

September 24,

2024

Held

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The Etna Township Zoning Commission met on Tuesday, September 24, 2024, in the Etna Township Hall, 81 Liberty Street, Etna, Ohio 43018 for the purpose of conducting a regular meeting. The meeting was called to order at 6:00 PM by Litchia McIntyre.

**Members Present**

Adam Kelley, Dave Olson, Litchia McIntyre, Shelly Marie Ipacs, and Steven Smith

**Members Absent**

**Others in Attendance**

Holly Palumbo

Ted Walker

**1.**

Opening

a.

Call to Order

b.

Pledge of Allegiance

c.

Roll Call

**2.**

Adoption of Agenda

Motion to adopt the agenda as presented

*Moved by:* Steven Smith

*Seconded by:* Adam Kelly

Motion Approved

Carried 5-0

Zoning Commission Announcements and Comments

Dave Olson provided an update on his meeting with Mark following the controversy between Mark and Gary at the trustees' meeting on September 17th regarding the proposed changes. He met with Mark to address concerns and clarify details of the proposal. They had a productive discussion, lasting approximately an hour and 20 minutes, and reviewed many of the items Mark had questions about. Mark expressed general support for the proposal but indicated he would continue reviewing the details. He agreed to reach out if any additional questions or concerns arose before the public hearing, which has been rescheduled from October 1st to October 15th.

Dave also addressed the issue concerning "substantial," which was on the meeting agenda for further review. He had received relevant information from Liberty Township and prepared a written document for the board's consideration. Copies were distributed to the attendees for review and discussion later in the meeting.

Ted Walker introduced himself, noting that on August 26th, he accepted the role of Zoning Inspector for Etna Township. He shared that over the past four weeks, he has been working closely with Lance Schultz, the zoning consultant, and that they have made notable progress. Ted emphasized his enthusiasm for his new role and his pride in being a resident of Etna Township, where he has lived for the past five years. He also mentioned his personal connection to the community, explaining that he has 12 grandchildren who have either attended or will attend school in the township, highlighting his vested interest in the area's success. Despite this being his third time coming out of retirement, Ted expressed his enjoyment in taking on this position, stating that the role is a learning process but one that he is excited about.

# RECORD OF PROCEEDINGS

0339

Minutes of

Etna Township Zoning Commission

Meeting

DAVTON LEGAL BLANK, INC., FORM NO. 10148

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3. Motion to adopt the waive the public reading and to approve the minutes from the Tuesday August 13th meeting

Moved by: Dave Olson  
Seconded by: Shelly Marie Ipacs  
Motion Approved

Carried 5-0

4. Old Business

Definition of term "Substantial"

Dave Olson shared insights from a meeting with Mark, where they discussed the definition of the term "substantial" and its implications in zoning regulations. He explained that Steve Holloway had asked the board to look into this issue, particularly how it relates to zoning appeals. After reviewing the information sent by Mark, Dave provided a breakdown of how Liberty Township had addressed the term in their zoning resolution and how it could potentially affect Etna Township. Liberty Township had added a definition for "substantial" in relation to variances, stating that a deviation of more than 25% from regulatory requirements would be considered substantial. This definition was developed through a text amendment process and received support from their planning commission (LCPC). Liberty Township had originally removed certain variance standards but later reintroduced a portion of them while implementing the new definition. He also emphasized that Etna Township's zoning resolution, specifically Section 512, Area Variances (found on page 55), currently lacks a definition for "substantial." The lack of a clear definition has, in the past, led to variances being granted without clear guidelines. He proposed that Etna Township adopt a similar approach to Liberty Township by defining "substantial" in the resolution, which would help guide the Board of Zoning Appeals (BZA) in their decisions.

Shelly Marie Ipacs supported the idea of using a 25% threshold for defining substantial variances, as it had been recommended in previous zoning orientations attended by the zoning commission. Both Liberty Township and their attorneys had agreed on the 25% figure, and she felt it was a reasonable starting point for Etna Township as well. Other board members echoed this sentiment, though they remained open to other suggestions. Litchia McIntyre and Steven Smith both expressed concern about leaving the BZA without clear guidelines and supported moving forward with a definition. Steven pointed out that having a percentage-based definition would provide a consistent history for future zoning decisions.

