

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Section 917 Government Bldg

Section 909 Banks and Finance Establishments

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The Etna Township Zoning Commission met in the Etna Township Hall on November 2, 2005 for the purpose of conducting a regular meeting and to hold public hearings on two text amendments submitted by the Zoning Commission. The hearings were audio and video taped for the township records.

The meeting was called to order at 7:00 p.m. by Chairman Bravard with the following members present: Mr. Kerner, Mrs. Taylor, Mr. Van Dyne, Chairman Bravard, and Clerk Laura Brown. Mr. Colburn was absent.

Mike Kerner moved that we adopt the agenda with flexibility. VanDyne seconded. Chairman Bravard added under new business letter to Trustee candidate, Mike Kerner added letter to Trustees regarding checklist and under old business final development plans request. Roll call: Motion passed 4-0.

Mike Kerner moved to waive the public reading and approval of the minutes from the regular meeting from September 21, 2005. VanDyne seconded. Roll call: Motion passed 4-0.

Jim VanDyne moved to waive the public reading and approval of the minutes from the special meeting from September 28, 2005. Kerner seconded. Roll call: Motion passed 4-0.

Tina Taylor moved to waive the public reading and approval of the minutes from the regular meeting from October 5, 2005. Bravard seconded. Roll call: Motion passed 4-0.

New Business

- A. Letter to Trustee candidates regarding the special meeting on November 9, 2005 with Phil Laurien. Chairman Bravard moved to send the letter. Taylor seconded. Roll call: Kerner, yes; Taylor, yes; VanDyne, no; and Bravard, yes. Motion passed 3-1.

Public Hearings

Mike Kerner moved to open the public hearing on Section 917 Single Family Residential District. VanDyne Seconded. Motion passed 4-0.

- A. Section 917 Single Family Residential District, 1. Item G. Township Government Building. Chairman Bravard read the staff report and recommendation from LCPC.

Tina Taylor was concerned with the township hall being in the middle of a residential area. The Zoning Commission discussed options for the town hall.

Mike Kerner moved to close the public hearing for Section 917. VanDyne seconded. Roll call: Motion passed 4-0.

Mike Kerner moved to open the public hearing on Section 909 Local Business District. VanDyne seconded. Roll call: Motion passed 4-0.

- B. Section 909 Local Business District, 1. Item M Banks and Finance Establishments. Chairman Bravard read the staff report and recommendation from the Licking County Planning Commission. The LCPC recommended approval with the condition of excluding drive thrus and include credit unions.

Mike Kerner moved to close the public hearing on Section 909 Local Business District. VanDyne seconded. Roll call: Motion passed 4-0.

Chairman Bravard moved to recommend to the Board of Trustees to amend the Etna Township Zoning Resolution in Section 917 Single Family Residential District (RS) under Permitted Uses, Item G. Township Government Building and under

~~Definitions to add Township Government Building: A building or structure owned, operated or occupied by a township government agency to provide a government service to the township. VanDyne seconded.~~

Roll call: Mike Kerner, yes; Tina Taylor, no; Jim VanDyne, yes; and Dan Bravard, yes. Motion passed 3-1.

Mike Kerner moved to recommend to the Board of Trustees to amend the Etna Township Zoning Resolution in Section 909 Local Business District (LB) under Permitted Uses, Item M. Banks and Finance Establishments including drive-thrus and to add to definitions Banks and Finance Establishments including drive-thrus: Any building where in the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, investment companies, and credit unions. Taylor seconded.

Roll call on the vote was as follows: Mike Kerner, yes; Tina Taylor, yes; Jim VanDyne, yes; and Dan Bravard, yes. Motion passed 4-0.

NEW BUSINESS

B. Mike Kerner moved to write a letter to the Trustees to approve the checklist and follow thru with the checklist. Mike Kerner will write the letter. VanDyne seconded. Roll call: Motion passed 4-0.

OLD BUSINESS

A. Steve Holloway, Board of Zoning Appeals.

The Etna Board of Appeals has been reviewing procedures on appeal applications. We have been having issues with last minute applications, grounds for appeals, and with whom applications are submitted to. In response to these issues, we respectively submit to the Zoning Commission for their consideration our recommendations for amending Section 510, Section 513, and Article 2 - Definitions of the Etna Resolution.

Current: Section 510 Appeals

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this resolution may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the township affected by any decision of the zoning inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the zoning inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is taken. The zoning inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from is taken.

Recommendation: Section 510 Appeals

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this resolution may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the township affected by any decision of the zoning inspector. Such appeal *shall be taken by filing, with the zoning inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is taken. This notice must be presented at the Etna Township Hall to the township clerk or the zoning inspector by the close of normal business hours on the twentieth (20th) day after the decision. In their absence, the notice may be administratively received by a township official.* The zoning inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed is taken.

