

XENIA TOWNSHIP BOARD OF TRUSTEES
PUBLIC HEARING FOR TEXT AMENDMENTS
TO HEIGHTS OF FENCES AND SCREENING
SECTION 505 AND 515

March 15, 2018

THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE HEARING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.

The Xenia Township Board of Trustees scheduled a public hearing on March 15, 2018 at 7:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH, 45385 with the following members present:

Attendees: Sheila Seiter, Fiscal Officer; Scott Miller, Trustee; Steve Combs, Trustee, Chair; Susan Spradlin, Trustee; and Alan Stock, Zoning Inspector.

Mr. Combs called the hearing to order at 8:32 p.m. Mr. Combs asked everyone to stand and participate in the Pledge of Allegiance.

Mr. Stock advised to the exhibits: Exhibit A – Agenda; Exhibit B – letter of Conveyance; Exhibit C – Resolution; Exhibit D – minutes from the Zoning Commission Public Hearing; Exhibit E – proof of legal notice, Exhibit F – Greene County Regional Planning recommendation, Exhibit G – actual text changes for the Zoning Resolution; Exhibit H – the redline working copy; Exhibit I – procedure checklist. Mr. Stock advised that the requirements for the Revised Code had been met, so the Trustees can proceed with the Public Hearing.

Mr. Stock advised the trustees to look at Exhibit G and H to make comparisons of the proposed text changes. Mr. Combs advised to the agenda for the meeting and read through the steps of the Public Hearing. Mr. Combs stated that he was closing the Public Comments section of this Public Hearing since there were no guests in attendance.

The Public Comments portion was closed at 8:40 p.m. He stated that the Trustees would now deliberate about the proposed text changes and asked for questions and comments.

Mr. Miller asked Mr. Stock to walk the Trustees through the general ideas that the Zoning Commission had accomplished with these changes. He stated that he wanted to be sure he understood the direction the Commission was going with these changes.

Mr. Stock stated that he would start with Exhibit H, the redline working copy. He stated that one of the problems that the Commission saw was an inconsistency in areas that could be fenced. The Commission wanted residents to have the ability to have more fences and why the height for front yard fences and hedges were only two feet. He stated that the Commission wanted to make the definitions of fences and hedges clearer. Mr. Stock explained that one of the issues the Commission worked on was to be sure that fences, hedges and screening was in compliance with the Ohio Fire Code. Mr. Stock explained the difference between fences and screening. He stated that the Commission wanted to be sure that in a residential district that fences would start becoming walled in communities.

Mr. Miller state that his concern was that some roads have a reasonable right-of-way and defines the fencing and others do not, which means the fence could be up to the road. Mr. Stock explained using an example of a resident that did not pull a permit to put up a fence. The resident was replacing a chain link fence with a privacy fence. Mr. Stock explained that he spoke with the resident and explained why a permit was always needed. He stated that even though the resident was removing an old fence and replacing with something new, the zoning could have changed, or the old fence was not in compliance with zoning. Mr. Stock advised that he informed the resident would have to take the fence down and showed him where he could reinstall the fence out of the right-of-way. There was discussion about where the right-of-way is located for different streets. Mr. Miller stated that he thinks that there should be some amount of setback off of the road because there could be some very tight areas. He stated that some of the ditch lines were not the concern of the Township because they were outside the right-of-way. Mr. Combs asked Mr. Miller if he wanted wording that would state it had to be “x” amount of feet from the edge of the road. Mr. Miller stated that this was what he was wanting but wanted to have discussion as to what the amount should be. He stated that he did not think that three feet was enough, but he did not think it needed to be fifty feet either. There was discussion about how each district and property could

be different when it comes to how far off the road structures are currently. Mr. Combs stated that what was suitable for one property may not be suitable for another. Mr. Stock advised how he would handle applications that are asking to put fences in the right-of-way. There was discussion about how different zoning inspectors could interpret the text in different ways.

