

RECORD OF PROCEEDINGS

Etna Township Zoning Commission

Minutes of

Meeting

January 18

2006

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held _____ 20 _____

Fences

The Etna Township Zoning Commission met in the Etna Township Hall on January 18, 2006 for the purpose of conducting a regular meeting. The meeting will be audio taped for the township records.

The meeting was called to order at 7:00 p.m. by Chairman Kerner. The pledge of allegiance was recited. The following members present: Mrs. Dunlap, Mrs. Taylor, Mr. Colburn, Mr. Van Dyne, Chairman Kerner, and Clerk Laura Brown.

Jim VanDyne moved that we adopt the agenda with flexibility. Colburn seconded. Roll call: Motion passed 5-0. Item C. pools and D Zoning Application was added under new business.

Chairman Kerner introduced Trent Stepp the alternate for the Zoning Commission. Mike Kerner would like the Zoning Commission to review Etna Township's Comprehensive plan.

Jim VanDyne moved to waive the public reading and to approve of the minutes from the regular meeting on December 21, 2005. Taylor seconded. Roll call: Motion passed 5-0.

Vince Colburn moved to waive the public reading and to approve of the minutes from the regular meeting on January 4, 2006. VanDyne seconded. Roll call: Motion passed 5-0.

New Business

A. Fences - Mike Kerner passed out a suggested change regarding fences for the Zoning Commission to review by adding a Section 1032 Fences and Hedges. Jim VanDyne stated that he reviewed the previous Zoning Resolution and back to 1982 fences has been in the definition of structure. He does not feel we can go back and research how many violations or permits have been written in the past 24 years. Jim VanDyne called Harrison Township and asked why they did not have fences in their Zoning book. He stated they only have fences in the subdivisions and they limit it to the easements. Jim asked him why they do not have a setback for fences. He stated if it goes to court the first thing a judge is going to ask you is if you had a registered surveyor and a registered plot map where that fence is wrong. If you do not have that you have no evidence the fence is wrong. We can not send our zoning inspector out to say the fence is wrong because he is not a registered surveyor. It would cost the township thousands of thousands of dollars. Mike Kerner asked if they could do the same thing with a house. Jim VanDyne said yes, they have to go by what is registered. This is what Jim VanDyne has been told. Vince Colburn asked if the zoning office could write a violation without a survey. This is what Harrison Township said regarding the survey.

Mr. Bush at 103 Arrow Wood stated that on July 2, 2005 he spoke with Steve Ferris regarding building a fence. Mr. Bush explained the situation with his fence on his three sided lot. He asked why the golf course can have a fence that is 29 feet off of Columbia and mine is 35'. He was told he can not have a fence at all. The fence is a split rail so it does not obstruct view. The appeals board told him that he had to be from Trail East 68' from the middle of the road, that would run through his garage and the master bedroom. The back fence is 80 to 90' from the middle of the road on Columbia which is seven feet off his patio. Mike Kerner stated that this commission writes new regulations and amends old ones but would like to make sure this does not happen to someone else. Mr. and Mrs. Bush understand.

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Jim VanDyne read from the deed restrictions at Cumberland Trail. Jim stated the township possibly has one to two hundred fence violations in this township and he does not think we want to do hardship to anyone through our zoning. In twenty-four years nobody looked at this rule until Mr. Bush wanted to build a fence. No one enforced the rule in twenty-four years. It is not from visibility it is because his lot is a three sided front yard lot.

Dee Dunlap asked when do the deed restrictions take over. When there is a conflict the more restricted code applies, if the PUD says you can have a fence that is 4 feet high and our Zoning Resolution says 2 feet high you can't put in a 4 foot high fence. If it is the other way around it is up to the people in the organization to take care of.

Mike Kerner stated his proposal is for the side between two houses the setback for a fence would be 18 inches. The homeowner that puts up the fence would mow. Tina Taylor stated that the 1 ½ feet from the property line, if both neighbors put up a fence you would have 3 feet between properties. This could create a 3 feet area that might not be maintained. This would not allow the fence to abut the other property line. Some neighbors will go in together and share the fence and hook on to it. Tina Taylor stated by her house there are two houses with fences with an area between them and they do not maintain the area between the fences. Jim VanDyne stated that is why Harrison Township stays out of the fence business. Mike Kerner stated if the fence is on the property line then the homeowner can't get on the other side to paint the fence or to mow. Vince Colburn stated the homeowner can choose to bring the fence in off his property line but it does not make the homeowner bring it in off his property line.

The Zoning Commission discussed the options and changes to Section 1032 Fences and Hedges.