Reasoning for changes to Section 510:

1. Currently an appellant may submit a notice of appeal anytime on the 20th day after a decision. An appellant, under current resolution, could come to the township office as late as 8:00PM on the 20th day and then contend that the township must take his appeal the next day because either the clerk or the zoning inspector was not available. The "normal business hours" statement should help solve this.

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2. At times during normal business hours our clerk and zoning inspector may be out. Since we are obligated to accept appeals and variance requests we feel it important to allow a township official accept such notices administratively only. This will prevent the potential for legal action against the township.

Current: Section 513 Application and Standards for Variance

A variance from the terms of this resolution...until a written application for a variance is submitted...

1. - 5.

A variance shall not be granted...

Recommendation: Section 513 Application and Standards for Variance and Appeals

A variance or appeal from the terms of this resolution...until a written application for a variance or appeal is submitted...

1. - 3.

4. Switch the current statements from #4 with the statements from #5

5. Switch the current statements from #4 with the statements from #5...shall accompany the variance or appeal application.

A variance or appeal shall not be granted...

Reasoning for changes to Section 513:

1. In section 509 it states that "Appeals and variances shall conform to the procedures and requirements of Sections 509 through 518... Sections 511 through 513 only refer to variances and may confuse an appellant with conflicting and/or omitted context.

2. We'd like to switch #4 and #5 because #4 (a-g) only concerns variances, #5 concerns both. We thought it better to keep all of the sub-sections that had to do with both appeals and variances together so that the current #5 sub-section may not be overlooked by an appellant.

Current: Article-2 Definitions

There is no definition for "Aggrieved person"

Recommendation: Article-2 Definitions

Aggrieved person: An Aggrieved person is one whose interest in the matter is immediate and pecuniary, and not a remote consequence of the judgment.

(Pecuniary is defined: relating to money)

Reasoning for addition to definitions:

Currently anyone may submit an appeal, including a person having no interest in the zoning inspector's decision. This could cause appeals to be made without merit and/or for spite or indifference toward a citizen of Etna Township.

The term aggrieved is in our Section 510 and is an ORC requirement. Therefore we feel it imperative it be defined to prevent any confusion. The definition is noted in a handbook circulated at the June 2, 2005 zoning seminar by Licking County AND is confirmed by an Ohio court case (Ohio Contract Carriers Assn., Inc., v. Pub. Util. Comm. (1942) 140 Ohio St. 160). This information I confirmed with the Licking County Prosecuting Attorney's office.

These changes will help protect the township and the BZA from potential lawsuits and will make our resolutions more understandable.

For the record Mike Kerner had a senior moment.

Mike Kerner would recommend to change and/or in the aggrieved person definition.

Aggrieved person: An Aggrieved person is one whose interest in the matter is immediate and/or pecuniary, and not a remote consequence of the judgment. (Pecuniary is defined: relating to money)

Jim VanDyne moved to send the Board of Zoning Appeals to Licking County Planning Commission. Taylor seconded. Roll call: Motion passed 4-0.

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Chairman Bravard recessed at 8:10 and brought to order at 8:20.

Held

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The Zoning Commission discussed how changes are made to the future land use map and whether the rezoning application for the Northeast Corner of Watkins Road and US 40 would be considered spot zoning. Chairman Bravard will send a letter to Brad Mercer regarding the paragraph regarding spot zoning in the staff report from the rezoning application from PVCN to rezone to General Business and the procedures for changing the future land-use map.

B. Final Development Plans Request

Jim VanDyne request a letter to the Board of Trustees asking where the final development plan are that were requested by November 1, 2005 and would like to know who is doing it and where are they? The Zoning Commission also requests a locking cabinet for the maps to be stored in and an extra back up copy. The Zoning Department has requested Final Development Plans from the Licking County Recorders office.

Definition Section of Zoning Resolution

Mike Kerner stated that the zoning office requested some definitions. Mike Kerner has drafted a definition for fleet storage: Storage of three or more vehicles movable industrial equipment.

The Zoning Commission would like to request a definition for strip mall from Phil Laurien and Licking County Planning Commission.

Jim VanDyne moved to adjourn the meeting at 8:55 p.m. Taylor seconded. Roll call: Kerner, no; Taylor, yes; VanDyne, yes; and Bravard, yes. Motion passed 3-1.

Approved Dan S. Bravard

Laura Brown
Laura Brown, Clerk

Approved as corrected/amended 11/16/05

Dan Bravard, Chairman