

# Swan Creek Township

## Zoning Commission Meeting

### Record of Proceedings

Wednesday, December 9, 2009

Meeting was called to order at 6:07 p.m. by Chairman Walt Lange

Roll call was taken by Chairman Walt Lange

Roll ~ Walt Lange, Chairman, - present, Joe Kahl, Vice Chairman, - present, James McConkey - absent, Robert Westmark - present, Sally Wylie - absent

Township Officials & employees present: Trustee Leu, Walter Hallett, III, Zoning Inspector & Christine Lauch, Administrative Assistant,

Visitors: See sign in sheet

Joe Kahl motioned to accept 5-13-09 Minutes, 2<sup>nd</sup> by Bob Westmark

Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - abstained due to absence of that meeting.

Walt Lange motioned to not read all Minutes aloud at every meeting for the year of 2010.

Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes

The board agreed to keep the 2010 Meeting Schedule the same of the second Wednesday of the month at 6:00 p.m. if there is new business.

#### The board discussed ORC 519.21 (c)

Walt Hallett gave examples of situations in the township where agricultural exempt uses are not being implemented on the property that has an agricultural exempt permit. He gave example of a saw mill, which is agricultural exempt, but the owner does not have trees on the property.

He wanted clarification from the board about the regulation in the ORC that states 50% or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.

Joe Kahl said it is his understanding because the "S" in *farms*, the saw mill would be permitted under the agricultural exempt provision because it's not binding it to just that particular farm. The board discussed that 50% of the income accrued is from the use on the agricultural exempt property, not an outside source of employment combined.

Mr. Hallett spoke of the Board of Trustee's policy made to make the entire parcel agricultural exempt and that in the past per action was regulated. The Trustees also assigned a fee requirement of \$75.00 for the agricultural exempt application. Mr. Hallett wanted the board to be aware of the changes taking place, per an Ohio Attorney General Opinion (attached) and wanted to know if the board would like to incorporate the language into our zoning resolution language.

Mr. Hallett stated that he received a legal opinion from the Fulton County Prosecutor's office from Jon Whitmore that stated that it is his responsibility to research ORC with due diligence and he would like our code to match ORC if possible. The board agreed that our zoning resolution can prohibit and regulate anything under 5 acres for agricultural exempt. Trustee Leu stated that the issue is that our agricultural and residential districts are combined.

The board agreed that it is not feasible to sort through all of these instances, because basically the whole township is like that.

The board talked about ORC 519.19. Trustee Leu stated this is referring to platted subdivisions; there aren't many of them in the township.

Walt Hallett quoted the intent and purpose of zoning article that speaks of general welfare, etc.

Walt Lange said unless there are health issues, the township doesn't have issues. The Board of Zoning Appeals would have to decide any situations if the property was less than 5 acres.

Trustee Leu said he will speak with the other Trustees regarding a possibility of a size limit on rural agricultural exempt of maybe 2 acres minimum for agricultural uses.

The board did not take any action at this time.

#### Article 100-6.5

Nonconforming lots of record "in single ownership...the lots involved shall be considered as one parcel for the purposes of this resolution: Walt Hallett gave several examples, including lot splits and undeveloped lots without ample frontage. Joe Kahl said if it is preexisting it shouldn't be regulated; only new undeveloped situations will be passed over to the Board of Zoning Appeals for a decision of denial or approval.

The board did not take any action at this time.

#### Article 100-20.93

Joe Kahl motioned to change the word "may" to "shall", Bob Westmark 2<sup>nd</sup> the motion. Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes

#### 100-5.2 #9

Discussed residents having the ability to maintain and do general repairs for a structure that is not changed in size, material or use. The nonconforming section gives this ability, however, no other section does. Fences and swimming pools were given as examples. Chris said the township receives a lot of phone calls regarding simply replacing things that are dilapidated or an eye-sore and receives complaints of fees for the improvement for them. Walt Lange stated he thought people always had the ability to do that because it improves the look of the township.

These situations should be regulated on a complaint basis. Walt Hallett said he has to declare it unsafe before the property owner can replace it quoted 100-5.2 #9.

Mr. Hallett inquired about junk cars. The board agreed that if he observes it from the right-of-way or receives a written/signed complaint to enforce it.

#### Article 100-15.3

Bob Westmark motioned to change "peculiar" to "related", Joe Kahl 2<sup>nd</sup> the motion Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes

Discussion of "Regulation of ATV/four-wheelers" - to limit minimum acreage for use -

The board agreed that there should not be a regulation of minimum acreage, however, should be regulated by our nuisance article on a written/signed complaint basis.

Discussion of "grade" on a property for new construction

Mr. Hallett discussed grade with the board. He determines grade by using the elevation at the centerline of the road in front of the lot. This article also states "as the established grade or such grade determined by the County Engineer or Zoning Inspector."

The board discussed limiting the grade to 2' and if the starting point is the structure or where dirt starts. Trustee Leu stressed that their needs to be a predetermined building grade for drainage issues. Mr. Lange stated 100-5 already gives Walt Hallett the ability to determine and regulate. Pictures were shown of a home that was being built substantially above grade because of a high water table.

The board did not take any action at this time.

Home Occupations were discussed

Walt Hallett wanted to know if the front of the home is not affected offensively does the board wish for him to allow these situations. He explained that the nonconforming use validation certificates automatically renew with no fee assessed. If a preexisting nonconforming is altered it then needs a variance and goes before the Board of Zoning Appeals for the expansion, etc. Walt Lange asked if the Board of Zoning Appeals makes any conditions on these situations. Yes, the BZA can and does conditionally grant variance.

The board did not take any action at this time.

The rest of Mr. Hallett's list will be tabled until next month's meeting on January 13, 2010.

Walt Lange motioned to adjourn the meeting at 8:40 p.m., Joe Kahl 2<sup>nd</sup> the motion.

Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes

**Zoning Board Approval of Minutes:**

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Walter Lange, Chairman

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Joe Kahl, Vice Chairman

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Absent  
Sally Wylie, Board Member

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Absent  
James McConkey, Board Member

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Robert Westmark, Board Member