

Minutes

Clark County Rural Zoning Commission

Regular Meeting ~ 8:30 a.m.
Wednesday, August 14, 2013

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Ken Brust, Vice Chairperson of the Clark County Rural Zoning Commission of Clark County Ohio, calls the meeting to order at 8:30 a.m.

Present: Mr. Ken Brust, Mr. John Baird, Mr. John Hays and Mr. Pete Lane.

Vice Chairperson Brust asks if there are any comments regarding the minutes. Hearing none, he asks for a motion to approve the minutes.

RZC: 8-12-2013: Minutes ~ July 10, 2013 (Regular Meeting)

Motion by Mr. Baird, seconded by Mr. Lane to approve the minutes as presented.

VOTE: Motion carries unanimously.

Vice Chairperson Brust explains how the meeting will be held. Everyone will need to sign in that will be speaking. Staff will present the report and the Board will ask questions to Staff. The proponents will be able to speak followed by the opponents. Everyone will be sworn in before they speak. Rebuttal by the Applicant will follow, if desired.

Vice Chairperson Brust asks the Board if anyone needs to abstain. Hearing none, he asks the Staff to present the case.

Z-2013-4: Rezoning Case ~ Francis Weaver ~ 0.95 Acres ~ Property located at 4504 Springfield-Xenia Rd ~ Green Township ~ R-1 (Rural Residence District) to O-1 (Office Business District)

Mr. Neimayer, Senior Planner, presents several maps and exhibits of this case and states that the subject property consists of 0.95 acres and is currently zoned R-1 (Rural Residence District). The surrounding properties are zoned R-1 (Rural Residence) and A-1 (Agriculture).

This case is a result of a zoning code complaint. He presents pictures to the Board members of the property. The complaint consisted of operating a business in a residential district and all the vehicles parked in the front yard and in the road right-of-way.

Chapter 5, Section A, 1, b) of the zoning regulations requires all parking areas, adjacent aisles and driveways to be a paved surface. Exempt from this regulation are agricultural uses and single- and two-family residences. Access drives and parking lot areas must be five feet from side or rear lot lines and no closer than ten feet to the road right-of-way or proposed ROW.

Mr. Neimayer explains at the County Planning Commission meeting on August 7, 2013, the Applicant stated the parking situation will change whereby the employees will drive the vans home in the evening and will meet at the job sites. The subject property will still be required to have off-street parking for the office use, which it is based off the square footage of the space being used. The Applicant will have to stay far enough from the well, septic and leach field area.

The property is located in the Springfield-Beckley Municipal Airport Overlay Zoning – Zone 3. No overlay zoning permits are required as long as the structure is not increased in height.

The CROSSROADS Land Use Plan identifies this area of Springfield-Xenia Road as Agriculture/Rural Residential, which reads:

“Predominantly rural portions of the County, where agriculture should remain the priority, are designated as Agricultural/Rural Residential. This designation emphasizes agriculture as the dominant land use, but also recognizes that residential uses are appropriate if very low density in character (less than one dwelling per two acres – gross density) and/or clustered to preserve significant open space features (such as prime agricultural soils)”. “Agriculture/Rural Residential is most appropriate in portions of Bethel, German, Green, Harmony, Mad River, Madison, Pike and Pleasant townships”.

Because the O-1 District restricts permitted and conditioned uses to office uses only, Mr. Neimayer feels the rezoning request would fit in the Crossroads Plan. Therefore, Staff recommends the Applicant’s request to rezone the subject property with the following conditions: 1) the Applicant gets an updated zoning certificate showing compliance with off-street parking requirements including necessary screening; 2) the Applicant complies with stormwater management regulations; and 3) the Applicant gets an updated certificate of occupancy (change of use) per building code requirements.

The County Planning Commission met on August 7, 2013 and passed a motion to recommend to the Rural Zoning Commission approval of the rezoning request subject to the same three conditions recommended by Staff.

Mr. Neimayer has not received any communication from anyone concerning this case.

Mr. Hays questions the acreage size of the proposed lot.

Mr. Neimayer responds it is 0.95 acres. {correction to staff report, under CPC recommendation}

Vice Chairperson Brust asks if the Board members have any further question for Staff. Hearing none, he opens the public hearing at 8:39 a.m.

Mr. Frank Weaver, Applicant, whose address is 4504 Springfield-Xenia Road, states he is trying to comply to the regulations. He is working on changing the business parking policy by having most of the vans driven home by the supervisors and meet at the job sites. That will not get rid of all the parking but most of it. He is hoping that he would be able to use gravel for the required parking area and not have to pave due to the drainage and expense.

