

Granville Township Zoning Commission

March 31, 2014

Public Meeting

Minutes

Present: Commissioners Steve Brown, Vince Paumier, Rob Schaadt, and Chairman Chip Blanchard, Recording Secretary Betsey Hampton, Melanie Schott, Granville Township Trustee

Absent: Commissioner Tom McCullough

Guests: No guests were present.

I. Chairman Blanchard opened the meeting at 7:10 p.m., followed by roll call.

II. Announcements of Chairman:

Chairman Blanchard announced the purpose of the meeting was to discuss proposed changes to Section 403 of the Granville Township Zoning Resolution. There were no other announcements.

III. February 17, 2014, Zoning Commission Meeting Minutes:

Chairman Blanchard provided the Commissioners with a copy of the February 17, 2014, meeting minutes. The Commissioners reviewed the minutes and made a correction. Chairman Blanchard made a motion to approve the February 17, 2014, meeting minutes as corrected. Commissioner Paumier seconded the motion and it was approved by a unanimous vote.

IV. Old Business:

Chairman Blanchard reported old business is a discussion concerning possible changes to Section 403 of the Granville Township Zoning Resolution.

Chairman Blanchard reported the Prosecuting Attorney reviewed what was sent by the Zoning Commission and condensed and modified it. Chairman Blanchard reported the Prosecuting Attorney advised he thought the Commissioners were stretching to get to conditions five and six. Chairman Blanchard discussed conditions five and six which included the discontinuation of a no-use structure on the premises of a non-conforming lot, replacing a building due to fire, etc. Chairman Blanchard reported the Prosecuting Attorney strongly recommended the Zoning Commission forgo conditions five and six at this time and concentrate on the task at hand which concerns grandfathering and create a separate non-conforming clause. Chairman Blanchard reported Brad Mercer also provided a clause which he had worked on with Union Township and is consistent with many of Granville Township's challenges. Chairman Blanchard presented a copy of Article Three from Union Township to the Commissioners. It was discussed Article Three from Union Township takes into account most non-conforming scenarios. Chairman Blanchard discussed some of Granville Township's concerns are addressed such as existing non-conforming structures, modifications to existing non-conforming structures, etc. Chairman Blanchard discussed section 3.07 of Union Township's Article Three seems very helpful. There was further discussion concerning section 3.07.

Chairman Blanchard reported Mr. Mercer presented Article Three from Union Township as a reference. Chairman Blanchard reported Mr. Mercer discussed Granville Township was combining the grandfather issue with the non-conforming issue and instead suggested non-conforming lots be addressed in their own sub-set. Chairman Blanchard reported the Prosecuting Attorney requested the Zoning Commission first review and recommend language to address grandfathering and secondly address non-conforming lots as a separate zoning issue.

Chairman Blanchard commented Union Township's Section 307 was reviewed and approved by the county prosecutors and by the county planning commission.

Commissioner Schaadt commented he did not believe section 403 would solve many of the problems with non-conforming lots. There was further discussion concerning this issue.

Commissioner Paumier questioned if the Prosecuting Attorney, Mr. Mercer, etc., were supportive of Granville Township allowing grandfathering. Chairman Blanchard reported he had a meeting with Assistant Prosecuting Attorney (APA) Lecklider and Mr. Mercer and they believed grandfathering was necessary. It was discussed there was another meeting held which detailed the roles of the Zoning Commission, Zoning Board of Appeals, Township Trustees, Zoning Inspector, etc., in creating and enforcing the Zoning Resolution. Chairman Blanchard reported the Zoning Commission was cautioned not to worry about addressing every possible scenario as the Zoning Board of Appeals exists to deal with appeals. There was further discussion concerning what was covered in the meeting.

The commissioners discussed the language they provided to APA Lecklider for review and his suggested language. Chairman Blanchard discussed the language suggested by APA Lecklider is sensitive against removing a property owner's rights. It was discussed if a structure is in accordance with the general plan of the neighborhood, including setbacks and structure size, etc., It was commented the language prepared by the Zoning Commission discussed using the original date lots were recorded to determine setbacks, etc. Chairman Blanchard reported APA Lecklider did not think that verbiage was necessary as the language proposed takes care of the issue. APA Lecklider provided language which does not require review of the original date for recording the lot. If the proposal fits in the general plan of the neighborhood of surrounding properties, setbacks, side yard allowances, etc., it is not necessary to specify the date the lot was recorded, etc.

