

RECORD OF PROCEEDINGS

Minutes of

December 7,

Meeting
2005

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

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**P.V.C.R. NE Corner Watkins & SR40
and Section 510 and 513**

The Etna Township Zoning Commission met in the Etna Township Hall on December 7, 2005 for the purpose of conducting a regular meeting with a public hearing. The regular meeting was audio taped and the public hearing was 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. Colburn, Mr. Van Dyne, Chairman Bravard, and Clerk Laura Brown.

Jim VanDyne moved that we adopt the agenda with flexibility. Taylor seconded. Vince Colburn added under new business feedback regarding contracting with Phil Laurien. Roll call: Motion passed 5-0.

Jim VanDyne moved to waive the public reading and approval of the minutes from the regular meeting from November 16, 2005. Kerner seconded. Roll call: Motion passed 5-0.

Announcements and Zoning Commission Comments

Jim VanDyne wants to hold a special meeting in January to organize the Zoning Maps. Jim VanDyne moved to hold a special meeting on January 25, 2006 at 7:00 p.m. to hold a work session. Kerner seconded. Roll call: Motion passed 5-0. The Zoning Commission would like the Zoning Inspectors to be available with access to the office.

Dan Bravard asked Gary Burkholder about the zoning recommendations. The parking lots were passed with modification to asphalt and concrete. The government buildings and banks amendments to the zoning resolution both passed. Gary Burkholder also discussed a noise complaint and the options that the township has and how it would be enforced. Violet Township has a resolution concerning noise. The Zoning Commission discussed how a barking dog would be a zoning issue. It needs to be added to the zoning resolution so it can be enforced.

Public Hearing

Jim VanDyne moved to open the public hearing for PVCR at 7:14 p.m. Kerner seconded. Roll call: motion passed 5-0.

The application submitted by P.V.C.R. Incorporated to be rezoned from Single Family Residential District (RS) to Local Business (LB) Chairman Bravard discussed the staff report and recommendation from Licking County Planning Commission. This application was previously submitted to be rezoned to General Business. The Planning Commission's non-binding recommendation was that Etna Township deny the proposed application. Tom Wells with P.V.C.R. gave a presentation. Tom Wells stated that the Licking County Planning Commission in the past supported this rezoning.

Jim VanDyne asked if this would be a strip mall. Tom Wells explained definitions of strip malls. He considers it more of a shopping center versus a strip mall. Jim VanDyne asked if PVCR was represented at the LCPC meeting when they denied the rezoning. Due to the holiday LCPC's meeting in November was a week earlier and they were not aware of the meeting change. Gary Burkholder was at the meeting and stated there was considerable discussion regarding this rezoning. Gary Burkholder asked if we had a copy of the minutes from this meeting. Gary Burkholder stated that Commissioner Smith had some concerns about the traffic. Traffic was a consideration. Citizens spoke at the Trustees meeting with their concerns. Jim VanDyne is upset about Licking County having concerns about traffic at the corner of Watkins and SR 40 but did not have concerns about traffic at the big box store coming out into a development. Paul George stated he was not at the meeting but talked with Commissioner Smith about why they turned it down. Mr. Smith told Paul George he was not aware, it was not presented to them that there was another access onto Route 40. Vince Colburn feels Local Business would be perfect located there. Tina Taylor feels the small business would be good there. She has concerns with delivery times. Tom Wells stated they can not legally do limiting text restrictions. Tina Taylor was concerned with the traffic. Tom Wells said the businesses located in this shopping center will not affect the school traffic. The final site plan has to be approved by O.D.O.T. and LCPC regarding ingress egress. Mike Kerner stated that he lives on Watkins Road and on Friday nights

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during football season they will have a traffic problem. He does not know what else they could put on that corner; he does not want more houses or used car lots.

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~~Gary Burkholder stated that at the LCPC meeting there were concerns with traffic. The citizens were also concerned with the traffic impact. He feels that retail will not come without the residential. Mike Kerner stated that commercial brings more financial benefits then residential. Gary Burkholder stated we do need commercial but in the proper place in the township.~~

David Waldeck of 8279 National Road discussed the traffic and options to improve Watkins Road. He feels business is going to come to Etna Township and wants the tax base. He is for the proposal as long as we address the traffic.

Paul George has concerns with Licking County Planning Commission not supporting the rezoning. He feels that P.V.C.R. has done everything possible to develop the corner. The county is going to improve Watkins Road to three lanes.

Mike Kerner asked which side of the road the county was going to use when they widen the road. Tom Wells stated that the county is going to use their side of Watkins Road. He has recently received the actual construction drawing of this corner and the ingress/egress for Rt. 40.

