

**Zoning Commission Meeting Minutes
August 2, 2010**

Chair Jane Scott convened the Zoning Commission meeting at 6:00 p.m. Present members were Ernest Stein, Mark Wasick, Jane Scott and Bill Daniel. Alan Weinstein and Matt Springer were also present. Jim Phelps and Colleen Ahern were absent.

Guests present included Mr. Mark Majewski, Larry Levey and Ms. Helen Humphrys.

NEW BUSINESS

PUBLIC HEARING

APPLICANT: **COPLEY TOWNSHIP**

TEXT AMENDMENT: **AMENDMENT IS FOR A REWRITE OF CURRENT ARTICLE 7 (NONCONFORMING USES), PROPOSED TO BE NEW ARTICLE 10 (NONCONFORMING STRUCTURES, LOTS AND USES) OF THE ZONING RESOLUTION.**

Mrs. Scott opened the public hearing on the proposed Article 10: Nonconforming Structures, Lots and Uses. Ms. Scott asked the Zoning Department if the hearing was advertised in accordance with the Ohio Revised Code.

Mr. Springer stated that the public hearing was published in two newspapers of general circulation, posted on the Township's website and was made available for public inspection.

Ms. Scott swore in all individuals who wished to speak on the matter.

Ms. Scott asked the Zoning Department if a recommendation from the Summit County Planning Commission was received on the proposed text amendment.

Mr. Springer said, "Yes."

Mr. Springer addressed the Zoning Commission and read into the permanent record the Summit County Planning Commission's (SCPC) comments and recommendations made to the proposed Article 10 titled, "Nonconforming Structures, Lots and Uses".

Mr. Springer stated that the SCPC meeting was held on July 22, 2010 to consider a text amendment to the Copley Township Zoning Resolution. Mr. Springer stated the proposed text amendment was approved with the following recommendations:

SCPC & Staff Comments for proposed 10.01 (B)

In reference to B. above, staff recommends that the second sentence be modified so it reads: "Whether a nonconforming use was in existence and/or in violation shall be determined by the Zoning Inspector, and if there is a dispute it shall be referred to the Board of Zoning Appeals for a determination." Then the last sentence should be deleted.

The Zoning Commission discussed the SCPC proposed changes to Section 10.01 (B) and collectively agreed to make the recommended changes.

Revised Language Approved by the Zoning Commission

Section 10.01 (B). Any existing nonconforming structure, lot or use that was in violation of the Zoning Resolution and/or Zoning Map in effect immediately prior to the adoption of this Zoning

Resolution and Zoning Map shall not become a Legal-Nonconforming Structure, Lot or Use. Whether a nonconforming use was in existence and/or in violation shall be determined by the Zoning Inspector, and if there is a dispute it shall be referred to the Board of Zoning Appeals for a determination.

SCPC & Staff Comments for proposed 10.03 (B)

In reference to B. above, staff would recommend deleting lot depth from the above because if a lot does not meet the lot depth requirements then it may not be meeting the rear yard setback requirements. This can negatively impact neighboring rear properties. Also, no minimum rear yard setbacks are provided.

Northfield Center Township has the following provisions regarding Single Nonconforming Lots of Record; they only exempt a substandard lot from the required lot area or lot width requirements:

Single Nonconforming Lots of Record. If a non-conforming lot is in separate ownership and not of continuous frontage with other lots in the same ownership, the following provisions shall apply:

- 1. Any lot not meeting the minimum area requirements and being a lot of record... on the effective date of these regulations, may be developed with a single-family dwelling unit, and uses and structures accessory thereto, can be located on the lot in compliance with the front, side, and rear yard setbacks, and all other requirements of the district except those that pertain to the lot area or lot width requirements. In such case, the Zoning Inspector shall have the authority to issue a zoning certificate.*

The Zoning Commission discussed the SCPC proposed language to Section 10.03 (B) and collectively agreed to keep the word "depth" in section B above. Furthermore, the Zoning Commission included new language to be added at the end of section B.

