

RECORD OF PROCEEDINGS

0051

Minutes of

Meeting

Etna Township Zoning Commission

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held February 8, 2006
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Work Session with Phil Laurien

The Etna Township Zoning Commission met in the Etna Township Hall on February 8, 2006 for the purpose of conducting a special 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 with the following members present: Mrs. Dunlap, Mrs. Taylor, Mr. Colburn, Mr. Van Dyne, Chairman Kerner, and Clerk Laura Brown.

Vince Colburn moved that we adopt the agenda. VanDyne seconded. Roll call: Motion passed 5-0.

Work Session with Phil Laurien of Delaware County Regional Planning Commission. Scott Sanders works with Phil for four ½ years. The Zoning Commission can obtain Berkshire Township Zoning Code which is a good basic code. When you are cutting and pasting you could miss a section so it is good to have Don Brosius review for a legal opinion.

The Zoning Commission discussed limiting big box retail. Phil Laurien stated when designating zoning to a particular area you have to have a reason why. If you have two pieces of property on opposite sides of the street with the same attributes and one is commercial. What the Zoning Commission can do is to modify the planned commercial district and the uses permitted. The example Phil used was anywhere in the township the limitation is 65,000 sq ft accept US 23 which is a four lane divided highway; there they will accept big box retail. 65,000 sq ft is a standard Kroger store. If Etna Township would say access to State Route 310 South of I70 we have a right to say. The Zoning Commission has kicked around access to Route 40 and possibly 310 around I70. Phil Laurien stated we can have two areas designated for box retail. Mike Kerner stated that LCPC said we cannot specify a certain area in General Business, we have to restrict it in GB and create another zone for the larger square footage. Phil Laurien agreed with LCPC. We need to create a different district and limit the general business district.

The process is to start with a limitation on size and proceed as we would a zoning change. Phil Laurien discussed putting the square foot restriction in our current districts then initiate a new district similar to Liberty's planned commercial. In this district you will allow in the same areas but will only allow the big box in a certain area. Under ORC 519 we have the authority to regulate size of lot, density of population, height of buildings, the bulk of buildings which is what we are talking about and it is good to have a justification but you do not have to. Phil Laurien recommended that we look at Berkshire zoning code under Section 5 Nature of the Districts. This is a description at the beginning of the book for the intent of each district.

Tina Taylor asked how to designate two areas. Phil Laurien stated there are two ways to do it. If we make it a Planned District (Which is what Liberty Twp is) these are adopted under the section of the ORC 519.021 A, B, and C.

In Section A you would describe in words the areas with access to which streets you will allow with the square foot you would allow. What that means is a developer would look in the text, he would have to rezone to a Planned Commercial District and the limitation for the square footage that he wants. That is a legislative act that is subject to referendum. The community can put in on the ballot and this has the greatest protection for the community.

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The second way is 519.021 C is to say we are not only going to have the text that describes how to do a planned commercial development, we are going to designate territory now. If it is zoned agriculture but it is near the interstate you put an overlay on the property. It is still zoned agriculture. That says you have initiated zoning text, so you have the regulations in place but you have also designated territory that you think is appropriate. You may call it spot zoning it is really designated where you think it is appropriate. You would show it on the map where you would accept it. That is an administrative review and not subject to referendum. There is a little bit more of a danger to the community that if somebody does not give you a good development plan. If they do not meet all the standards you can deny it. It is a proactive step to say it could be zoned for box store. The development plan does not go on the ballot it will go to the Zoning Commission and the Trustees. If it meets all the standards then you have to approve.

With Section A, legislative act, you adopt the text but not the territory. If we had a detailed comprehensive plan it would show where the township desired box store. You still retain the authority to referendum the use. This is the better way to go in Phil Laurien's opinion. A comprehensive plan has value because you have the discussion what you what to look like. The float the cloud does not affect anything on the ground. The property still remains zoned agriculture.