Neil Ingle has concerns with traffic, infrastructure. Neil questioned when the road was going to be improved. Tom Wells stated that he was told it would be next year. Tom stated that Brian Bosch with O.D.O.T. is the one he believes stated it would be started next year.

Jim VanDyne is concerned that the same public is not here that were at the previous Trustees meeting. This meeting was advertised.

Dick Knapp stated he lives in that area. He discussed the Land Use Map. Dick Knapp has a concern with traffic and the houses being built in Brandy Mills, Long Wood Crossing, and Joshua Homes North of the High School. We have a High School and a Middle School there. Dick Knapp would like to see a Doctor's office or a fire station there. He has concerns with a restaurant with a bar going in there. He feels the traffic light was installed for the houses in the area and for the school. Dick Knapp stated that around 2:00 p.m. he has cut through traffic. He feels there is a better place for retail business.

Mike Kerner moved to close the hearing. Colburn seconded. Roll call: Motion passed 5-0.

Mike Kerner moved to make a decision tonight. Colburn seconded. Roll call: Kerner, yes; Taylor, yes; Colburn, yes; VanDyne, no; and Bravard, yes. Passed 4-1.

The Zoning Commission likes small business on that corner and feels it will bring a tax base and serve the residential growth in the area. Jim VanDyne had concerns with the letter recommending denial from the Licking County Planning Commission. He wants to know why. Mike Kerner stated it was 6-5 for denial.

Mike Kerner moved to recommend to the Trustees that the application submitted by P.V.C.R. Incorporated to be rezoned from Single Family Residential District (RS) to Local Business (LB). Taylor seconded. Roll call: Kerner, yes; Taylor, yes; Colburn, yes; VanDyne, yes; and Bravard, yes. Motion passed 5-0.

Jim VanDyne moved to open the public hearing regarding amendments to Sections 510 and 513 of the Etna Township zoning resolution. Colburn seconded. Roll call: Motion passed 5-0.

Chairman Bravard read the letter that was sent to Licking County Planning Commission regarding the following changes:

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.

Etna Township Zoning Commission
REGARD OF PROCEEDINGS

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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.

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/or 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.

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Held ~~Gary Burkholder asked who recommended the change. Steve Holloway and Cheri Rogers~~ ²⁰

worked on the change to the sections for the Board of Zoning Appeals. Gary Burkholder wants to make sure that the citizens of Etna Township have a fair process to appeal. The section regarding the aggrieved person is by Ohio Revised Code. Dick Knapp had a concern that the files were not available for the appeal to be made on the last day.

Mike Kerner moved to recess for Licking County Planning Commission's non-binding recommendation. VanDyne seconded. Roll call: Motion passed 5-0.

New Business

Vince Colburn would like to have a quote from Phil Laurien regarding a new Zoning Resolution. Gary Burkholder stated the Trustees approved an additional 10 hours for this year and is working on renewing the contract for next year. The clerk and Gary Burkholder discussed the overage hours to Phil Laurien and what was owed to him. Gary Burkholder would like to see Mr. Laurien work on a Comprehensive Land Use Plan, Zoning Resolution, Urban PUD, and a 310 Corridor Plan as a mini plan. Gary Burkholder feels the 310 Corridor Plan is the most important. He feels we need an Access Management Plan also. The Zoning Commission discussed how to change the Land Use Map.

Vince Colburn moved to ask the Board of Trustees to have a fixed quote on a legal working Zoning Resolution and on a Future Land Use Map. Taylor seconded. Discussion: A meeting with all, what do we want to look like in the future. Roll call: Passed 5-0.

The meeting was recessed from 8:50 to 8:55 p.m.

- A. Discussion regarding the Liberty Township Zoning Resolution provided by Phil Laurien. The Zoning Commission had a discussion regarding restricting Big Box Retail in the General Business section of the Zoning Resolution. The Liberty Township Zoning Resolution uses the NAICS Codes to restrict the permitted uses in the business sections. The Zoning Commission discussed limiting the district to 30,000 square feet. The specifications could be made by how many lanes the road has to have to permit a big box store. What does Etna Township want 310 to look like when it is all built out? Mike Kerner discussed starting the amendment process to limit the square footage allowed on any township thoroughfare other than U.S. Rt. 40. This would restrict a big box to route 40. Chairman Bravard will draft Phil Laurien a letter regarding Retail Size Limitation.
- B. Conservation Urban Residential District, Chairman Bravard will draft the letter and forward to the Board of Trustees.
- C. After reviewing the definition suggestions from LCPC the Zoning Commission will still proceed with the removal of the strip mall section.

Meeting is adjourned at 9:26 p.m.

Approved

12/21/05

Dan S. Bravard

Laura Brown
Laura Brown, Clerk

Approved as corrected/amended _____

Dan S. Bravard
Dan Bravard, Chairman