FELTER noted that under Article VII (Disposition of Appeals) the last sentence in paragraph 6 has been stricken. This sentence reads “Resolutions shall not be mailed to appellants or

Attorneys until after the minutes of the meeting of their adoption are journalized.” Resolutions are mailed to the applicants as soon as possible so they can begin work. We do not make the applicants wait for the minutes to be approved because it takes too long. However, there are times when the Township Law Director may want the Board to approve a resolution if it is a big case so it will be a part of the official record. Therefore, the paragraph will now include “In certain cases, the Township Law Director may direct, the Zoning Secretary to present the written Resolution to the Board at its next meeting at which time the Board shall then act upon the matter pursuant to Section 186 of the Symmes Township Zoning Resolution for legal journalization.” The words “Administrator” in the paragraph have been changed to “Zoning Secretary.”

The Board had no objections.

MR. WOLFE suggested that the “Pledge of Allegiance” be added to Article XII (Order of Business) before “Roll Call”. He also noticed that “Communications and Bills” should be removed because we have never discussed them.

MR. RUEHLMANN noted that we also do not do “Reports of Committees”. He directed Ms. Felter to make the changes and renumber the items.

MR. HORVATH wanted to know if the Board has ever had any issues with paragraph 2 under Article XIII (Code of Conduct). This paragraph stipulates that the Board have no personal contact with applicants about matters before the Board from the application date until a decision by the Board is journalized and, if personal contact is attempted, the Board member needs to inform the applicants of the rule and notify the other Board members.

MR. RUEHLMANN stated that there have been occasions in the past where applicants invite them to come look at their property.

MR. SNYDER stated that the paragraph is necessary. The Board cannot have any outside influences. All testimony must be provided during the hearing so it will be on the record.

MR. FOWLER noted that the word “when ever” is one word and needs to be changed.

MS. FELTER stated that she will make the change.

MR. WOLFE wanted to know if the Board needs to vote on these changes.

MR. SNYDER directed Ms. Felter to prepare another draft for amendment at the next scheduled meeting. However, the cover page should be changed to reflect “Organization, Procedures, Rules and Regulations for the Symmes Township Board of Zoning Appeals, Adopted January 8, 1997 as amended through (include Board’s next meeting date).”

The Board had no objection.

#### ADJOURNMENT

MR. RUEHLMANN adjourned the meeting at 7:50 p.m.

Approved:

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Ralph Wolfe, Vice-Chairperson

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Luanne Felter, Zoning Secretary