Mr. Neimayer comments he would have to apply for a variance.

Mr. Weaver comments he would be willing to do that so he is in compliance. There will still be a couple of vehicles parked at the site.

Mr. Hays questions if the Applicant lives at this location and are the houses located to the north and south occupied.

Mr. Weaver comments he does not live at this location. There are residences living in both houses.

Mr. Baird questions how many employees the Applicant has.

Mr. Weaver comments twelve at this time. He operates a residential and commercial painting business. They do not do any painting at this location.

Vice Chairperson Brust asks if Mr. Weaver knows the location of the septic, leach field and well.

Mr. Weaver states he does. They are located in the rear of the lot close to the rear of the building. He had to repair his septic tank several years ago and at one point thought about adding an addition to the rear of the residence but was told he would have to move the septic tank and leach field. He feels he has plenty of space in the front for parking. He has lived in and owned the property for over 20 years and has always had drainage issues especially in the rear yard where the water runs off from the neighbors.

Vice Chairperson Brust comments he went past the location and would really like to have the parking area located in the rear of the business. He does not like having that many cars parked in the front within this residential area.

Mr. Weaver comments they would have to extend it back the rear portion of the lot due to the leach field. He does not think that would work since the rear of the lot is very wet. He comments the parking in the rear of the lot will probably not work because of the leach field and the reserve area.

Mr. Weaver comments the Health District years ago told him if he wanted to add onto the house he would have to move the septic and leach field or install a mound system. He feels if they can move the parking in front closer to the business it will alleviate the parking problem in the road right-of-way.

Vice Chairperson Brust asks how many cars are there every day.

Mr. Weaver comments probably around twelve from 7 a.m. to 5 p.m. Monday thru Friday. He feels he has plenty of room in front for parking especially if some of the employees take their van home every day. He is willing to put a fence or a row of arborvitaes for screening purposes.

Mr. Lane mentions he was wondering what the Applicant was going to do about screening and questions if there will be any problems with lighting since he is only open in the day.

Mr. Weaver comments he is planning on doing some kind of screening especially to the south of the property. The only problem is the property line is right at the asphalt of the driveway. He is not sure what the screening will entail.

Mr. Neimayer states it shields the parking area to the north and south. He will have to install screening from the right-of-way to the parking area on the north and south sides.

Mr. Weaver comments because there is a lot of high vegetation on the north side you cannot see anything in the summer which is their busiest time of the year. In the winter, he only has a couple of vehicles. He does not know what type of screening he is required to have.

Mr. Neimayer comments fencing, landscaping, arborvitaes, etc.

Mr. Hays comments the County Engineer's letter mentions the main building might be less than 25 feet from the property line.

Mr. Neimayer comments O-1 zoning calls for the primary structure to be 25 feet from the side lot lines. The detached accessory structure does not follow the same setbacks. It would have to be 5 feet from the side lot lines. As an existing building, the Board will have to factor this in their decision.

Mr. Baird questions what the accessory structure is used for.

Mr. Weaver comments it is used for storage of his power washer equipment. He also stores some stains in this building but not paint. The paint is stored in the basement of the main building.

Mr. Baird asks where Mr. Weaver's current residence is located.

Mr. Weaver comments he lives east of the property.

Mr. Hays questions how long Mr. Weaver has been in business.

Mr. Weaver states since 2006. He mentions that when he lived at the residence he ran the business from there but it was smaller.

Mr. Bill Miller, whose address is 4514 Springfield Xenia Road, states he has lived at his residence for 30 years. He knows the Weaver's and has had no issues with their business. He feels they are good neighbors and have had no issues with the parking or his employees. There is no any activity at night.

Vice-Chairperson Brust asks if there are any opponents wishing to speak against this case.

Mr. Donald Kreitz, whose address is 4400 Springfield-Xenia Road, states he is against the rezoning of the property. He does not like all the cars parked in the front. He feels it devalues the property values and feels the area is already in deplorable state with the two derelict homes in the area and a third one in foreclosure. He feels the drainage problem is due to when they built the golf course and they ruined the drainage tile that ran to the culvert.

Vice Chairperson Brust asks Mr. Kreitz if the Applicant takes care of the parking issue will he still have a problem with the rezoning.

Mr. Kreitz comments his major complaint is the parking of the vehicles.

Mr. Weaver states he is trying to improve the parking situation and keep the house up. He cannot rent the property since it is underwater. Almost all of the rear property is under water. He is not able to move because it is not financially feasible.

Vice Chairperson Brust asks if there are any more comments. Hearing none, he closes the public hearing at 9:05 a.m.

