

FLORENCE TOWNSHIP ZONING COMMISSION MINUTES
Hale Amendment Public Hearing Minutes
June 13, 2018

Meeting was called to order by Chairman Jolynne Marsh at 7:00 p.m. Members present: Jolynne Marsh, Dan Saylor, Richard Woodin, and Milt Saylor and alternate Tammy McLoda. Absent: Jeff Blodgett. Also present: Mr. Tim King from Erie Regional Planning Commission and Civil Prosecutor from Erie County, Mark Smith.

Mr. Paul Hale Et al. are filing an application to amend the present Florence Township zoning resolution. They are requesting to repeal the resolution 13-2015, that was passed and effective on July 31, 2015, and to reinstate multi-use zoning that was adopted in 1957.

The secretary read the recommendation from Mr. Tim King at ERPC dated June 7, 2018:

From a zoning perspective our office was requested by Florence Township to participate in an update to the Zoning Resolution several years ago. Our office met with the zoning commission for a year and a half to accomplish said updates. A majority of the 9 township zoning codes in Erie County are based off the early 1990's state model zoning code, which has been the standard. The state model was developed by representatives from the Ohio Township Association, the state Planning Director's Association, the Ohio County Engineers Association and other state-wide agencies. The 2015 update to the Florence Township code was merely an attempt to get the Township closer to that model.

Paul Hale, 5411 SR 60 (P.O. Box 101, Birmingham, OH 44816) was sworn in. Mr. Hale stated that the township took the value away from his property. He stated his property was better before the zoning update in 2015 because it was multi-use and he could build a house, business or industrial business. He wants to change his parcel from Industrial to Commercial and has to go to the BZA and pay the fee. He stated that many people lost the value of their property. Mr. Hale stated he wanted the zoning back the way it was and that the Zoning Commission should have sent notices to all property owners that were affected.

Ms. Marsh asked if the board had any questions for Mr. Hale; there were no questions at this time.

Crystal Kantzes, 13100 SR 113, Wakeman was sworn in. Ms. Kantzes stated that she owns one acre on SR113 that was affected by the zoning change in 2015. She referenced Article 6, Non-conformities in the zoning resolution and was concerned that her property was a non-conforming use.

Prosecutor Mark Smith stated that the zoning code is taken from the state model and state legislature in Columbus; all townships in are based on the same model code. The definition of non-conforming use is taken from the state model. When a zoning change happens, everything that is continuing in existence is grandfathered in; so you do not have to worry about non-conformities. The only way that would change is that if you cease to use the structure on that property for that purpose for a period of time, you would lose the grandfathered in status.

Jim Kantzes, 13100 SR 113, Wakeman was sworn in. He stated he thinks the grandfathered in clause should be in the zoning resolution.

Mr. King explained that the term "grandfathered" is not used in the Ohio Revised Code when it comes to nonconformities. We just have rewritten six (6) townships in Erie County and brought them up to the model zoning code. Mr. King stated he was asked by the Zoning Commission to advise and to bring Florence Township up to the current model zoning code for Ohio. He stated that the zoning map was not changed; it was the rules governing zoning that was changed.

Mr. King stated that the County Auditor cares how your property is used not zoned; you are taxed on your usage of the property.

John Nuhn, 9112 Joppa Rd, Huron, OH 44839 was sworn in. He stated that he and a lot of others were never informed of the rezoning. Prosecutor Smith explained that the notice was placed in the newspaper as required by law.

Sam Coe, 6819 SR 60, Wakeman was sworn in. He stated that there was no problem given as to why the zoning was changed and why was it proactive. Mr. Coe stated that he gets the Journal and did not see any notice. The secretary stated the legal ads are all placed in the Lorain Journal. Mr. King stated that the term "proactive" was only used for the agritourism language and the laws are very limited as to what the township can regulate.

Mr. Smith stated that the zoning terms and definitions are up to date with the Ohio Revised Code and to what all the state of Ohio is using now. The Trustees are trying to do what is best for the township.

Ms. Marsh stated that the change was done for the benefit of the township so we have distinct zoning areas. For example, with the pyramid zoning a person could build a house and the property owner next door could put in a business or industry; the updated zoning would prevent this from happening.

Prosecutor Smith confirmed that when you have a multi-use zoning, the purpose for shrinking it down is to have separate and distinct zoning areas for separate and distinct purposes. The reason for this is to encourage and facilitate growth in certain areas.

Mike Summers, 12709 SR 113, Wakeman was sworn in. He questioned if there was anyone on the Zoning or Trustee board that was affected by this change. Ms. Marsh explained that the whole township was affected not just one area. Milt Saylor stated he was affected.