Adam Kelly raised the point that the definition should be clearly tied to Section 512 and area variances, as the term "substantial" could appear in other sections where a 25% threshold might not be appropriate.

## Adoption of Substantial variances to definitions

Motion to adopt to define substantial as referenced into section 512 area variances, Page 5-5 of zoning resolution number B, Article 2 using the text that Dave provides substantial variance, a deviation of more than 25% from a regulatory requirement and add that definition to article two definitions.

Moved by: Shelly Marie  
Seconded by: Adam Kelly  
Motion Approved

Carried 5-0

## Article Nine Follow-up

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Chairwoman McIntyre confirmed that the Board of Trustees has scheduled a public hearing for October 15th. This delay was due to Lance Schultz requesting additional time to ensure that the document was properly prepared for presentation to the trustees with all the necessary changes in place.

Dave Olson suggested that the trustees should receive both the red line version (showing the changes in red and green) and the final clean version. The commission will have the opportunity to review the final version of the document before it is sent to the trustees as soon as Lance Schultz is finished with the work.

5. New Business

Section 907 General Business District

The amendment was initiated by the trustees and pertained to the removal of NAICS code 447190 (Other Gasoline Stations) from the zoning code. This code includes establishments such as truck stops, and the purpose of the amendment is to prohibit truck stops from being approved in certain areas, primarily along Route 40, which is zoned for general business use.

The amendment had already been submitted to the LCPC for review, and it was included in the regular text amendment package sent to the trustees. The trustees are scheduled to hold their public hearing on this matter on October 15th, and the commission's hearing will follow on October 22nd. This could be viewed as an additional safeguard if further input or concerns arose after the trustees' hearing.

Motion to Set the Public Hearing

Motion to set the public hearing for the Section 907 General Business District text amendment for October 22nd at the next regular meeting, with the purpose of approving or disapproving the amendment.

Moved by: Litichia McIntyre

Seconded by: Steven Smith

Motion Approved

Carried 5-0

6. Public Comments

**John Hansen**, Ridgewood Drive: Expressed concerns about the definition of "substantial" being introduced in the zoning resolution. He argued that by defining the term with a fixed percentage (25%), the Board of Zoning Appeals (BZA) would lose its adjudicatory power, reducing its ability to make decisions based on context and judgment. Hansen emphasized that setting a hard threshold could turn the BZA into a "rubber stamp," removing the wisdom and flexibility they need to address unique situations, such as the commercial developments along state highways. He noted the unintended consequences this could have and pointed to a previous BZA decision involving a 50% reduction in setback as an example where flexibility was necessary.

Litichia McIntyre responded by clarifying that the BZA had initially requested a definition for "substantial," which is why the zoning commission was addressing the issue. The goal was not to limit the BZA's power but to provide a guideline that the BZA could use in decision-making. She reiterated that while the 25% threshold is being used as a guide, the BZA retains the authority to go beyond this if the situation warrants it. She concluded by reassuring Hansen that the zoning commission was only implementing the definition at the BZA's request, and that the guideline was based on examples from Liberty Township. She clarified that the BZA still has full discretion to approve or deny variances based on multiple factors, including but not limited to the 25% deviation guideline.

Hansen also inquired about public records and whether any emails between board members and trustees, including Trustee Evans, had been generated. Litichia McIntyre explained that the



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board's clerk handles all public records requests, and Hansen was encouraged to follow up with the clerk to receive the information he was seeking.

**Nia Hanson**, 51 Ridgewood Drive Southwest: Asked for clarification on the 25% variance rule, confirming that while it might seem like a bright line test, the 25% threshold was simply one of many considerations in determining whether a variance should be granted. She restated that, from her understanding, the BZA would still be able to assess each situation on a case-by-case basis, with 25% serving as just one factor.

Litichia McIntyre confirmed Hanson's understanding, emphasizing that the percentage serves as a guide but that each situation is still unique, and the BZA retains discretion.