Mr. Baird questions if there was only one employee to take care of the office and no one else would they still have to rezone the property.

Mr. Neimayer comments they would because the building is not being used as a residence. It does not qualify as a home occupation and there are too many employees that are not family members.

Mr. Lane questions if the Applicant will have to screen from the road.

Mr. Neimayer comments there is no mention of that in the regulations but the Board can make it a recommendation to the Board of County Commissioners to add additional screening towards the roadway.

Mr. Lane is concerned about the screening for the south property since the driveway is at the property line.

Mr. Neimayer states the Applicant will have to make some adjustments to be able to install the required screening.

Vice Chairperson Brust wonders if they made that contingent in the motion would it be acceptable.

Mr. Neimayer comments it may.

Hearing no further questions, Vice Chairperson Brust asks for a motion.

RZC: 8-13-2013: Z-2013-4: Rezoning Case ~ Francis Weaver ~ 0.95 Acres ~ Property located at 4504 Springfield-Xenia Road ~ Green Township ~ R-1 (Rural Residence District) to O-1 (Office Business District)

Motion by Mr. Baird to recommend **Denial** of rezoning case Z-2013-4 from R-1 to O-1 as presented.

VOTE: Motion dies due to lack of second.

RZC: 8-14-2013: Z-2013-4: Rezoning Case ~ Francis Weaver ~ 0.95 Acres ~ Property located at 4504 Springfield-Xenia Road ~ Green Township ~ R-1 (Rural Residence District) to O-1 (Office Business District)

Motion by Mr. Lane to recommend **Approval** of rezoning case Z-2013-4 from R-1 to O-1 as presented.

VOTE: Motion dies due to lack of second.

Mr. Neimayer reminds the Board that they are to make a motion in the positive and vote accordingly. A recommendation has to be forwarded to the County Commissioners. He feels more discussion among the Board is needed on this case.

Mr. Lane comments he is not sure if they are doing the neighborhood any favors by approving the rezoning request. If Staff's stipulations can be met, which he feels will be burdensome for the owner, he would be able to vote for approval.

Vice Chairperson Brust expresses his dislike that they did not receive any comments from the Health District. He would vote to approve subject to the Health District approval.

Mr. Baird feels it is more of a business than an office and believes it does not fit with the residential neighborhood.

Mr. Neimayer comments it will be strictly for office use. If the rezoning is approved, the property cannot be used for anything but office use. Because of this limitation, he does not feel it will be a detriment to the neighbors.

Vice Chairman Brust comments it will be an office for the painting business. It will strictly be used for office use and storage.

Mr. Neimayer states he is correct.

Mr. Baird feels it would be ok if it was used for just office space but feels the parking is another problem.

Vice Chairman Brust comments any office is going to have parking spaces. He feels this will fit in with the O-1 District.

Mr. Neimayer asks the Applicant for the square footage to be used for the office.

Mr. Weaver comments it is about 600 square feet.

Mr. Neimayer states the parking formula is one space for every 400 square feet. Therefore, he would only need two spaces per regulations. Obviously he would have to make accommodations for the employees. He feels the Applicant has ample room to accommodate five spaces and will be further back off the road.

Vice Chairperson Brust comments if the Applicant has some of his employees drive the vehicles home and meet at the job site that will cut down on the parking problem.

Mr. Weaver states only the supervisors will drive the vans home and the other employees will have to meet them at the job site or meet the supervisor between the jobs in their own vehicle.

Mr. Hays questions how many cars will be parked there on a regular basis.

Mr. Weaver comments probably six.

Mr. Lane comments the regulations give a minimum number of parking spaces based on the square footage. Is there a maximum number of parking spaces they are allowed. His concern is limiting how many vehicles can be parked there.

Mr. Neimayer comments there is no maximum.

Mr. Lane wonders if they can make a motion subject to the maximum number of parking spaces allowed but is not sure if it can be enforced.

Mr. Neimayer comments the Board can make that a condition. It's enforcement is unclear since the regulations currently have no maximum. The parking formula used is based on the square footage of the business use only not any storage areas. Mr. Weaver will be required to have two parking spaces based on the square footage but is in need of six spaces.

RZC: 8-15-2013: Z-2013-4: Rezoning Case ~ Francis Weaver ~ 0.95 acres ~ Property located at 4504 Springfield-Xenia Road ~ Green Township ~ R-1 (Rural Residence District) to O-1 (Office Business District)

Motion by Mr. Lane, second by Mr. Hays to recommend **Approval** of rezoning case Z-2013-4 from R-1 to O-1 subject to the following: 1) the Applicant gets an updated zoning certificate showing compliance with off-street parking requirements including necessary screening; 2) the Applicant complies with stormwater management regulations; and 3) the Applicant gets an updated certificate of occupancy (change of use) per building code regulations.