Jim VanDyne moved to remove fences from the definition of structure and add the following definition of fence. Taylor seconded. Discussion: Vince Colburn questioned if we are going to do everything tonight, our regulation for fences, add to fee schedule, and permits issued. Mike Kerner stated there is no guarantee it will be done tonight.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.

Fence: An enclosure or barrier, such as wooded posts, wire, iron, etc. used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs trees, or other natural growth.

Roll Call: Motion passed 5-0.

The Zoning Commission resumed the discussion regarding the setback for a fence. The Zoning Commission agreed with 25 foot setback in the front. Jim VanDyne discussed the park. The only area the fence around the park is in compliance is the parking lot.

Vince Colburn moved to add fence to Section 300 after building, fence, and so on. Van Dyne seconded.

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Section 300 Zoning Permits Required

No building, fence, or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore, issued by the zoning inspector. Zoning permits shall be issued only in conformity with the provisions of this resolution unless the zoning inspector receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use or variance or from the Board of Township Trustees approving a planned unit development district, as provided by this resolution.

Roll call: motion passed 5-0.

Vince Colburn and Tina Taylor would like the property line for the setback. Jim and Dee would like a front setback. The Zoning Commission discussed defining the front yard. The commission reviewed Sections 1009 and 1010. In Section 1010 the height restriction from 2 ½ feet to 10 feet is probable because of trees blocking visibility. The Zoning Commission discussed corner lots. Trent Stepp stated to be careful with front yards because if the house next door faces your side yard then your fence is in their front yard. Vince Colburn asked if the fence issue could be fixed with a variance.

The Zoning Commission took a ten minute recess to type up changes to the text proposed by Mike Kerner.

At 9:18 p.m. back from recess.

Vince Colburn moved to add Section 1032 Fences and Hedges to whit: "In any residential district, front and side yard fences shall be of wood, vinyl, synthetic wood, stone, brick, or wrought iron. No wire or chain link fencing will be permitted in front or side yards. Fences or hedges in front and side yards must not exceed 2 ½ feet in height measured from grade level. That portion of a fence extending from a line even with the back of the dwelling to the rear property line and extending across the back of the property to the side property line may be of wood, vinyl, synthetic wood, stone, brick, wrought iron, or chain link and shall not exceed 8 feet in height. Hedge height in front or side yards shall not exceed 2 ½ feet in height. Front yard set back shall be a minimum of 25' measured from the centerline of the road.

Front yard fences and hedges on corner lots must comply with Sections 1009 and 1010 of this resolution. Where agriculture property abuts residential property, Ohio Line Fence Law as specified by ORC Chapter 971 shall apply."

Jim VanDyne seconded. Discussion: Vince Colburn questioned if property owners had hedges along their houses. The Zoning Commission discussed in detail. A definition of hedge would define the plant that is used for a fence, a definition for hedge by next meeting from LCPC. Roll call: passed 5-0.

B. Maximum size for big box retail. Mike Kerner stated that LCPC said you can't have different requirements within the same zoning classification. The Zoning Commission discussed how to limit the big box retail in General Business. Claudette VanDyne discussed information the Economic Development Committee researched. She also stated the land that is available going towards Kirkersville. We are not going to stop development but we can control the development. Section 910 - General Business District under general requirements the GB zoned will only be permitted along Route 40. Under Section 909 - Local Business general requirement to limit the size of a building to 30,000 sq ft. A 30,000 square foot building would be half the size

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of a football field. A football field is 50 yards wide 150 feet, 300 feet long. Tina Taylor asked if we could stipulate what you will allow in GB. Vince Colburn stated in the new Zoning Resolution we will have more zoning classifications. We can not allow one size building in General Business on one road and another size building in General Business on another road. What about the General Business on 310 by Interstate 70.

Tina Taylor suggested a special meeting with Phil Laurien to discuss the big box store. Mike Kerner suggested that the Zoning Commission be in agreement before we bring in Phil Laurien. The February 1st meeting we will try to get Phil Laurien in for February 8th as a special meeting. Contact Phil Laurien and ask what he needs from the Zoning Commission.

Mike Kerner asked for item C. Pool to be placed under Old Business for next meeting. The Zoning Commission reviewed the zoning application for Prologis across from the Etna Corporate Park next to Mayflower. This is the property that Landnet wanted to put in a residential subdivision with SER. The public hearing will be February 1 at 7:10 p.m.

Meeting was adjourned by Chairman Kerner at 10:10 p.m.

Approved Feb 01 2006

Laura Brown
Laura Brown, Clerk

Approved as corrected/amended _____

Michael A Kerner
Mike Kerner, Chairman