It does go to a public here because when you adopt the text to designate the territory that is a legislative act that is subject to referendum, when you first designate the territory to float the cloud that is subject to referendum, so if Farmer Brown does not like it he can object. The landowners are not likely to object but the neighbors may object.

The float the cloud forces developers to come in with a plan. The Zoning Commission has authority with this plan and the ability to establish an architectural review. With the other plan the developer goes to the Zoning Inspector and if they meet the criteria they get the permit. The float the cloud is not straight zoning so you can decide to vary it or not to vary it. There is a lot more teeth to a planned district than a straight district. You will have longer meetings but when you are done you should have the best design for everybody. The developer has the ability to ask for divergences but you do not have to grant them. You can't do contract zoning it is illegal. If they do a traffic study and it comes back that you need turns lanes, traffic lights, etc the developer in a straight district will try to put that back on the township to put it but with the planned district you have negotiating power to have the developer put the turn lanes it.

Phil Laurien suggested the Zoning Commission look at Berkshire. He said they could email us the word documents for the zoning codes. Mike Kerner asked if the three overlay districts are ready to go. Phil believes they are ready to go and he will check it over and let us know. If we can not fix the GIS map CD over the phone he will have Da-Wei come out. That is the support you get with your dues. Phil Laurien does not have any recommendation of who to use outside of the Delaware County Planning Commission. He hopes to take his files with him. He recommends Scott Sanders with Delaware County Planning Commission. By taking all his data with him he could give Scott advice from Florida. The zoning text can be done through him. We can cut and paste the zoning resolution by using Berkshire and the first 7 chapters of Concord Township specifically the conservation code overlay. Phil has written the code

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for us already. Look at the Telecommunication Section from Concord because it is better than the Berkshire because it is newer. The other contact at Delaware County is Joe Clase. Scott or Joe either one could help with a Comprehensive Plan and Future Land Use map.

Dee Dunlap and Tina Taylor feel the Commercial District is an Emergency item. Phil Laurien feels if the township wants to initiate something on the Commercial District he suggests a meeting between him and Don Brosius and they can draft something real quick. Mike Kerner asked if to start things off we can put a limitation on the square footage. He feels it would be helpful to discuss with Don because he should write the language of the resolution when you initiate it. We can draft it but have him review it. The township has the right to change the text and go through the public hearing process. Mike stated to have the size limitation on the agenda for our next meeting. Vince Colburn asked if we had money allotted for Don Brosius? The zoning commission has to ask for approval to have Don come to the meeting. Vince Colburn suggested we write up what we want at the next meeting and then ask the Trustees to send it to Don Brosius. If we have Don and Phil attend a meeting together then we can start the process. Mike Kerner stated LCPC can advise the Zoning Commission. The Zoning Commission discussed having the Trustees approve Don Brosius if needed to attend a meeting in March if needed. Phil said just to initiate a cap of square footage in a general business district look at the sentence that was written for Liberty. Mike Kerner stated before we consider a BB1 district read the information on big box. Is it good for the township? Phil Laurien likes the 65,000 square foot store. The Zoning Commission discussed the different size stores and Mike provided a good graphic example of different stores. The commission discussed pro's and con's of box retail and where to place the box store if the township want one at all. The township did a survey when they did the Future Land Use Plan. Phil Laurien will wait to hear from the Zoning Commission.

Laura Brown will verify which copy of the Future Land Use Plan is the final and will copy for the Zoning Commission.

Mike Kerner reviewed the emails he sent regarding big box retail and Wal-mart.

The Zoning Commission discussed the options to limiting box retail and square footage. There are set back and parking requirements. The square footage for the permit is 203,819 square feet according to the article in the paper. Jim VanDyne stated the public hearing would give the public the opportunity to give their opinion.

Meeting adjourned at 8:55 p.m. by Chairman Kerner.

Approved 3/15/06

Laura Brown
Laura Brown, Clerk

Approved as corrected/amended _____

Michael A. Kerner
Mike Kerner, Chairman