

HARRISON TOWNSHIP
Zoning Commission
Thursday, December 16, 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, December 16, 2021.

Those present:

Vary Welch	Emily Crow, Director
Mattie White	Development Department
Tanner Kirk	
Andrew Switzer	Tyler Hauck, Township Planner

APPROVAL OF THE MINUTES:

There were no previous meeting minutes to be approved.

NEW BUSINESS:

There were no active cases being heard at the December 16th Zoning Commission meeting. Staff requested the meeting in order to discuss with the Zoning Commission members, proposed text amendments and possible rezoning of 2537 Ontario Ave. from R-4 to I-1.

Rezoning

Staff stated that because these are both discussion items, there is no official “staff report” and that nothing would be voted on, nor would any recommendations be made to the trustees at this time. Staff began with the rezoning of 2537 Ontario Ave. stating that the rezoning request was staff initiated. The property is currently zoned R-4 and staff is proposing to rezone it to I-1. Tyler says that property owner contacted the office saying that the property has always been used as some type of industrial or automotive use and wanted to know if they continue putting money into the property to repair it (there was some tornado damage), would it be useable for business purposes again. Emily states that since the business has been inactive for more than two year and has R-4 zoning, business uses are not permitted. Emily also says that the property owner had been cited in the past for exterior property maintenance issues. Mr. Switzer asked if Montgomery County building regulations had any last legal use information or occupancy certificates. Emily stated that she didn’t believe that we had check that with the county. Ms. Godsey stated that the name of the building is Folgers Garage and has always been used as a garage for repair of vehicles. Tyler says that although the owner plans to use the property in a similar way, because it is a proposed rezoning case, that all permitted uses in the I-1 district must be considered.

Tyler shows the permitted uses for R-4 and I-1. Mr. Welch asked if the property owner would have to submit an application for rezoning. Emily says this request is staff submitted and the reason that it was done this way is because staff felt that something had gone awry at some point and that the R-4 zoning distinction was not the correct zoning for this property, based on the fact that the property across the street mirrors in a lot of ways, the function and use of this property, and it zoned I-1. Therefore, she is exempting the owner from having to submit the application and pay the fee.

Ms. White asked if the property get rezoned to I-1, and it backs up to R-4, what does that mean? Tyler replies that there are some buffer requirements that will come into play and next month's staff report will detail what those requirements are. He also says that if there aren't any buffer requirements (which he doubts) the commission could make that a condition of approval. Mr. Switzer then asked if it would be up to the BZA to make any kind of conditions. Emily replies, if the rezoning is recommended, the Zoning Commission could put some kind of condition or suggestion in that requests screening. However, we can't require this existing business to put that screening in. If this business ceases operation or the owner lets the property go and it sits vacant for a while, the new tenant/owner would then have to meet the standards of the I district when it is adjacent to an R-4. Ms. White asks if the commission wants to recommend approval, would it be rezoning with conditional use, or recommendation. Emily says if the Zoning Commission proceeds, it would be a zoning recommendation to the trustees to make a map amendment and rezone this parcel I-1. That would then give the property owner the ability to sell this property as a business property. By rezoning it, we're not applying any standards to it. Emily also says that when we have zoning laws, they only apply from the point forward in time. So, if we change this to I-1, only modifications made to that site **AFTER** the I-1 zoning is on it will have to comply with the I-1 standards. There were no other questions or concerns from the commission on this matter. Staff stated that since this is not a formal hearing, there is no need to open the floor to the public, but the Zoning Commission could entertain comments from the audience. There were none.

Text Amendments

Staff states he has a small presentation on each article that he will go over and leave it up to the Zoning Commission to then ask questions. Mr. Welch says he had a question about Section 203-12 Cord (Wood) and why the dimensions have to be tall or high, you have 8ft. long, 4ft wide by 4ft. wide. Ms. Crow replies that this is a prime example of why they are working on the Zoning Resolution. Mr. Hauck then lists the proposed text amendments.

1. Creating a definition for Banquet Hall
2. Altering the Conditional Use process to give Harrison Township the ability to make sure conditions and commitments are met by approved Conditional Uses
3. Creating a new "R" District, R-30, to eventually replace the R-3 District as a more modern, dense single-family district

Emily adds, R-30 came up because there has been interest in at least two locations in the township for new residential subdivisions and the builders want to come in at a slightly higher density than what our most dense district currently would allow. She says for now, we're not going to replace all of the R-3, we just want to look at some standards for a new residential district. When asked where these subdivisions are being proposed, Ms. Crow says that the primary place that is being looked at is the approximately 42 acres of the Hara site on Shiloh Springs. When asked if the homes would be compacted, Ms. Crow states that there will be images shown so that the Zoning Commission can see what the homes would look like if built. She then says the second proposed site is currently zone O/S/I that was visited on the tour, by the Red Barn. Ms. White asks how the new developments would fit into the township's strategic plan for the housing at Forest Park. Ms. Crow replies it would give us another zoning district so that if someone wanted to develop a single family detached subdivision in that area there would be a more modern set of standards that they could to apply. She states this area is currently zoned R-7 and the R-7 standard are also being looked at for modification at a later date.

