

Chester Township Zoning Commission Meeting Minutes

| Wednesday, May 4, 2022 7:00 PM |

Meeting Called to Order by Mr. Oswick at: 7:02 pm
(This was a recorded meeting)

Roll Call

Members present: Mr. Chess, Mr. Kats, Mr. Lauro, Mr. Oswick, Mr. Peto*

Members absent: Mr. Nastasi

Admin present: Ms. McCarthy

*Mr. Peto served as alternate for Mr. Nastasi

Pledge of Allegiance

Mr. Oswick led the Committee in reciting the Pledge of Allegiance.

Public Comment and Questions

Ms. Margaret Muehling concerned about amendment for Tranchita Enterprises, LLC. Distributed the attached (Attachment A) four-page document named, Tranchita Proposed Amendment, 18 May 2022. The ZC was told they would need to make a motion to accept the Amendment and another member would need to make a motion to accept or reject the Amendment. ZC board may also want to have deed restrictions put on lot. Concerned about the unusual way to expand.

Item 1. Approval of Minutes

Move to approve the minutes of the April 20, 2022 meeting as presented.

Moved by Mr. Lauro; Seconded by Mr. Chess

Mr. Chess/yes; Mr. Kats/abstain; Mr. Lauro/yes; Mr. Nastasi/absent; Mr. Oswick/yes; Mr. Peto/yes

Motion passed

Item 2. Application for Zoning Amendment – Caves Road, LLC ZC-2022-03

Mr. Dave Mitchell, attorney representing Biltmore HealthCare LLC, owner of Caves Road, LLC. Representing three parcels, 11-199600, 11-389255, and 11-259900 as 7895 Mayfield Road for a total of 11.37 acres. 10.68 is in the General Commercial district. Application for a Zoning Amendment was delivered on April 26, 2022.

Mr. Mitchell described Biltmore Healthcare and their facilities in the state of Ohio. Application proposed three amendments in their proposal for Congregate Care facilities as a conditional use in the General Commercial District. Not seeking to rezone the property. Looking to build a 96 bed, single story, 67,000 square foot building.

Three amendments described in Exhibit E

- 2.02.0 Definition added “CONGREGATE CARE FACILITY” means a Nursing Home, Residential Care Facility or other similar facility that provides accommodations, supervision, personal care services and/or skilled nursing care for individuals who are dependent on such services by reason of age or physical or mental impairment. See also “Nursing Home” and “Residential Care Facility.”

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“NURSING HOME” means a facility licensed by the Ohio Department of Health for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care. See also “Congregate Care Facility.”

“RESIDENTIAL CARE FACILITY” means a facility licensed by The Ohio Department of Health to provide accommodations, supervision and/or personal care services to individuals who are dependent on such services by reason of age or physical or mental impairment. See also “Congregate Care Facility.”

- Section 5.02.16 CONDITIONAL BUILDINGS, STRUCTURES AND USES
 - Add item D. Congregate Care Facility
- New Section 6.07.04 CONGREGATE CARE FACILITIES
 - Establish the special conditions applicable to congregate care facilities if approved to add into the General Commercial district.

Also submitted sections of three zoning resolutions for Montville Twp. in Medina County, Brimfield in Portage County and Bainbridge Twp. in Geauga County to show how those townships handle congregate care facilities. These facilities are typically considered transitional between residential and commercial areas.

Mr. Peto asked that proposed 6.07.04 be read in its entirety. (Attachment B - 6.07.04)

Mr. Mitchell explained that they went through Zoning Amendment process instead of seeking a variance. Provision in code that prohibits township from granting a variance for any use that is not otherwise permitted.

Asked for this matter to be submitted for a public hearing. Multiple questions from the ZC answered by Mr. Mitchell responses below.

- We are nursing home, not Alzheimer's – skilled nursing care only.
- Described number of licensed beds in nursing homes in the state of Ohio.
- Mr. Chess suggested he be prepared to discuss drain on community services, ie-Fire, EMT, etc.
- Sewer is already on property. Water usage from existing properties will show average 7,500 gallons per day. Propose to drill several wells and have some water storage.
- Emergency Services only called in a true emergency. Dr's and nurses in facility trained to assist patients, thus reducing calls. General range of 3-5 trips/week at a facility of this size.
- Mr. Chess asked about piece of property off of Caves Rd to divert some traffic. Mr. Mitchell advised that ODOT may have denied access, so primary access will be off of Mayfield Rd. Facility does not generate a lot of traffic. Most traffic is during shift change.
- Mr. Kats asked what the proposed revenue would be for the township. Mr. Mitchell said income tax on real estate would probably be based on \$15 Million. Payroll will be \$5-6 million range. Gross revenue at full occupancy, probably \$8-\$12 million.
- What is occupancy at Heather Hill? Mr. Mitchell believes about 90%.
- Why wasn't a variance pursued at that time? --Response was unclear
- This facility would most closely resemble their Highland Heights facility with 9 acres, single story and 96 beds.
- Anticipated radius of patients – rule of thumb, 10-12 mile radius.
- Funding mostly from Medicare or Medicaid or Long-term care insurance. Small percentage is private pay.
- Average age of person entering independent living is 84 years old.
- Time of build is typically 14 months build.

