
MINUTES OF SYMMES TOWNSHIP ZONING COMMISSION
REGULAR MEETING
JULY 15, 2020

The meeting was called to order at 7:00 p.m. Members of the Commission present were: Ms. Bucco, Mr. Etter, Mr. Flynn, Mr. Kessler, and Mr. Singler.

Also present: Bryan Snyder - Hamilton County Rural Zoning and Jana Grant – Zoning Secretary.

GEORGE FLYNN made a motion to approve the Agenda. CYNTHIA BUCCO seconded the motion. Ms. Bucco - ‘yes’; Mr. Etter - ‘yes’; Mr. Flynn - ‘yes’; Mr. Kessler - ‘yes’ and Mr. Singler - ‘yes’.

MR. FLYNN made a motion to approve the January 15, 2020 minutes. MS. BUCCO seconded the motion and the roll call vote was as follows: Ms. Bucco - ‘yes’; Mr. Etter - ‘yes’; Mr. Flynn - ‘yes’; Mr. Kessler - ‘abstain’ and Mr. Singler - ‘abstain’.

FINAL DEVELOPMENT PLAN MODIFICATION:

GREG KESSLER called to order the public hearing for **SYMMES 3-79 TOWNE PROPERTIES INC. (GOVERNOR’S HILL – FIS SIGNS)** to approve an amended application for a Final Development to allow the addition of a building mounted sign on a second façade of the building where no building mounted signage is permitted. The subject property is owned by New York Life Insurance Company and is located at 8500 Governor’s Hill Drive, on the corner of Governor’s Hill Drive and Chapelsquare intersection.

BRYAN SNYDER stated that the applicant is seeking approval to allow one additional wall sign on the western façade of the existing building at 8500 Governor’s Hill Way, also known as building ‘K’ on previous development plans. This portion of the site is located in the “OO” Planned Office District and no wall signs were previously approved on this façade. The proposed wall sign would be located over the employee entrance and would be 20.4 square feet in size. As of right and not part of this modification request, the applicant is replacing the following signs with smaller signs in the same locations: the existing 6-foot high, 45 square-foot freestanding sign located at the main entrance from Governor’s Hill Drive with a 6-foot high, 36 square-foot sign, the existing 26.5 square-foot vinyl lettering sign located on the glass area above the main entrance doors on the northern façade with a 20.4 square-foot similar sign, and the existing 247.4 square-foot illuminated channel letter sign on the penthouse area at the top of the building, above the main entrance on the north side of the building with a 156.3 square-foot wall sign.

Mr. Snyder stated that the Board of County Commissioners placed 18 conditions on the zone amendment and the existing development complies with the 18 conditions. The site is covered by a comprehensive conceptual sign plan approved in 1991 and modified in 2011. The most recent sign plan that included the subject site was approved in 2011. This plan did not include any wall signage on the western façade of the building where the applicant is proposing a 20.4 square-foot wall sign located over the employee entrance. This façade of the building is not permitted to contain any wall signs as it does not front onto a public street. This façade of the building faces an existing parking garage and the sign would only be seen by employees utilizing the garage and entering the building. The sign would be blocked from public view and would not likely have any negative effect on the surrounding office park.

ANDREA BLINKHORN, Government Relations Team with FIS stated that this is the former World Pay headquarters and now a very strategic location for FIS. For them the sign is a very important indicator for when their employees are walking in that they feel that they are recognizing where they are going to work.

Mr. Kessler asked if this is a secured entrance for employees only or would anyone else be allowed to go beyond the entrance?

Ms. Blinkhorn stated that both of their entrances are secure and you would need a badge to swipe to get in.

MR. FLYNN moved to approve modification to the Final Development Plan for case Symmes 3-79; Towne Properties Inc. (Governor's Hill) 8500 Governor's Hill Drive, to add an additional 20.34 square-foot wall sign on the western façade of the 8500 Governor's Hill Drive building.

MR. KESSLER seconded the motion and the roll call was as follows: Ms. Bucco - "No"; Mr. Etter - "Yes"; Mr. Flynn - "Yes"; Mr. Kessler - "No"; and Mr. Singler - "Yes".