Revised Language Approved by the Zoning Commission

Section 10.03 (B). A conforming structure, conforming accessory structures, and/or the conduct of a permitted use shall be permitted on any Legal-Nonconforming lot of record that has an area, lot width, depth, and/or frontage that is less than that required for such structure or permitted use in the Zoning Resolution. A variance shall be required from any provision of the Zoning Resolution with which the lot does not comply other than those pertaining to minimum area, lot width, depth, and/or frontage, and shall be obtained only through action of the Board of Zoning Appeals in accordance with the provision of this Resolution. When a proposed structure or accessory structure on a Legal Non-Conforming lot of record will not be in conformity with any minimum rear yard setback requirement, the structure or accessory structure may be erected only if the Board of Zoning Appeals grants a variance from the rear yard setback.

SCPC & Staff Comments for proposed 10.03 (D) 4.

D. 4. Fails to consider lots that may be combined without having to be subdivided. A preferable alternative would read: the merger of said lots shall be accomplished through the process of being re-platted or combined to create one or more conforming lot(s) as a condition for the receipt of any Zoning approvals, and no Zoning approvals shall be given for said lots unless this condition precedent is met.

A similar alternative below is based upon the Northfield Center Township Zoning Resolution:

D. Lots in Combination: If a vacant nonconforming lot adjoins one or more lots in common ownership, such lot shall be re-platted or combined to create one or more lots that conform to the minimum lot size and lot width requirements for the district in which the lots are located.

The Zoning Commission discussed the SCPC proposed changes to Section 10.03 (D) 4. and collectively agreed to make the recommended changes.

Revised Language Approved by the Zoning Commission

Section 10.03 (D) 4. the merger of said lots shall be accomplished through the process of being re-platted or combined to create one or more conforming lot(s) as a condition for the receipt of any Zoning approvals, and no Zoning approvals shall be given for said lots unless this condition precedent is met.

SCPC & Staff Comments

It would be in the best interest of the Township to issue certificates of nonconforming uses to better track legal nonconforming uses. Staff recommends that Copley Township consider making the following addition:

G. Certificate of Nonconforming Use

- 1. Within one (1) year of the effective date of this revised Resolution of the Zoning Inspector shall issue a "Certificate of Nonconforming Use" to all known owners of legal nonconforming use property, the use of which does not conform to the provisions of the use zone in which the property is located.*
- 2. In accordance with the provisions of this Section, no use of land, buildings, or structures shall be made other than that specified on the Certificate of Nonconforming Use unless said use shall be permitted in the zone in which the property is located.*
- 3. A copy of each Certificate of Nonconforming Use shall be filed in the Township Zoning Office, and a copy given to the Zoning Inspector.*

Springfield Township has a similar provision in their Zoning Resolution, that Coley Township may wish to consider adding in lieu of the above, see Section 590.8 below:

Section 590.8 Determination on Nonconforming Status.

At the time of application for a zoning certificate... regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Zoning Administrator or Board of Zoning Appeals, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time.

If the evidence submitted indicates the lot, building, structure, or use was legally established and has since become nonconforming because of the establishment of or amendment to this Resolution, the Zoning Administrator shall issue a Certificate of Nonconforming Use. A copy of such certificate shall be kept on file in the Township Zoning Office.

The Zoning Commission discussed the SCPC proposed language and agreed to

add Section 10.04 (G).

Revised Language Approved by the Zoning Commission

Section 10.04 (G) At the time of application for a zoning certificate regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Zoning Inspector or Board of Zoning Appeals, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time.

If the evidence submitted indicates the lot, building, structure, or use was legally established and has since become nonconforming because of the establishment of or amendment to this Resolution, the Zoning Inspector shall issue a letter confirming the nonconforming use. A copy of such letter shall be kept on file in the Township Zoning Office.

SCPC & Staff Comments

Staff questions whether the reference found in Section 10.05 (B) which refers to Section 10.03 (C) is correct because this section deals with legal nonconforming lots of record.