Adam Kelly thanked the Hansons for bringing forward their points and highlighted the importance of having respectful, open discussions, even when disagreements arise. He expressed appreciation for the civil tone of the conversation, stating that it is essential to talk through issues and reach a mutual understanding.

Chairwoman McIntyre continued by explaining some of the behind-the-scenes challenges of being the board president, particularly in managing the constant flow of emails and inquiries. She clarified that decisions are always made collectively as a unified body, with every board member being involved in the discussion process. She emphasized that while the board members may not always agree, they work to reach compromises that reflect the input and experiences of all members. Each board member brings unique perspectives from their personal and professional backgrounds, making the decision-making process richer and more collaborative.

**Rachel Zelazny**, 10141 Tollgate Road Southwest: She agreed with Adam and others that while the term substantial is being defined, it does not preclude the board from ruling on substantial matters on a case-by-case basis. She reiterated that the definition is simply a guide, not a strict rule, and emphasized that the board has the flexibility to evaluate each situation individually. Zelazny also clarified that the trustees have no involvement in the board's decision-making process. They are not part of the board's email communications or discussions, and any decisions or clarifications, such as the current one regarding the definition of "substantial," are made solely within the board. She mentioned that Steve (a member of the Licking County Planning Commission) had requested the definition because of his broader exposure to planning matters, but it is ultimately just a definition, and the board retains its discretionary power. Zelazny provided an example from a recent decision in which the board allowed a frontage reduction from 200 feet to 15 feet for construction purposes. She highlighted that this was a significant reduction (a substantial variance), but the board placed limitations on the variance, giving the applicant two years to complete the necessary work. This demonstrated how the board applies discretion based on context.

Chairwoman McIntyre concurred with Rachel Zelazny's points, emphasizing that the board operates independently from the trustees. Gary Burkholder, who serves as the representative for both boards, acts as a point of contact if any issues arise, but the trustees have no direct involvement in zoning decisions.

**John Jones**, 9446 Main Street: Addressed the board with concerns about outside storage at his business. He explained that the previous zoning inspector had warned him about possible issues related to outside storage and asked whether there were any current discussions or upcoming rule changes regarding outside storage in the township's zoning code. He provided additional context, stating that the chemicals he stores outside, primarily bleach, have been reviewed by various agencies, including Homeland Security, the EPA, and the Licking County Health Department. These agencies had determined that his store complies with all regulations, including those related to the amount of bleach and proper storage procedures. Jones assured the board that he is well within the limits of a level 3 store, which allows him to store up to 10,000 pounds of chemicals, although his inventory is far below that threshold. He noted that the complaints he had received seemed to be motivated by competition rather than genuine safety concerns, as similar materials are commonly sold at other stores in the area.

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Ted Walker responded by confirming that they had been researching the issue with Lance Schultz, but so far, they had not found any regulations in the zoning code that pertained directly to outside storage for businesses like Jones's. He noted that this issue had also come up in another case related to the Schuster Way project, and they were still in the process of determining how such matters should be handled. Ted explained that the township was seeking legal opinions from the prosecutor's office on this matter. He would continue to seek answers from the local fire department to ensure everything was properly addressed and that the matter could be put to rest. He assured Jones that the investigation was ongoing and that they were making efforts to obtain the necessary information.

Shelly Marie Ipacs thanked Ted for his thorough investigation and emphasized the importance of working through the process to find the truth, even if it takes time. The board reassured Jones that they were actively looking into the matter and that his concerns were being taken seriously.

Litchia McIntyre and Ted Walker expressed his appreciation for Dave Olson and complimented his presentation style, stating that Dave made the information easy to understand. This was Ted's first-time meeting Dave, and he found Dave's explanations helpful. Praised Dave for his significant contributions to the board. Speaker 1 referred to Dave as the "guru" of the board, acknowledging his guidance, especially when she first joined the board. Despite Dave's comments about aging, the board members expressed their admiration and appreciation for his continued involvement and expertise.

7.

Adjournment

Recommended Action: To adjourn at 6:59 p.m.

Moved by: Adam Kelly

Seconded by: Shelly Marie Ipacs



Holly Palumbo, Clerk



Litchia McIntyre, Chair