4. Creating an R-40 district as an eventual replacement to the R-4 district as a more flexible single-family district
5. Creating regulations regarding dumpsters and enclosures
6. Updating regulations for mobile food vendors

7. Establishing regulations regarding the keeping of livestock on lots under 5 acres

The commission asks questions on how they would be able to enforce the livestock regulations because there are so many people in the township that have chickens. Emily says, that would be the question for the commission to consider, if it's even worth trying to regulate it if we can't enforce it. She says that the issue has come up enough that she felt like it was owed to at least have the discussion. She also says that as an Ohio township, we are obligated to allow agricultural uses on land unless it is in a subdivision, so it is very clear that we can only regulate certain things, but once you get under 5 acres and are adjacent to a residential neighborhood, some clauses can go into effect.

Banquet Hall Definition

Staff reads the definition of Banquet Hall: An establishment providing meeting space for social gatherings including, but not limited to, wedding receptions, graduation parties, and business or retirement functions. He also says currently there is no definition in the zoning code of what a banquet hall is or if it's permitted or not permitted in certain areas. Emily says because the definition is not in our code, common practice is to look at the next closest thing to what you're trying to regulate and see how that is regulated. After looking at similar uses, she determined that she could see allowing this use in some of our business districts if it's truly a banquet hall and if they have adequate parking to manage events. She says she would like to be able to limit the functions that can happen in a banquet hall and would also consider making banquet halls a conditional use if it's accessory to a permitted use and does not necessarily want to have banquet halls as a free-standing business. Mr. Welch asks how this new definition would affect current banquet halls. Ms. Crow says it wouldn't affect them at all unless banquet halls are made no legal, then it makes it more enforceable. She also says that if we had a banquet hall definition then we could say banquet halls are okay if they meet this definition, but she can't approve a banquet hall in the basement of an old building just because, she wants to be able to define it and regulate it so that we don't have "illegal" things disguised as banquet halls. Ms. Godsey says that this issue was brought to the attention of the Attorney General, and he said, because of Covid, this is happening all over the state of Ohio because they want to serve alcohol, and that we are one of the first to speak up and address it. Ms. White asks if the definition would address the sale of alcohol. Emily says that we now have a Law Director, and we may need to examine this even further and have them take a look at it and see what we would want to do in terms of liquor permits.

Conditional Use Process

Tyler gives an example of the current conditional use process; apply to the Board of Zoning Appeals, ask for permission, board grants request with condition to pave the parking lot, then the applicant get the letter of approval, they can then go operate, and then the applicant never paves the parking lot. When asked why Montgomery County would issue an Occupancy Permit if the zoning permit conditions has not been met, Ms. Crown replied that they don't always check with us. She says that the bigger issue is there are two levels of building permits; a building permit and an occupancy permit that the county issues and technically, a building permit should not be issued until they have zoning approval. Emily then gives an example of an incident at 3900 N. Main St. where the applicant was approved for a conditional use automotive quick service shop with multiple conditions, and they just went in and started operating without complying with the conditions that were approved. Tyler says the change we are looking at making is having them, after getting their BZA approval, the applicant has to come back and submit for a zoning permit with drawings, Tyler will review and sign off on, and then when the applicant is ready to get their occupancy from the county, we will go out and inspect for final zoning approval. Ms. Crow then states that she is looking at revising the fee schedule and increasing the application fee for conditional uses (among other fees) and bonding improvements on all commercial redevelopment, in hopes of making the applicants more accountable.

Staff moves on to changing some definitions, the first one is private club or lodge. The main change is the inclusion of non-profit board of directors, and “in no instance shall this definition be used to define a bar or lounge that charges admission”. Emily says bars and lounges are permitted in the C/S-1 and C/S-2 districts which are along N. Dixie, and not permitted in the B-3 or B-4 districts which are primarily along Main St, Needmore and Salem. She says the problem that she is running into is that everyone with a private club or lounge has decided that they are essentially a “cover bar” and they may have a liquor license, but they’re not approved to be a bar or a lounge in Harrison Township, yet the building department and liquor control have given approval and permits. She says we just want to clarify that if not operating truly as a private club or lounge with members, then you’re operating a bar. Ms. White asks what this will mean for clubs like 937, where they’re selling memberships. Emily says right now it will probably be difficult to enforce on an existing operation, what it will allow is to issue certificates or permits to specific uses, that when they do violate them, then we have cause for action. After some discussion regarding locations in the township possibly operating as bars or lounges, Ms. Crow says we need to clarify whether or not go define private club/lodge or get rid of it, and also consider where bars and lounges should be permitted or should they not be allowed, as well as resolve the restaurant/bar issue. Mr. Welch asks if other municipalities has addressed this issue. Ms. Crow states this issue seem to be very specific to Harrison Township. When asked about other “traditional” non-profit clubs such as the Czech Club, the Irish Club, Tyler says he thinks that those type of clubs are representative of what the private club definition is supposed to be. Ms. Godsey then states that one of the concerns of the community around Club 937 is the crime that they have brought into the area and the other business along Main St. are not happy.