VOTE: Yes: Mr. Lane

No: Mr. Baird and Mr. Hays

Motion is defeated. A recommendation to deny the rezoning request will be forwarded to the Board of County Commissioners.

Mr. Neimayer explains to the Applicant his rezoning case will go before the Board of County Commissioners which will probably be in the next month.

Mr. Hays questions why the Chairperson did not vote.

Mr. Neimayer explains the Chairperson does not vote unless to break a tie or if the Chairperson is part of the quorum.

Election of Officers

Mr. Neimayer explained the Board will need to elect new officers due to Jerri Taylor's resignation because of her recent auto accident.

RZC: 8-16-2013: Election of Officers: Chairperson

Motion by Mr. Hays, second by Mr. Baird to elect Ken Brust as Chairperson.

VOTE: Motion carries unanimously.

RZC: 8-17-2013: Election of Officers: Vice-Chairperson

Motion by Mr. Baird, second by Mr. Lane to elect John Hays as Vice Chairperson.

VOTE: Motion carries unanimously.

Zoning Regulations – Proposed Amendments ~ Chapters 8 thru 9

Mr. Neimayer proceeds to Chapter Eight Supplementary Regulations, which are mostly editorial changes. On page 8-6 Table 8.1 Accessory Building Development Standards this table is how large an accessory structure can be based on the size of the lot. In the last several years there have been several variance requests filed with the Board of Zoning Appeals and a majority of those requests have been approved. He feels this table needs to be changed. The proposed numbers were based off an average of what the BZA had approved. Most of the variances filed have been for lots less than two acres. Staff is concerned the numbers for the larger lots are too large where an accessory structure could be larger than the main dwelling.

Mr. Baird states it would depend on how far the building is located from the dwelling.

Both the Board of Zoning Appeals and the County Planning Commission feel it is too large. The size definitely needs to be changed for the lots two acres and under since the BZA has been approving those request.

Mr. Brust questions if they have had any experience with the larger buildings.

Mr. Neimayer comments it is an average of the few cases the BZA has had and approved. For example, the BZA approved a 10,000 square foot riding arena.

Mr. Lane comments on the change on Page 8-5 3, b) that an accessory building must be 300 feet from the road right-of-way and did not believe there were any one acre or under lots that would fit in that category.

Mr. Neimayer responds the code requires all accessory structures to be placed in the rear yard. Only detached garages can be allowed in the side yard. The only way a detached structure can be in the front yard is to be 300 feet from the road right-of-way.

Mr. Brust questions if you could make it a percentage instead of feet.

Mr. Neimayer responds because of the differences in the lot depth and width, they would not be uniformed.

Mr. Lane mentions it is meant for larger lots.

Mr. Neimayer responds it was made for mainly deep lots.

Mr. Neimayer continues to page 8-17 #10 Extension of Use on Border of District. This allows the BZA to approve an extension of a non-conforming use, a use into a district that is not otherwise allowed. In Chapter 9, the BZA is prohibited from doing so. This presents a conflict within the regulations and therefore needs to be resolved.

Mr. Neimayer proceeds to Chapter Nine Administration and Enforcement. This chapter has been reorganized to go in order with the enforcement procedures. The other changes are

editorial changes. He explains there have been a few more changes that have arose and will be discussing those with Mr. Tom Hale, Community Development Director. He will present those when they start the formal process.

With no further questions, Mr. Neimayer asks for a motion from the Board to initiate the formal zoning text amendment process. It will more than likely begin in October. All the Board members will receive a new copy of the changes along with the summary. He hopes to have it to the County Commissioners by November and have the new regulations in place in January 2014.

RZC: 8-18-2013: Initiate Zoning Text Amendments

Motion by Mr. Lane, second by Mr. Baird to initiate the zoning text amendments as presented by Staff.

VOTE: Motion carries unanimously.

Staff Comments

Mr. Neimayer states a new rezoning case has been filed and confirmed the August meeting will be on Wednesday August 14, 2013.

The agendas will be e-mailed directly to the Board members. If anyone has any problems getting e-mails, the agendas can be mailed.

Adjournment

RZC: 8-19-2013: Adjournment

Motion by Mr. Hays, seconded by Mr. Baird to adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 9:51 a.m.

Mr. Ken Brust, Chairperson

Mr. Thomas A. Hale, Secretary