MODIFICATION TO THE ZONING RESOLUTION:

GREG KESSLER called to order the public hearing for **SYMMES 2020-01, TEXT AMENDMENTS** to amend **Sections 54.1, 51.5, 62.14-3, 66.14-3, 70.14-3, 74.14-3, 78.14-3, 82.14-3, 143.3, 143.4, 171.7, 191, 319, 342.5 and 346 of the Zoning Resolution.**

Mr. Snyder stated that on June 2, 2020 the Symmes Township Board of Township Trustees initiated text amendments to amend Sections 54.1, 51.5, 62.14-3, 66.14-3, 70.14-3, 74.14-3, 78.14-3, 82.14-3, 143.3, 143.4, 171.7, 191, 319, 342.5 and 346 of Symmes Township Zoning resolution related to the regulations of sidewalks, general property maintenance standards, change the setbacks for compost piles, require all new driveways be paved and conform to side yard setback requirements, require that commercial vehicles, trailers, campers, boats, RV's not be permitted to park on public streets, require zoning certificates to expire after one year, require fences to be setback from fire hydrants or any other utilities, and permit variable message centers on signs in residential districts for institutional and semi-public uses. A copy of the regulations as initiated was transmitted to the Regional Planning Commission for consideration at this hearing.

Mr. Snyder stated that Symmes Township has had Township Trustee zoning jurisdiction since 1996 but contracts with Hamilton County zoning staff to administer all aspects of the Zoning Resolution, including issuance of permits and preparation of staff reports for zoning requests.

Staff has reviewed the proposed text changes and has identified the following issues:

The Township is proposing to require sidewalks on both sides of all streets, in accordance with Hamilton County Engineer standards, for all lots platted in a subdivision, minor subdivision or any residential or commercial property along any major roadway or thoroughfare that has been identified for sidewalks according to the adopted sidewalk plan for Symmes Township after the effective date of this Resolution which are located in AA, A, A2, B, B-2, C, D, O, E, DD, OO, and EE Zoning Districts.

Findings: Staff supports the addition of sidewalks in residential subdivision and along county roads where sidewalks are desired by the township. However, including a requirement for sidewalks in all major subdivisions will limit the ability of the Regional Planning Commission and the township to consider the desirability of sidewalks on a case by case basis as zoning approval can only be given for a subdivision that shows sidewalks on both sides of all public streets. In addition, there is no mechanism to have sidewalks installed as part of a minor subdivision where state law does not require submission of a plat. This requirement would have to be enforced at the zoning certificate stage.

The Township is proposing to add general property maintenance standards to their Zoning Code. The Township addresses all lots in any district to be maintained and kept in good condition and good repair including all structures, buildings, accessory buildings, fences, pools and play structures. The Township proposes that all property owners mow the grass on a regular basis, cut weeds or brush, maintain landscaping and materials on a regular basis, remove fallen trees or branches in a timely manner, paint or cover exterior surfaces when needed; repair or replace damaged or deteriorated fences which must stand in the upright position (90 degrees from the

ground); keep property free of trash, junk, and debris; repair driveways as needed; and other maintenance related items that are necessary to ensure the health, safety and welfare of the residents of Symmes Township and to facilitate and maintain the highest possible property values and to enhance the quality of life in our community.

Findings: Staff finds that these types of requirements may not be appropriate in the zoning resolution and finds that they are better suited for inclusion in a standalone property maintenance code. Many of the terms in this proposed section are vague including “good condition”, “good repair”, “regular basis”, “timely manner” and “when needed” which would be difficult to regulate and to enforce. Property maintenance codes generally include definitions of some of the above terms and may include specific standards for things like grass height, surfaces needing to be painted, etc. Without definitions and clear standards, the zoning inspector would be required to make subjective determinations of all of the above terms. Subjective determinations are generally discouraged from inclusion in zoning standards because such subjective determinations are not clearly defensible and may result in legal action against the township. Property maintenance codes generally include far more direction and provide a process for relief to residents other than the quasi-judicial Board of Zoning Appeals process. Staff finds that the township would be better served by adoption of a separate property maintenance code. Finally, zoning is authorized in Ohio for the protection of the health, safety, and general welfare of residents but not to improve property values or enhance the quality of life and these references should be removed from the proposed text for this section.