Mr. Miller stated that he would like to see a declared distance or something stating it must be outside of the right-of-way which ever is greater. Mr. Combs advised that even if it was an exact distance someone could still go to the BZA for a variance. Mr. Miller agreed. Mrs. Spradlin stated that she read everything before the meeting and understood everything and did not have any questions. She stated that the Zoning Commission does a great job and she has great confidence in the Inspector and the BZA. Mrs. Spradlin stated that her only question was to Mr. Stock. She asked what the least amount of setback for the right-of-way in any zoning district was. Mr. Stock advised that the right-of-way changes depending on the road, curves in the road, and the ditch. He stated that on some roads a right-of-way has not been established. Mr. Stock advised that now everyone is trying to set the right-of-way at 20 feet to take care of utilities and this has become standard.

Mrs. Spradlin stated that there are very few homes in Xenia Township that are real close to the road. She stated that as the Township grows and gets older and people take fences down and change things, they will need to conform to the zoning Resolution as it is at that time. She stated that she did not think it would be fair for people who have a home close to the road to state that they could not put up a fence to keep their animals safe. She stated that she feels this would prevent people from living and doing the things that they want to accomplish in their home.

Mr. Miller stated that he would like to have research done to see where the right-of-way is currently.

Mr. Miller moved to continue this public hearing to collect more information. Mr. Combs seconded the motion.

Mr. Stock advised that they need to call out a time and place for the continued hearing before the roll call is done. Mr. Combs suggested continuing the meeting to the next scheduled Trustee meeting on April 5, 2018 at 6:00 p.m. Mr. Miller asked if anyone else needed issues clarified. Mr. Combs stated that he understands what Mr. Miller was saying but stated that he was comfortable with the wording that Mr. Stock read. Mr. Combs stated that he did not think they would be able to cover every little thing. Mr. Miller stated that he would like to give the inspector some kind of guidance and to use the BZA as a resource if it were necessary. **ROLL CALL:** Mrs. Spradlin-Nay, Mr. Combs- Aye, Mr. Miller – Aye. Motion carried. **PASSED** by roll call of 2-1.

April 5, 2018 Public Hearing Continuation

Mr. Combs called the continuation of the Public Hearing for Fences, Screening and Definitions to order at 6:00 p.m. Mr. Combs asked everyone to stand for the Pledge of Allegiance, and everyone participated.

Roll Call: Sheila Seiter, Fiscal Officer; Scott Miller, Trustee; Steve Combs, Trustee, Chair; Susan Spradlin, Trustee, and Alan Stock, Zoning Inspector.

Mr. Stock stated that he would like to start with Exhibits J and K. He stated that Exhibit J was the continued meeting agenda, and Exhibit K was an email from Mr. Geyer, Greene County Engineer, regarding the parcel that did not have a clearly marked or established Right-of-Way. Mr. Stock stated that there was a concern that a fence could be placed on the actual side of the road. Mr. Stock read the email from Mr. Geyer.

Mr. Miller asked if he could have a copy of the email, and Mr. Stock stated that he could. Mr. Combs asked for clarification of the next step was for Trustee deliberation. Mr. Combs asked if Mrs. Spradlin had any comments or questions, and she stated that she did not. Mr. Miller stated that he had some questions so that he could be sure he was understanding all aspects of these changes. Mr. Miller explained that he had wanted to be sure that gates and hedges would not obstruct vehicles coming or going from a property. There was discussion about fences that were close to the road. Mr. Miller stated that he was questioning the need of a twelve-foot fence, he stated that if there was a high industrial area he could see a need. There was discussion about the different types of hedges and where they could be located on a property and if the height of these would be restricted. Mr. Miller asked about the fences for swimming pools and suggested that

drawings or photos should be added so that it would be clear in the Resolution. Mr. Miller stated that he was not sure why the section on Towers was included. He stated that he thought this would be regulated by the FCC and that this may only apply to Ham radio operators. He stated that he was struggling with different aspects of the text changes and agreed that some improvement could be done, but how it was addressed and come about it was where he had questions and concerns.

Mr. Stock advised that the Chair of the Zoning Commission, Jeffrey Zweber, was in attendance tonight to answer questions and address any concerns.

Mr. Zweber stated that he would start with the concern of fences being close to the road and stated that the Commission went with the boiler plate language and read Section 505. He stated that they had used similar language in other sections and stated that the Commission thought this gave the Zoning Inspector guidance on how to look at the proposed application. Mr. Zweber advised that he felt since the Right-of -Way was not always the edge of the street and there was a setback from the edge of the road to the closest place they could put a fence or gate. There was discussion about the difference between a hedge and a line of trees. Mr. Miller explained that sometimes a line of trees can become a hedge depending on how they are planted and how they grow. Mr. Miller stated that he understood where the Commission was headed with the changes. He stated that it should be taken into account that under the plan that planting can change as they grow and asked to what degree does the Commission try to control or not control this issue. Mr. Zweber stated that the issue Mr. Miller described would be considered a hedge by definition and the commission would say that this would not be allowed.