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- Mr. Eric Wittine stated township questionnaire was not validated, so this may not be accurate. People wanted to keep Chesterland rural as much as possible.
- Mr. Bart Ziganti asked what is mix of permanent residents vs those needing temporary care? Roughly 60-40 or 70-30.

Item 3. Opening of BZA Meeting – Roll Call

Ms. Fadorsen/absent; Ms. Klemm/absent; Ms. Muehling/yes; Mr. Pona/absent; Ms. Sritalapat/absent; Mr. Wittine/yes; Mr. Ziganti/yes.

- Both boards agreed that currently the height of building is measured from average grade to mid-point of peak.
 - Ms. Muehling and Mr. Lauro agreed in concept that there would be a maximum cap figured from the median grade point. Mr. Lauro suggested it makes it cleaner going to max peak and be done with it when referring to drawing (Attachment C) and Ms. Muehling agreed. If we are one of the only townships doing it to the mid-point, then why are we doing it this way?
- Perhaps the Fire Department should review the plan and approve. Both boards felt that should potentially/probably be on forms.
- Person responsible for updating forms – not identified.
- Mr. Oswick updated group with details on how accessory building size was determined and research process to come to this size. Extended group discussion followed. Mr. Wittine and Mr. Ziganti will produce an executive summary of prior BZA cases to the ZC board by May 11 via email. ZC board asked for May 9 or 10.
- Signage was discussed. Mr. Oswick summarized that signage will probably be the next item to be researched/addressed by the ZC. Multiple people have come and voiced their concern in the township already. The nation, state of Ohio and Geauga county are well into discussions on regulating signage. We're waiting for the county to drive this first. Should be ready in next several months. Ms. Muehling suggested the American Planning Association (APA) may be able to supply help/data on this subject. County may be able come out with this information within the next two months.
- Zoning Forms usually originate from ZI, once both boards approve, must be approved by Board of Trustees.

Item 4. Closing of BZA Meeting at 9:08 p.m.

New Business

None

Agenda Topics for Next Meeting

- Public hearing for ZC-2022-01 and ZC-2022-02 on May 18th.
- Mr. Chess will be at BOT meeting on May 5th to give summary of ZC happenings.

Public Comment and Questions

Correspondence Received

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Email from Linda Crombie that May 10th meeting has ZC-2022-1 and ZC-2022-2 on agenda for discussion.

Open Items

Meeting Called to Close at: 9:10 pm

Approved by:

Chester Township Zoning Commission May 18, 2022

Final Review by: _____
Jon Oswick, Chair

Zoning Commission Public Hearing

This amendment proposes to reflect the reality of a court order by revising the legal descriptions in the Commercial District in Chester Township in a specific instance. This expansion is an anomaly and should be recorded in a clear way, so it is not used as a precedent.

This page and the following pages suggest a brief way of doing so:

- Pages 1-2 Explanation;
- Page 3 A suggested modification of "Exhibit E";
- Page 4 A replica of page 4-4 in the current Chester Township Zoning Resolution showing how the suggested modification would fit unobtrusively into the Resolution if the proposed amendment were approved. (Highlighting proposed changes.)

History of Article 4, Zoning Districts Defined, Chester Township Zoning Resolution.

- In 2001, the Zoning Commission was advised by the Geauga County Planning Commission (GCPC) to write legal descriptions of the zoning districts.
- The Zoning Commission worked for more than a year, examining all existing permitted commercially zoned parcels. The Z.C. looked at historic use, deeds, and "Grandfathering".
- Some adjustments were made for "Grandfathering"; also, the 500-foot setback was adjusted to coincide with the rear lot line if the margin was within 10% (50 feet). A four-page examination of some of the changes was included in the file. (Note: In common use, the setback is called the "500-foot setback" even though it sometimes exceeds that amount by as much as 50 feet.)
- After the information was gathered, David Short, a member of the Z.C. and a certified surveyor, wrote the legal courses as listed in Article 4. (Note: Other township legal descriptions were found in paragraph form; none were found in Courses which made it simpler to write a clear and brief modification.)
- The next step was certification by a recognized and approved firm.
- All work was approved by the GCPC and its legal staff. The amendment was approved by the Board of Trustees.
- There have been no changes in the area of the Commercial District and only one District change from Residential to Commercial (2008) since inception. Said change, parcel # 11-187500, had some accompanied deed restrictions. No other amendments have been approved concerning Article 4. Some minor changes have been made on the map.