The Township is proposing to increase the setback from property lines for compost piles or bins in residential districts from three feet to five feet.

Finding: Staff concurs with this increased setback since the current resolution includes 3 and 5-foot setbacks for different accessory structure and uses. This change would make the required setback the same for all accessory structures and uses, including compost piles.

The Township is proposing that all new driveways and parking surfaces shall be “paved or a concrete surface” and cannot be located any closer than the side yard setback stipulated for the district where the structures are located. In the case of a panhandle lot, the driveway can be less than the required setback width only if the drainage has been addressed and does not affect the adjacent neighbor’s yard.

Finding: Typically, driveways are not considered structures and are permitted to be located right up to the property line. Surfacing of driveways is implied in another section of the code but clearly stating the paving requirements here would be an improvement. However, staff suggests revising the language to make it clear that gravel and other unsuitable paving materials are excluded. Listing asphaltic binder paving in addition to concrete would likely be clearer and prevent undesirable paving surfaces. Staff is also concerned with the total number of nonconforming driveways that this new regulation would create. For nonconforming driveways that need repair, staff questions whether or not they would have to be moved to meet this new setback requirement. Also, in many cases, driveways providing access to homes can traverse through other person’s properties through access easements and staff is concerned on how this setback would be measured. Further, with this new driveway setback regulation, the ability to create side entry garages would be difficult and the ability to pave driveways to the rear of properties around the side of a home would be eliminated on most standard subdivision lots in the township. Staff recommends removing this driveway setback from the proposed regulations.

The Township has added “Camper” and “RV” to their list of prohibitions in residential districts. The Township has also added that “no boats, trailer, campers, or RV’s shall be permitted to park on any public street”.

Findings: Staff has no issues with these proposed changes with the exception that the enforceability of zoning within the public right-of-way is questionable and may not be legally defensible through zoning enforcement action.

The Township is proposing to increase the minimum setback for accessory buildings which are not a part of the main building from three feet to five feet.

Finding: Staff has no issues with these changes. Making all accessory setbacks five feet would create a uniform setback and staff supports this change.

The Township is proposing that Zoning Certificates be valid for one-year after the date of issuance where currently there is no expiration date.

Finding: Staff has no issue with creating an expiration date and supports this change.

The Township is permitting variable message centers on signs in residential districts for churches, non-profit organizations, swim clubs, tennis clubs, schools, parks, golf courses and public buildings. The Township is also regulating the setbacks of these signs, the height and maximum size of these, the intervals of the display message including restrictions that the message not be moving, flashing, scintillating, animating nor changing in color or light intensity or visible changing in any other manner.

Finding: Staff has no issues with permitting these types of signs for public and institutional uses and finds that the regulations are similar to other restrictions on variable message signs.

The Township is adding “tree house” to their list of play devices permitted in the rear yard and changing the setback of such devices from a minimum of three feet to five feet.

Finding: Staff has no issues with this amendment and supports this change.

The Township is proposing to regulate that all fences be setback five feet from all fire hydrants or any public utilities.

Finding: Staff is concerned about the process for ensuring compliance with this language. Staff does not have access to digital mapping for all public utilities and will not be able to ensure compliance with this regulation at the zoning certificate issuance stage. Staff would have to mention this requirement to customers and encourage them to ensure compliance during construction, which could lead to issues where the approved plan may not match what is constructed in the field.

Mr. Snyder stated that generally staff supports the proposed text amendments and finds that they will enhance the existing zoning standards. However, staff is concerned with some of the subjective language in the property maintenance standards. Enforcement of these standards through zoning, with a lack of clear definitions and procedures identified, could leave the township open for legal action and could also greatly increase the duties of the zoning inspector when responding to complaints regarding high grass in the summer months. Additionally, creating a setback for driveways would create a large number of nonconforming driveways in the township and limit the ability for new construction of side or rear entry garage homes. This would also be difficult to enforce since there is currently no requirement to apply for a zoning certificate for construction of a new residential driveway or driveway repair.