Patricia Nuhn, 9112 Joppa Rd., Wakeman was sworn in. She stated many people were upset about the change, wanted to know how we can put zoning back and how notification for meetings can be changed.

Prosecutor Smith stated that he is not aware of any changes in ORC for notice for zoning amendments and until then he has to advise the boards to do as the law says. ORC 519.12 is why we are here tonight; ORC 519.12 D, G & H is the process that will be taken. Mr. Hale made the request for the proposed amendment; it goes to ERPC for recommendation; Zoning Commission has a public hearing and gives their recommendation to the Trustees for their public hearing. If the Trustees decide to adopt it, it is effective 30 days after the passage unless someone files a petition for a referendum. If the Trustees deny the amendment, you cannot have a referendum on a denial. I can tell you after reviewing what was done over the past five (5) years and talking to the boards, the requirements under the Ohio Revised Code were followed. The only way to change this is to try to sway the township Trustees.

Mr. Summers asked Milt Saylor about his farm on SR113 and Harrison Rd. that was affected. Mr. Saylor stated that it was zoned Industrial before and after the change. He stated that if he wanted to build a house on it he would have through the same process as everyone else. Mr. Saylor stated if he wanted to sell the property to build house, it would be devalued rather than sold as industrial zoned property.

Cheryl Watkins, 13105 SR 113, Wakeman was sworn in. She owns two pieces of property that are zoned industrial. Ms. Watkins was concerned that an industry may be built next to her property. She stated that she has had her trucking company on her property and has been very happy.

Milt Sayler explained that the industrial property behind her house was already industrial and did not change. Mr. King stated that the map has not changed and her property was industrial and has not changed.

Mr. Hale asked about a unanimous vote at the Trustees public hearing.

Prosecutor Smith clarified that the unanimous vote by the Trustees was changed in 2012 by the ORC to a majority vote for it to pass. The Trustees can accept, deny or modify the amendment. If they decide to deny it, it is done; if they decide to modify it, it has to go back to the Zoning Commission, ERPC for a recommendation and then back to the Trustees and the process starts again. If they decide to adopt it, it becomes effective 30 days after passage unless someone wants to do a referendum (ORC 512.19 H).

The 2012 Zoning change in the law is an error in our zoning book; it is no longer a unanimous vote of Trustees and must be a majority vote to pass. Mr. King stated that it was an error in our zoning book, but state statute ORC would preempt it.

The residents once again stated that they were not informed of the meetings and public hearings. Mr. King stated it is not uncommon for no one to show up, even at the County Commissioner meetings. Ms. Marsh stated that our meetings are open to the public on the second Wednesday of the month year after year. We do our responsibility to place notices for our meetings and everyone has to do their personal responsibility and reach out to look at what is going on.

Prosecutor Smith stated that the Zoning board follows the law in notification of their meetings and do not have to go door to door to notify residents; that is the responsibility of the members of the township to keep up with what is going on.

Mr. Coe stated that the township website is always behind. The secretary confirmed that all minutes for the Zoning Commission are placed on the website after they have been approved, which is always one month behind. Also all notices for meetings and public hearings are placed on the township bulletin board and on the township website.

Estelle Truscott, 15201 SR 113, Birmingham was sworn in. She was concerned about how the meetings notices are posted.

Tammy McLoda made the motion, seconded by Dan Sayler for the Zoning Commission to go into executive session to discuss pending litigation with council at 8:32 p.m. Roll Call: Ms. Marsh, yes; D. Sayler, yes; Mr. Woodin, yes; M. Sayler, yes; Ms. McLoda, yes. Motion passed.

Milt Sayler made the motion, seconded by Dan Sayler to come out of executive session at 9:06 p.m. Roll Call: Ms. Marsh, yes; D. Sayler, yes; Mr. Woodin, yes; M. Sayler, yes; Ms. McLoda, yes. Motion passed.

The Zoning Commission received a recommendation from Erie Regional Planning Commission to deny the proposed amendment.

Ms. McLoda made to motion, seconded by Dan Sayler to deny the proposed amendment and to forward the decision to the Trustees for their public hearing. Roll Call: Ms. Marsh, yes; D. Sayler, yes; Mr. Woodin, yes; M. Sayler, yes; Ms. McLoda, yes. Motion passed.

Ms. Marsh stated that the Zoning Commission will work with the Trustees to enhance communication and invited everyone to our next meeting in September.

Milt Sayler made the motion, seconded by Dan Sayler to adjourn the meeting. Roll Call: Ms. Marsh, yes; D. Sayler, yes; Mr. Woodin, yes; M. Sayler, yes; Ms. McLoda, yes. Motion passed.

Mary E. Morog, Secretary