

HARRISON TOWNSHIP
Zoning Commission
Thursday, January 21, 2021
7:00 p.m.

The regularly scheduled meeting of the Harrison Township Zoning Commission was called to order at 7:00 p.m. on Thursday, January 21, 2021.

Those present:

F. J. Thomas
Andrew Switzer
Vary Welch
Mattie White

Emily Crow
McBride, Dale, Clarion

Those not present:

Kaye Cooper

APPROVAL OF THE MINUTES:

Mr. Thomas made a motion to approve the minutes of the November 19, 2020 ZC meeting. Mr. Switzer seconded. Motion carried and passed 4-0.

OLD BUSINESS:

Case No. ZC-03-20

Case No. ZC-03-20 was initially presented to the board at the November 19th meeting. Staff stated that the township does not currently have any definitions of massage, massage establishment, relaxation massage, or therapeutic massage, therefore, no way to really regulate this use. The township's desire is to define these terms and be able to better regulate the use of land. She says that at this time, only Ohio Cities have regulations for massage establishments and was not able to find an example ordinance for an Ohio township. The state of Ohio does not regulate massage businesses, however, a therapeutic massage, which is used for health purposes and performed by a licensed massage therapist, is controlled by the State Of Ohio Medical Board. Staff says that the goal for the text amendment is to distinguish between a licensed practitioner and the non-therapeutic massage and prohibit all non-therapeutic massage in the township, except for if it is provided in conjunction with another licensed service such as getting a hand massage while getting your hair serviced at a salon.

The key objectives of the amendments is to limit the massage service establishments and services to those associated with licensed practitioners, to reduce or eliminate establishments using massage services as a front for sex trafficking or other illicit behaviors, and to properly regulate therapeutic massage with other licensed professions such as medical professionals, sports therapists, cosmetologists, barbers, and aestheticians that provide valuable services and businesses in the community. Ms. White says that she looked at the article from Kettering and asks if our verbiage should be to **reduce** those type of establishments, or do we simply want to say **eliminate** them, because "reduce" gives an allowance when we really don't want any of those types of establishments. Ms. Crow says she will strike through reduce, and just leave eliminate. Mr. Switzer says that when talking about licensed if we should specifically say Ohio licensed. Staff says that the text does say "licensed from the Ohio State Medical Board". Ms. White then asks if massage schools, where you go to train to become a masseuse, are regulated then why doesn't the state regulate massage parlors, to which staff says that the State licenses the practitioner, not the business and that our text amendment

would be regulating the type of business establishment that employs people who are not licensed. So basically, if someone want to open a massage establishment in the township, they would have to have only licensed therapists employed providing massage. That way, the township would not have to set up a licensing agency and have to do things like annual inspections. Ms. White says that she thought there was wording in the text amendment that would allow for annual inspections, and that if existing establishments are found to be operating as a front, they would then be eliminated. Mr. Welch asks where in the text amendment this would be inserted. Ms. Crow states that these are necessarily text amendments, they are what she would call “purpose statements”. A lot of townships’ code have a purpose statement with each section of code, so because we are not adding a special chapter or article specifically for massage parlors and we’re just adding definitions, these are provided in the staff report to guide us in why we’re using the language that were proposing. Ms. White then asks if this is not going to actually be in the text, how will it be of use to the Zoning Commission. Emily states that it could be included in the resolution of adoption and Mr. Welch agreed. Ms. White asks how the resolution would be a benefit to them and Ms. Crow says the resolution is what the trustees will actually pass as they make the amendment to the Zoning Code and the resolutions have legal binding power. Mr. Welch then asks, under text amendment 213.08, if the language “exchange for anything of value” be modified. Ms. Crow says yes. Ms. White asks Mr. Switzer of his interpretation of the language. Mr. Switzer says that in anticipating that someone who is charged with this in court may say “we didn’t do this with the exchange of money” and then try to use that as a way to wiggle out of the charges and that the wording is really just trying to stay one step ahead. Mr. Welch says he feels that “anything of value” needs to be clarified. Emily then reads the definition of “anything of value” and the commission asks if that definition could be inserted behind “anything of value” in parenthesis and Ms. Crow says yes. She then says, to clarify, 213.07 is providing the definition of massage. 213.08 outlines the type of massage establishment that will be prohibited. 213.09 differentiates between a “therapeutic” and “non-therapeutic massage”. 213.10 further defines the differences between the services of “therapeutic” and “non-therapeutic” massage. Mr. Welch asks if the word “prohibited” can be inserted in parenthesis behind “non-therapeutic” Emily says that if we exclusively not permit non-therapeutic massage establishments that would mean it’s prohibited. Emily states that what we are doing is first, defining the terms and then amending the code to as to where “therapeutic massage establishments” would be a permitted use in the township. Emily then gives the sections of code that would be amended to allow therapeutic massage establishments. Emily then states that she will add a sentence to 213.10 Non-Therapeutic massage that says “this is a prohibited use” or “is not permitted in the township”. The board agrees that they would like to have that added.