Mr. Snyder stated that requiring sidewalks through zoning eliminates the ability of the Regional Planning Commission to waive sidewalks in undesirable locations and would put a significant burden on potential new home builders in situations where the grading or topography of a major road right-of-way is not conducive to sidewalk construction. Staff finds that the township may want to consider the impact of these proposed changes prior to adoption of the language as written into the zoning resolution. With these issues addressed, staff finds that the proposed text amendments would result in an improved set of development guidelines and regulations.

JEFFREY REICHMAN 9519 Appomattox Court, stated that in the findings section of the Staff Report it talks about the desirability of sidewalks whether the Township wanted to consider the desirability of sidewalks on a case by case basis. He is not sure were sidewalks would not be desirable and asked Bryan if he had an example of that?

Mr. Snyder stated that where one side of the street does not include houses or preservation of property in a community unit plan. The reason for sidewalks is to get sidewalks on the major roads so the Township does not have to build sidewalks on major roads.

Mr. Reichman stated that he thinks the property maintenance should be a stand-alone code and should be handle by the Trustees and not the Board of Zoning.

STEVEN WOLFF 11740 Symmes Valley Drive, Loveland, Ohio stated that when the Property Maintenance Code was introduced, there were a lot of residents that were very upset and came to the meetings to tell the Board how they felt. The Board of Trustees withdraw the Property Maintenance Code and stated that it was a dead issue. However, now they have dropped it in the laps of the Zoning Commission and he is not very happy with that. He is against the code especially the part referencing the RV's. He stated that he has an RV's and parks it in the street for two days for packing or washing before he leaves.

Mr. Snyder stated that this is not the back door way to go through this process. The Symmes Township Trustees have the authority to adopt the Property Maintenance Code and they also have the authority to initiate the Text Amendments. This is the required process; it was not drop in the committee's lap. They initiated the Text Amendment and now it is following what the Ohio Revised Code says is the process for zone changes. This is a very public meeting obviously, and concerned citizens have heard about it. The Trustees will make a decision on this again and everybody will be able to make their arguments to Trustees before anything can happen to the Zoning Code.

MICHAEL HOWELL 7810 Clement Street, Camp Dennison, Ohio stated that he would like to start off by saying that this should be postpone for a better time when they can meet in person. It is hard to go through this process and there are a lot of people who wanted to join in on this group for one reason or another. But lack of experience of getting on a computer and not wanting to speak to computer has stopped them. Mr. Howell stated that he agrees with Mr. Wolff that this is another way around the Property Maintenance Code. He does not see why they are putting all these restrictions on for just a few amounts of complaints that were received. He would like to mention again that he thinks this should wait until they can have an in-person meeting.

JIM MEYERS 9347 McKinney Road, Loveland, Ohio stated that there were nine revisions to the Property Maintenance Code and the most recent revision had twenty-seven pages. When the Trustees dropped the PMC on June 2, 2019, he thought it was a tactic to shelf the code because it was election year and felt that they would try to reintroduce it again later. Now it is being introduced has a zoning amendment and he feels that the Zoning Board is being used as pawns.

MARK LEGUILLION 9355 McKinney Road, Loveland, Ohio stated that the real issues like setbacks and maintaining fences around pools are important and those are real issues that hit zoning and he absolutely agrees. Sections 3-51.4 of the general provisions and the RV parking and on the street parking of commercial vehicles, he is concerned how the zoning can regulate parking on public streets. The entire section of general provisions is vague and not defined very well. As the Staff reported and points out, a stand-alone PMC might be a better fit. His biggest concern, as it was pointed out by staff, is enforcement becomes very difficult because it is so vague and hard to regulate. As individual problems arise in these areas, the Township Trustees are well within their authority and their bounds to call something a nuisance and put it on paper and deal with them individually. At a minimum their recommendation should be to eliminate Section 3-51.5 and 143 on the RV's and parking of Commercial Vehicles. Because of Covid-19 the reasonable thing to do is to delay this meeting until all residence can participate.