The Zoning Commission discussed the SCPC question relative to Section 10.03 (C) and agreed that this section was referenced incorrectly and should refer to Section 10.02 (C) instead.

Revised Language Approved by the Zoning Commission

Section 10.05 (B) Any Legal-Nonconforming sign that is destroyed as defined by Section 10.02 (C) of this Resolution shall only be replaced by a sign in conformity with the provisions pertaining to signs contained in this Resolution.

SCPC & Staff Comments

Staff would recommend deleting Section 10.07. In discussion with Copley Township Zoning Inspector, Copley Township does not have any existing nonconforming mining operations so there is no longer a need for this provision.

The Zoning Commission agreed that Section 10.07 Nonconforming Mining Operations be deleted from the proposed text.

Mrs. Scott asked if there were any comments, questions, or concerns from the public that would like to speak in favor of the proposed amendment. None were offered.

Ms. Scott asked if there were any comments, questions, or concerns from the public that would like to speak in opposition of the proposed amendment. None were offered.

Ms. Scott asked the Zoning Department if any comments were received relative to the proposed text amendment and if so please read into the record.

Mr. Springer said, "The Zoning Department did not receive any comments in favor or opposition to the proposed text amendment."

Mrs. Scott asked once again if there were any comments, questions, or concerns from the public that would like to speak in support or opposition to the proposed amendment. None were offered.

Mr. Daniel moved to close the public hearing, Mr. Stein, second.

Mrs. Scott asked Mr. Springer for a roll call.

Roll call on the motion:

**Bill Daniel – Aye
Mark Wasick – Aye
Jane Scott – Aye
Ernest Stein – Aye**

**Nay: None
Abstain: None**

Mr. Wasick moved approval to the Board of Trustees of Article 10 titled Nonconforming Structures, Lots and Uses as amended, Mr. Daniel, second.

Mrs. Scott asked Mr. Springer to conduct a roll call.

Roll call on the motion:

**Bill Daniel – Aye
Mark Wasick – Aye
Jane Scott – Aye
Ernest Stein – Aye**

**Nay: None
Abstain: None**

The motion passed and the proposed text amendment will be sent to the Board of Trustees to schedule a public hearing on the proposed text amendment for Article 10 Nonconforming Structures, Lots and Uses.

NEW BUSINESS

Mr. Weinstein continued the discussion of the re-write of the Zoning Resolution.

Mr. Weinstein stated that he has made changes to Article VI General Regulations regarding the outdoor furnaces. Mr. Weinstein stated that the new language requires that the stack height of the smoke stack be elevated to eliminate smoke encroaching into neighboring properties at human occupied levels. Mr. Weinstein also included changes relative to Wireless Telecommunication Facilities. Mr. Weinstein stated that previous language required just one (1) parking space and now the language reads that an adequate number of parking spaces be provided for maintenance vehicles.

Mr. Weinstein stated that changes have been made to Article VII Standards for Conditional Uses. Specifically, language includes regulations for ground floor facades on public streets with the exception of S.R. 21. Such coverage shall use arcades, display windows, entry areas, awnings or other such features for no less than 60% of their horizontal length.

Mr. Majewski stated that since S.R. 21 is elevated significantly higher than most routes, it would be difficult to require businesses along this stretch to satisfy the 60% façade coverage. Mr. Majewski stated that a concern is that the rear portion of a building (most visible from S.R. 21, would be cinder block rather than a decorative and uniform look that matches the front portion of a building. Mr. Majewski stated that his client would use a matching block to keep the entire building in uniformity.

Mr. Daniel suggested that vegetation be used to screen the rear visibility of commercial structures located along S.R. 21.

Mr. Majewski stated that he would draft language for the Zoning Commission's review which would address screening of buildings along S.R. 21.

Mr. Weinstein stated that additional changes included bolding and underlining several headings within the Article VII language.

Mr. Weinstein stated that he included new proposed language regulating gasoline sales which discusses membership fees.