Mr. Thomas asked if the Zoning Commission would be voting tonight on the proposed text amendments, Mr. Welch said that they could either vote or table it. Emily states that the proposed text amendment is a good step forward for the township in order to be able to say “we now have a regulation that defines the kinds of establishments that we’re okay with and the kind of establishments we do not want here”. Emily says that if the Zoning Commission feels comfortable with the language and changes, they will make a recommendation to the Trustees for their consideration. And then when the Trustees adopt it with the resolution, we will include the language about why we are doing the resolution. Once the resolution is approved, the Zoning Code will be updated so that the Zoning Administrator will be able to use the code for massage establishment permit requests. Ms. White states that she would like to have more time to review the proposed changes because she would hate for it to go before the trustees and be convoluted, and it be said “well the Zoning Commission voted for it”. Staff says that we could have another meeting in a shorter time frame if the Zoning Commission would like to table it and have more time to consider it. Mr. Welch then confirms that there will be a modification to the term “anything of value” in section 213.08 and in 213.10 insert “prohibited” or “not permitted”. Staff confirms in the affirmative to both. Ms. White then asks if all of the proposed amendments would be included in the minutes. Emily says yes and that she will get the revisions to the commission.

Emily then offers a correction stating that the phrase “this is a prohibited or not permitted use” would actually be inserted at the end of section 213.08, not 213.10. There was then a question about the last sentence in section 213.08 and the placement of it. Emily said that sentence does not actually apply and can be removed. Ms. White asked why staff feels that the phrase “prohibited” or “not permitted” should be moved to 213.08. Staff says 213.08 defines the use, and massage therapy or massage service is just a function, it’s not a land use, so we can’t regulate the service itself, but we can regulate the establishment and that’s why it needs to be moved up there. After some additional discussion, Ms. White made a motion to table Case No. ZC-03-20 to allow staff the opportunity to make the changes addressed in tonight’s meeting, and allow the Zoning Commission the chance to review those changes prior to recommending approval to the Board of Trustees. Mr. Switzer seconded the motion. Motion carried and passes 4-0. The Zoning Commission set a date to reconvene on Thursday, February 4th. Staff then stated that she has a prior commitment on that date and the commission changed the next meeting date to Tuesday, February 2nd.

Case No. ZC-01-21

The Zoning Commission stated that they did not receive the Staff Report on this case and would like additional time to review it because there is a lot to review. Mr. Welch made a motion to table Case No. ZC-01-21 until the February 2nd meeting. Mr. Switzer seconded. Motion carried and passed 4-0. Staff then asked if she could just give the commission and update on the case before adjourning. She states there were three resolutions passed by the Trustees where they have put a moratorium on automotive uses in the township until regulations could be updated. There are a number of challenges that are surrounding this use in that you have extensive non-conformance with the requirements of the Zoning Code. She states there is a summary in the staff packet of each step in the process, and that she’s done an assessment of the code on everything that regulates automotive uses and found that car lots are allow in the B-4 District and in the C/S-2 District as a Conditional Use. She did additional research on other townships and other communities in Ohio on how they regulate car sales and concluded that the township has a couple of major points that need to be addressed in the update; should “used” automotive sales be defined separately from “new” automotive sales and whether it is appropriate to continue to allow automotive sales in both areas. New automotive sales will be allowed in the B-4 District with used car sales as an accessory use and automobile sales will remain a Conditional Use in the C/S-2 District and you can have used car lots but the conditions (which are outlined in the packet) are changing. She also states that existing car lots will be Grandfather in and right now, the trustees are primarily focusing on automotive says and not used tire sales and relays the Trustees desire to get this moving because the current resolution expires in February.

There being no other business to discuss, Ms. White mad a motion to adjourn the meeting. Mr. Switzer seconded. Motion carried and passed 4-0.

Respectfully submitted,

Harrison Township
Zoning Commission

Regina Moore,
Administrative Assistant
Development Department

Vary Welch, President

FJ Thomas, Vice President

Kaye Cooper

Mattie White

Andrew Switzer

Attested as to Signatures,

Regina Moore,
Administrative Assistant
Development Department