Commissioner Brown discussed under the new section 403, an owner of a 3 acre lot which is not in a neighborhood but has other houses close by, may seek approval from the ZBA which will look at other homes in the surrounding area and issue approval or denial. Commissioner Paumier questioned if the owners would have to go to the ZBA for approval. Chairman Blanchard reported the process begins with the Township Zoning Inspector. The Zoning Inspector will say the proposal meets the criteria, or no it does not meet the criteria, then direct the applicant to the ZBA. Commissioner Schaadt commented in the meeting the Zoning Inspector was referred to as the gatekeeper. Commissioner Schaadt discussed he does not think the language is strong enough for an owner of a three acre lot who requests a permit to be granted one by the Zoning Inspector. There was further discussion concerning this issue and how similar requests were handled in the past.

Chairman Blanchard read what was submitted to the Prosecuting Attorney's office and read the condensed version prepared by the Prosecuting Attorney's office. Commissioner Brown questioned if there is a lot which does not meet the setback requirements, would the Zoning Inspector use today's setback requirements to approve or deny the permit. Chairman Blanchard reported the Prosecuting Attorney's office is suggesting if an owner of a two acre lot, in a neighborhood where most of the homes are on two acre lots and setbacks are 50 feet, puts in a request which is consistent with the adjoining property owners and would have the same property rights the neighbors did when they put in their homes. There was further discussion concerning this issue and whether the word adjoining or adjacent should be used.

How the language would affect the lot on Burg Street was discussed. The property on Burg would not be buildable under the current Zoning Resolution, but could be built to be in a neighborhood of like properties. Commissioner Paumier discussed the owners would apply for a permit, the Zoning Inspector would state the property does not meet the current requirements and is a non-conforming lot, the owners would then go to the ZBA. It was discussed the ZBA could then find the proposed home fits with the contiguous properties, the adjacent property owners would have been notified by letter, and if none of the adjacent property owners object to the proposed home, the ZBA could tell the Zoning Inspector to issue a building permit. Chairman Blanchard commented the Prosecutor's office believes in theory that is what should happen. It was questioned whether the Township Trustees also think that is what should happen. Trustee Schott commented there were so many different scenarios, the Trustees decided to wait until the Zoning Commission proposed a change before having any further discussion. There was furthering discussion concerning what grandfathering means and when owners would need to appeal to the ZBA.

Commissioner Schaadt commented the proposed language gives the ZBA the opportunity to grant an appeal from an owner of a non-conforming lot. There was further discussion concerning the language proposed and the role of the ZBA.

There was further discussion concerning the property on Burg St. Trustee Schott questioned if the Zoning Inspector could approve a permit if the proposed structure meets the four different conditions outlined in the proposed language. Chairman Blanchard commented that might be the case and the owner might not have to go to the ZBA.

The last paragraph in the proposed language was discussed. It was commented the last paragraph references if the proposed changes to the lot of record do not meet the listed criteria, the owner will seek the appropriate variance. The variance will be approved or denied by the ZBA. There was further discussion concerning this paragraph and its implications. Commissioner Paumier questioned whether the last paragraph should be modified to state if items 1, 2, 3, and 4 are met the Zoning Inspector is authorized to issue a building permit. Chairman Blanchard commented he believes that is already being said in the proposed language. Chairman Blanchard read last paragraph.

Commissioner Paumier discussed all the permit requests for non-conforming lots will not have to go to the ZBA. Commissioner Schaadt commented if the Zoning Inspector looks at the permit and lot and determines the proposed setbacks, etc. fit with the general neighborhood, the use is

permitted, and the health department approves, he may approve the permit. Various possible scenarios such as determining what guidelines would be used for a lot where the next nearest home is 2 miles down the road were discussed.

It was discussed if the Zoning Commission, Trustees, Licking County Planning Commission, etc. approve the new language, the Township Zoning Inspector would be able to issue permits for non-conforming lots which meet the outlined criteria. Commissioner Schaadt reported there are only 18-20 viable lots which could be considered for new builds. It was discussed the Zoning Inspector may always first consult with the attorneys, committees, etc. The timeline and requirements for approval, such as holding a public hearing were discussed and explained.

Trustee Schott questioned what would happen if a permit was requested for a home which would be considerably larger or different than the surrounding homes. Trustee Schott questioned if the language would provide the Zoning Inspector with the ability to deny the permit as the home is not in accordance with the neighborhood. Chairman Blanchard commented if a permit for a large 5 bedroom, two-story home was received for a property in a neighborhood of one story, two bedroom homes, the permit would likely be denied and the owner could then file an appeal. It was discussed the Zoning Inspector would have a lot of authority and some latitude in making decisions, but there would be a finite set of rules.

Trustee Schott questioned if the owner's permit request is denied would they be able to go to the ZBA. Chairman Blanchard advised the owner could file an appeal with the ZBA, and if the ZBA denies the appeal they could then appeal to Licking County. Trustee Schott questioned what would happen if the Zoning Inspector issues a permit and a neighbor objects. Trustee Schott questioned if the neighbor would have any rights. This issue was discussed and it was determined the permits would be treated like any other zoning permit where the neighbors do not have any recourse.