Mrs. Scott stated that she was troubled with placing an exact dollar amount for membership fees. Mrs. Scott stated that the economy could dictate membership fees. Furthermore, the operator of the gasoline station could place membership fees under a defined dollar amount and thus circumvent the regulations within this section.

Mr. Weinstein stated that he would draft new language to address Mrs. Scott's concern.

Mr. Weinstein stated that "strip mining" language was removed from the Standards for Conditional Uses since no such activities exist within the Township at this time.

Mr. Weinstein stated that changes have been made to the proposed Article 8 Signs as requested during our previous Zoning Commission meeting. Specifically, 8.01 C. includes the phrase "on-premise" so that signs within the Industrial District are on the same lot in which the sign is intending to recognize.

Mr. Weinstein stated that changes had been made to the proposed Article 9 Parking and Loading, per the Zoning Commission's request at the previous meeting.

Mr. Majewski stated that he is troubled by placing a permitted commercial use within a conditional use classification with the new proposed language. Mr. Majewski continued by saying that there are huge consequences for putting large-scale retail into conditional use categories. It will become almost impossible to build future retail buildings within this community if these proposed standards are adopted. Furthermore, the Commission must keep in mind that adopting new standards that regulate large-scale commercial buildings will also affect existing commercial structures wishing to undergo redevelopment.

Mr. Majewski stated that he has witnessed numerous big box retail sites redeveloped throughout the years and suspects that some of the existing large-scale retail buildings within the Township will also experience redevelopment. Lastly, Mr. Majewski stated that by adopting the current proposed language, the Commission will be discriminating against large-scale retail while approving small retail without any conditional use requirements.

Ms. Humphrys stated that the proposed language regulating large-scale retail development is selective zoning. Ms. Humphrys stated that existing large-scale retail properties have been approved without these additional regulations and believes that by adopting additional standards, we would be rendering many properties and businesses non-conforming. Ms. Humphrys stated that the area along Rothrock Rd. is one of Copley's last remaining undeveloped portions of commercial land.

Mr. Weinstein stated that changes have been made to Article VIII "Signs" per the concerns in our previous Zoning Commission meeting. Mr. Weinstein specifically changed language in 8.01 (B) which removes the word "advertisement" and replaces it with "identification". Furthermore, in 8.01 (C) similar language is used for on-premise signs.

Mr. Weinstein also made text changes to proposed language regulating sign height for manmade bases, which are to be measured from the natural existing road-grade rather than a manmade hill in which the sign is placed. Mr. Weinstein stated that in making this change, individuals are unable to build an elevated mound and place a sign on top of this area.

Mr. Weinstein stated that changes have been made to Section 8.06 (F,8) which deals with Civic Organization signs in which we are specifying a maximum square footage of two (2) square feet.

Mr. Weinstein stated that changes have been made to Section 8.09 Internal Illumination. In previous meetings, the Commission expressed an interest in encouraging external illumination rather than internal illumination. Mr. Weinstein stated that the proposed language now provides a 10% size bonus to a sign if the external illumination is used rather than internal illumination.

Mr. Weinstein stated that Article IX has been clarified to achieve the goal of creating interconnectivity between parking lots. The new language will require that future parking lots be designed and built for future parking needs among abutting properties. Mr. Weinstein stated that by adopting these regulations, street traffic and accidents are significantly reduced since pedestrians and patrons are able to walk to multiple retail or food establishments without needing to drive vehicles a short distance.

Ms. Scott asked if there was any business from the Zoning Inspector.

Mr. Springer asked the Zoning Commission for an interpretation on a property located at 799 White Pond. Mr. Springer stated that the property is located on White Pond but a private drive also runs behind the property. Mr. Springer asked the Commission if the property should be treated as a corner lot or a lot with only one road frontage.

The Zoning Commission reviewed a map and the Zoning Resolution definitions. After consideration, the Zoning Commission determined that the subject property is not a corner lot.

With no further business to come before the Commission, the meeting was adjourned at 7:40 p.m.

Mrs. Jane Scott, Chair

Matthew Springer, Zoning Insp.