C.J. CARR 10403 Willow Drive, Loveland, OH stated that he would like to start off by saying that many neighbors wanted to come to the meeting but they were unable due to the Covid-19. With the Covid-19 happening, this is not an issue that needs to be done now and this meeting should be postponed until the neighbors can show up in person and voice their opinions. Section 2 talks about adding sidewalk requirements, how can a developer be required to put sidewalks on both sides of the street when some streets do not have a right-of-way and some properties still go to the center line of the street. Section 3 talks about general maintenance of property. It is vague

and poorly written and is not wanted by the majority of the township residence. The Staff Report stated that it is better as a stand-alone Property Maintenance Code. Section 13, Zoning Certificate shall only be valid for one year after the date of issuance. He is a builder and that is acceptable but what if this job takes longer than one year? Does it need to be renewed or should wording be put in there to deal with that situation.

CAROL SIMS 9972 Washington Street, Camp Dennison, Ohio stated that the county in their subdivision policy has a requirement that sidewalks go into major subdivision. The Township has adopted a Resolution to require them in a minor subdivision. So why are we putting this into the zoning amendment when staff says it is going to increase the money the Township is paying for Zoning. Therefore, she is asking the Zoning Commission to remove this section entirely from the proposed text amendment. Her major concern is the section regarding variable message centers on signs in residential districts. There is a Conditional Use Section in the Zoning Code and this regulates churches, non-profit organizations, swim & tennis club, schools, parks, golf course and public buildings. The process for those uses is to come before the Board of Zoning Appeals. Remove this from the zoning text amendments. She would like to read a portion of a letter received from Dave Yost, Ohio Attorney General to the Township Trustees, in reference to how Ohio's Open Meetings Act apply to periods of this time. He made the following comment in part. "As a final word, unsolicited non-legal advice, please note that the procedure outlined in this letter is to address the unique situation that all Ohio is dealing with. Now is not the time to rely on this guidance in order to enact legislation unrelated to the instant emergency that is better reserved for the normal operations of government. For example, the passing of a new tax levy or to enact a new regulatory scheme." Please remember that this legislation is subject to referendum if adopted by the board.

CYNTHIA BUCCO stated that she would like to make a couple of comments. Number one, she does not know about the rest of her colleagues on this panel but she was not aware of the extent of the discussion of the Property Maintenance Code at the Trustee level. Number two, she thinks that they should incorporate the changes by the staff into the resolution, so they can understand exactly what they are potentially proposing and that includes taking the maintenance thing out. Number three, she agrees with the public's comments. There is nothing wrong with delaying this process.

GEORGE FLYNN asked is the Township holding Trustee meetings? Mr. Snyder stated that yes, the Trustees are holding their meetings. Mr. Flynn stated that they have not talked about details of staff's recommended revisions and he would like to hear the recommended revisions for they vote on anything.

JAMES SINGLER stated that before they get into recommended revisions can they first have comment about whether everybody thinks a delay should occur. He feels strongly with the public that this delay should occur until this can be held in public.

Mr. Kessler stated that he is in agreement with the delay but he also wants something in front of him to look at with definitive language to agree or disagree to.

Mr. Flynn stated that they should bear in mind that this is only a recommendation they are giving. This is not the end of the deal here. It goes back to the Trustees at another public meeting which will have further public comments and the Trustees at that point can take their recommendations, they can change their recommendations or they can disagree with their recommendations.

Ms. Bucco stated that she would like to see what is being proposed in writing.

Mr. Singer stated that he agrees with the delay and to have Mr. Snyder come back with the actual language. Without seeing the actual language, he would be incline to vote against recommending this.

MR. FLYNN made a motion to continue the public hearing for case Symmes 2020-01; Text Amendment until August regular meeting.

MS. BUCCO seconded the motion and the roll call was as follows: Ms. Bucco - "yes": Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - 'yes' and Mr. Singler - 'no'.

OLD BUSINESS

NEW BUSINESS

None

ADMINISTRATIVE MATTERS

None

ADJOURNMENT

MR. FLYNN made motion to adjourn at 8:58 p.m. MR. KESSLER seconded the motion and the roll call vote was as follows: Ms. Bucco - "yes": Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - 'yes' and Mr. Singler - 'yes'.

Approved:

Chairperson

Zoning Secretary