Mr. Zweber stated that when it came to the pools and that with the top rail of the pools must be five feet high. He explained that this was to have the edge of the pool to be five feet high, whether it was a deck or a fence around the pool. Mr. Stock advised that the words "at least" were added because he was receiving calls with residences saying they could not find something five feet in height for their fence, but with the new wording they could go higher than five feet.

Mr. Zweber stated that with the FCC or other jurisdictions, the Commission discussed it many times and decided to write the Resolution for the absence of any other organization or agencies. He stated that if the other preempted the Township Resolution then the Commission was good with it. There was discussion about fences for Towers and how this would apply to any issues with Towers.

Mr. Stock advised that the Commission was trying to allow people to follow our Zoning within reason and to allow more people to have a more defined height for their purpose and use than what was allowed right now.

Mr. Miller stated that the Resolution does not match up to every parcel in every district right now and he thinks that some of the fence heights were excessive. He stated that if a twelve-foot fence were to go up next to a residential lot it would just be massive. Mr. Stock advised that if this were the case the business would probably be required to have a type of screening, which would be done before the fence. Mr. Stock advised that the Commission wants to protect the residential areas the most. There was discussion about screening between residential and business districts.

Mr. Combs asked if anyone had thought about the Board of Zoning Appeals and how it gets involved with disputes. Mr. Combs stated that there would always be exceptions and that was why the Township has a BZA.

Mr. Miller asked about Section 505.1 and asked about the wording for the exception of established fences and hedges and the setback requirements. Mr. Combs stated that he believed the Township had the right to remove anything that was going into the Right-of-Way. He asked Mr. Pile the Road Superintendent if he had done this recently. Mr. Pile advised that he had removed things that had grown into the Right-of-Way. Mr. Combs stated that if something was planted too close to the Right-of-Way the Township had the legal right to remove that plant. Mr. Miller stated that there were trees out there now, so if they could address the issue now to keep those types of issues from occurring. Mr. Combs asked how the Commission would address how a tree may grow over twenty years. Mr. Miller stated that he would add a minimum for these to be off the road way. Mr. Combs said that it was stated in the text, and Mr. Miller stated that the distance was variable. He suggested stating a set number for the setback or the Right-of-Way whichever was greater. Mr. Combs stated that he understood what Mr. Miller was working towards but stated that no matter what there would be an exception and that was what the BZA handled. Mr. Combs asked Mr. Zweber if he

thought there was anything the Commission had left out or something that was not addressed. Mr. Zweber stated that he would not speak for the whole Commission, but for himself, his opinion was that the changes that the Commission had made were intended to be done. Mr. Zweber stated that approving this would fix the things that are wrong now and it might bring up some issues that Mr. Miller mentioned but for the balance of exceptions it was better to approve what was there now would be best in his opinion. Mr. Combs stated that in the future if there was an issue they could amend the text again, and Mr. Zweber stated that would be his preferred approach. Mr. Combs thanked Mr. Zweber for his input and asked if there was any other discussion on the topic.

Mr. Combs moved to approve the changes in the text amendments as presented pertaining to Fences, Screening and Definitions. Mrs. Spradlin seconded the motion. **ROLL CALL:** Mrs. Spradlin- Aye, Mr. Combs- Aye, Mr. Miller – Nay. Motion carried. **PASSED** by roll call of 2-1.
RESOLUTION 2018-033

Mr. Miller moved to adjourn the Public Hearing at 6:44 p.m. Mr. Combs seconded the motion. **ROLL CALL:** Mrs. Spradlin- Aye, Mr. Combs- Aye, Mr. Miller – Aye. Motion carried. **PASSED** by roll call of 3-0.

XENIA TOWNSHIP BOARD OF TRUSTEES

Resolution #

Steve Combs, Chair

Date Approved

Scott Miller

ATTEST:

Sheila Seiter, Fiscal Officer

Susan Spradlin

MEH