Commissioner Paumier discussed something could be added to the resolution requiring a public notice for a period of 30 days to allow any neighbors with concerns to speak up. If no one has any concerns and if the property meets the outlined criteria, the permit could be issued. Trustee Schott questioned whether all zoning permits would then also need to provide a time for neighbors to voice concerns. It was discussed this suggestion may be taking away property owner's rights. There was further discussion concerning this issue and the property on Loudon Street.

Commissioner Paumier commented Jim Havens recommended the Zoning Commission hire outside counsel and there is money to do so. Commissioner Paumier questioned whether besides requiring extra time there was any downside to hiring outside counsel to review the issue and proposed language. Chairman Blanchard reported he has sought outside counsel by meeting with the Licking County Planner, the Prosecuting Attorney, etc.

Commissioner Paumier discussed his concern is how the proposed change will affect the rest of the Zoning Resolution. There was further discussion concerning hiring outside counsel.

Chairman Blanchard reported APA Lecklider is also asking the Zoning Commission to define lots of record. The proposed language references "any lot of record" and there should be a

modification to the lot of record definition. Chairman Blanchard provided the language given by APA Lecklider to modify the lot of record definition. APA Lecklider requested platted be added before the word subdivision. There was discussion concerning definitions of platted lots, plotted lots, lots of records, etc.

Chairman Blanchard questioned if the commissioners wanted to have outside counsel speak to the commissioners before they decide whether to recommend the adoption of the proposed language. Commissioner Paumier questioned how the process would work. Commissioner Paumier discussed it appears the commissioners are in theory in favor of section 403, but want clarification concerning vacant, no dwelling, etc. Commissioner Paumier commented he would like assurance the new language is okay with the other 150 pages of the Zoning Resolution so the commissioner do not have to readdress the issue in six months. The Trustees could be contacted and requested to hire outside counsel. Trustee Schott commented she did not know why the Township would need outside person to review what the Licking County Prosecutor's office is already reviewing. Trustee Schott advised if the commissioners do decide they would like outside counsel, she would present the issue to the other Trustees. Commissioner Paumier commented the commissioners are making a change to 403, but need to know how it will affect the entire resolution. Chairman Blanchard commented this is not going into law, but is simply beginning the process which will include hearings, etc. which provide several checks and balances. There was further discussion concerning this issue.

The timeline for public notice, hearing, etc. was discussed. Commissioner Paumier questioned if he was able to vote on the change. Chairman Blanchard commented he would have to ask but did not think it would be a conflict. It was discussed although Commissioner McCullough was absent, there would still be a quorum if Commissioner Paumier abstained from voting. Commissioner Paumier advised he will abstain from voting on the issue this evening due to a possible conflict of interest, but if he were voting would want to hire outside counsel. Commissioner Brown discussed another person who specializes in this area's review of the proposed language would be helpful. Chairman Blanchard discussed the language will be reviewed again when it goes to the Planning Commission and the Prosecutor's office. After the Planning Commission reviews the language, it will be first reviewed by the Prosecuting Attorney's office, next the Zoning Commission will then again review the language and may choose to change it, reject it, or forward to the Township Trustees.

Trustee Schott commented the minutes state Attorney Havens suggested hiring outside counsel if the Commissioners do not adopt grandfathering, and the proposed change is allowing grandfathering. There was discussion concerning this issue. Chairman Blanchard reported he feels comfortable with the proposed language. Commissioner Schaadt questioned whether the Commission should be doing something with the other issues while they are having the public hearings concerning this proposed language. Chairman Blanchard read APA Lecklider's advice concerning movement of the other issues to a different area of the Zoning Resolution. It was discussed it would be better to have a two-step process and first deal with this proposed grandfathering language and then tackle the other issues.

Chairman Blanchard reported the only thing being done tonight is establishing the timeline for the process, setting the date for the public hearing, etc. It was discussed a vote is not necessary tonight, there will be a public hearing with proper notification before the vote.

There was further review of the proposed language and its effect on possible scenarios.

Chairman Blanchard questioned if the commissioners felt comfortable with moving to the next step of holding a public hearing concerning the proposed language change. Commissioner Paumier advised he will abstain due to a possible conflict of interest. Commissioner Brown advised he agreed with moving to the next step as there will be further review. Commissioner Schaadt commented his only question was whether other changes should also be reviewed. Commissioner Schaadt commented he is comfortable with establishing the date for the public hearing. Chairman Blanchard reported he will work with Fiscal Officer Miller to set a date for the public hearing.

V. New Business:

There was no new business to discuss.

VI. Public Comment:

There was no public comment.

VII. Adjournment:

Chairman Blanchard made a motion to adjourn the meeting. Commissioner Brown seconded the motion and the meeting was adjourned at 8:50 p.m.

Next meeting: April 21, 2014.