After a bit more discussion, staff moves on to changing “certificate” to “approval”, changing some of the language and referencing the Ohio Revised Code. He says that multiple government entities using the word “certificate” is confusing so, changing it to “zoning approval” will make it easier to follow. He then moves on to getting rid of the Certificate of Zoning Compliance and changing it to a Change of Use permit. He says they function pretty much the same, it’s more of just a name change to make it separate from a zoning permit and easier to understand. Mr. Switzer suggest adding the word “zoning” to the Change of Use to differentiate from building code change of use. The next change is Period of Validity for a zoning approval. Staff states that zoning approval shall become null and void six (6) months after the date on which it was issued, unless within such six (6) months a building permit has been applied for, or the use for which the certificate was issued is commenced. The last item talked about is the Period of Validity for a conditional use approval. Staff says once a conditional use has been granted by the board, an approval letter will be sent out detailing that the approval is valid for one (1) year from the date on which to board granted the conditional use. After the conditional use has been approved, the applicant must apply for a zoning permit. If a zoning permit is not obtained within a one (1) year period from the date on which the board granted the conditional use approval, the conditional use approval is no longer valid and must be re-obtained. Emily then states that there has been some recent case law with Ohio Townships and the revocation of conditional use permits, and just because a user violates the terms of the conditional use permit does not give the township the ability to revoke it. The township can only cite them for the violation and can’t actually take the use away. She says this is something else they are looking in to and may possibly be removed from the code and the other part would be looking into reducing the number of conditional uses being considered in any district and say specifically whether a use is or is not permitted in a specific district. There being no further discussion on this matter, staff asked the Zoning Commission if they wanted to move on to the next item or adjourn for the evening and pick up at the next meeting. After some discussion about adjournment, the commission decided to proceed on to Dumpsters.

Dumpsters

Staff states, dumpster regulations are Article 54 and is added as a new article as we previously did not have dumpster regulations.

5401(a) Location:

Under no circumstances shall a dumpster be placed on bare or compacted soil or withing required off-street parking spaces

No dumpsters or dumpster style recycling containers shall be located in any front yard, except when in the case of a through-lot or in the case of an existing non-conforming lot where inadequate rear yard is present to accommodate a dumpster location for pickup

5401(b) Foundation Required:

All dumpsters and dumpster style recycling containers shall be placed and stored on a paved surface of asphalt or concrete

5401(c) Screening requirements:

All dumpsters and similar type trash containers with a capacity of two (2) cubic yards or greater shall be screened from view from all public streets and roads and all adjacent properties. At a minimum, where dumpsters are not otherwise screened by structures or other obstructions, the screening shall consist of a six (6) foot tall, 100% opaque fence of wood, stone, masonry, architectural metal, or similar construction providing the required opacity. Where necessary to meet the screening requirement, access gates shall also be provided and shall be 100% opaque. In no instance shall chain link fence inter-woven with plastic strips or other similar fencing be considered as 100% opaque for the purposes of the fencing and/or gates required by this section. The following exemptions from these requirements shall apply:

1. Agricultural uses
2. Dumpsters along alleys
3. All recycling containers for exclusive use for the public
4. Any temporary dumpsters that's associated with a permit for construction, demolition, or remodeling

When asked if the Township's dumpsters are screened, staff replied they currently are not, however if these regulations are instituted, the Township would have to comply. Tyler then showed the commission some examples of dumpsters without enclosures and others with enclosures.

5401(d) Curbing or Bollards:

Whenever screening material is placed around any large waste receptacle (dumpster) or waste collection unit which is emptied or removed mechanically on a regular basis, a curb or bollards to contain the placement of the container shall be provided within the screening material. The curbing or bollards shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

Adjournment

There being no further discussion or questions regarding dumpsters, Mr. Welch asked if there is a motion to adjourn. Mr. Switzer made a motion to adjourn, resuming in January to finish discussing the remaining articles. The motion to adjourn was seconded and passed 4-0.

Respectfully submitted,

Harrison Township
Zoning Commission

Regina Moore,
Administrative Assistant
Development Department

Vary Welch

Mattie White

Tanner Kirk

Andrew Switzer

Attested as to Signatures,

Regina Moore,
Administrative Assistant
Development Department