The proposed amendment (with the modification) should be approved for the following reasons:

- The two lots will be consolidated and become part of the C: General Commercial Zone, and therefore must meet the pertinent regulations in Sections 5.02.01 – 5.02.17 of the Current Chester Township Zoning Resolution. (The consolidated lot meets the requirements in Section 5.02.17 Dimensional Requirements in a C District.)
- The Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E.2nd 333), granted a commercial use of the premises (four [4] acres) as per the requested variance which will become part of the Commercial Zone as required.
- This results in an expansion of the setback regulations in the existing legal descriptions (Article 4, Section 4.00.01 Zoning Districts Defined, Chester Township Zoning Resolution).

- This deviation by court order is an anomaly and should be clearly recorded since it is significantly large (660') and the only area expansion since the enactment of Article 4 in 2001. (See proposed map.)
- The suggested modification **cites the source and** does so in a brief, inconspicuous statement, also clearly denoting the two pertinent descriptive courses (LV and LVI).

If the proposed amendment is not approved, then:

- The court order **would still remain** in effect as stated above on two (2) lots in the R3A Residential District with a commercial use.
- Any change on the premises that requires a zoning certificate will be regulated by Section 5.01.0 Residential Districts (R, R3A, R5A Districts) and Section 5.02.01 Permitted Principal Buildings, Structures, and Uses in the Commercial District, pages 5-15 through 5-17. (Note: Since a Zoning Resolution is not mentioned in the court ruling, it is not clear if the 1963 or the 2022 Chester Zoning Resolution should be used for the pertinent regulations.)
- Since the court ruling is in effect and the structures on the lot are in place, decisions concerning enforcement are difficult. In general, residential zone regulations are less stringent than commercial zone regulations – except for coverage.
- **The zoning on the two parcels will be out of compliance with the opinion of the court of appeals, and this is an untenable situation.**

EXHIBIT “E”

(Suggested modification)

***Course LV.** Thence easterly along the centerline of said Mayfield Road to the northeasterly corner of parcel ~~#11-205700~~#11-203500;

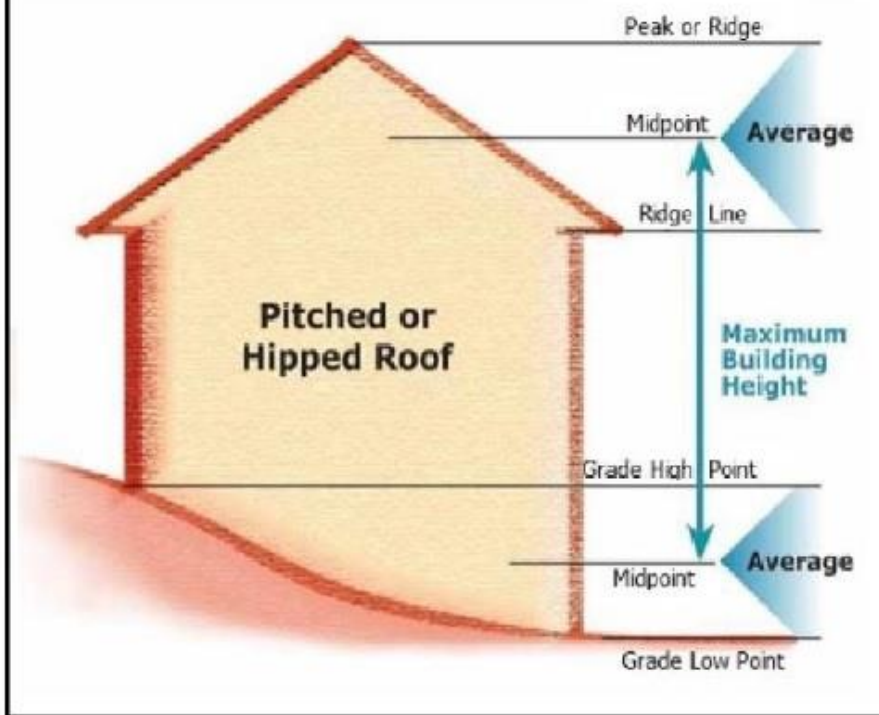
***Course LVI.** Thence along the easterly line of said parcel ~~#11-206700~~ # 11-203500 and ~~#11-205800~~ #11-203600 to a point that is the southeasterly corner of parcel #11-203600; thence westerly along the southerly line of parcel #11-203600 to a point at the southwesterly corner of parcel #11-203600; thence northerly along the westerly line of parcel #11-203600 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield Road;

***Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no.196 N.E.2d 333).**

- Course XXXIX. Thence westerly along the northerly line of said parcel # 11-710900 to the northwesterly corner of said parcel # 11-710900 on the centerline of said Chillicothe Road;
- Course XL. Thence southerly along the centerline of said Chillicothe Road to the intersection of the centerline of said Chillicothe Road with the centerline of Mayfield Road;
- Course XLI. Thence easterly along the centerline of said Mayfield Road to the southeasterly corner of said parcel # 11-710900;
- Course XLII. Thence northerly along the easterly line of said parcel 11-710900 to the northwesterly corner of parcel # 11-713700
- Course XLIII. Thence easterly along the northerly line of said parcel # 11-713700, parcel # 11-124700, to the northeasterly corner of said parcel # 11-124700;
- Course XLIV. Thence southerly along the easterly line of said parcel # 11-124700 to the southeasterly corner of parcel # 11-124700;
- Course XLV. Thence easterly along the northerly line of parcel # 11-015100 and parcel # 11-285550, to the northeasterly corner of said parcel 11-285550;
- Course XLVI. Thence northerly along the westerly line of parcel # 11-388769 to the northwesterly corner of said parcel # 11-388769;
- Course XLVII. Thence easterly along the northerly line of said parcel # 11-388769 to the northeasterly corner of said parcel # 11-388769;
- Course XLVIII. Thence southerly along the easterly line of said parcel # 11-388769 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield road;
- Course XLIX. Thence easterly along a line parallel with and 500 feet distant from, by normal measurement, the centerline of said Mayfield Road to a point on the easterly line of parcel # 11-350500
- Course L. Thence southerly along the easterly line of said parcel # 11-350500 and its southerly projection to the centerline of said Mayfield Road;
- Course LI. Thence easterly along the centerline of said Mayfield Road to a southerly projection of the westerly line of parcel # 11-037400;
- Course LII. Thence northerly along the westerly line of said parcel # 11-037400 and its southerly projection to the northwesterly corner of said parcel # 11-037400;
- Course LIII. Thence easterly along the northerly line of said parcel # 11-037400 and parcel # 11-037500 to the northeasterly corner of said parcel # 11-037500;
- Course LIV. Thence southerly along the easterly line of said parcel # 11-037500 and its southerly projection to the centerline of said Mayfield Road;
- *Course LV. Thence easterly along the centerline of said Mayfield Road to the northeasterly corner of parcel # 11-203500;
- *Course LVI. Thence along the easterly line of said parcel # 11-203500 and # 11-203600 to a point that is the southeasterly corner of parcel # 11-203600; thence westerly along the southerly line of parcel # 11-203600 to a point at the southwest corner of parcel # 11-203600; thence northerly along the westerly line of parcel # 11-203600 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield Road;

*Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E.2d 333).

Figure 5.66



Additions are highlighted in yellow
Deletions are in red text and ~~strikeout~~.

Existing Zoning Code:

5.01.03 **ACCESSORY BUILDINGS.** The minimum distance from a detached accessory building to any dwelling shall be not less than Twenty (20) feet, however breezeways, decks, patios, and open-sided porches may be attached to or less than twenty (20) feet, however breezeways, decks, patios, and open-sided porches maybe attached to or less than twenty (20) feet from the principal building. The maximum combines total ground floor area of all Accessory buildings on a lot shall not exceed one thousand two hundred eighty (1,280) square feet, not including breezeways, decks, patios, and open-sided porches.

Detached accessory buildings shall be located to the rear of the principle building or structure, not in the required front and side yards, and shall be at least ten (10) feet from the rear and side lot lines, unless otherwise provided for. An accessory building shall not be closer to any street than the principal dwelling; decks, patios and open-sided porches may be permitted in the front, rear and/or to the side of the principal building provided they meet all the applicable setbacks. Health District regulations require that accessory buildings and structure shall not be located over leach fields.

Recommended Changes and redactions:

5.01.03 **ACCESSORY BUILDING.** The minimum distance from an ~~an detached~~ accessory building to any dwelling ~~building~~ shall be not less than Twenty (20) feet, however breezeways, decks, patios, and open-sided porches may be attached to or less than twenty (20) feet, ~~however breezeways, decks, patios, and open-sided porches may be attached to or less than twenty (20) feet from the~~ principal building. The maximum ~~combines~~ **combined** total ground floor area of all Accessory buildings on a lot shall not exceed one thousand two hundred eighty (1,280) square feet **or five hundred (500) square feet of ground floor area per acre, up to a maximum of 2,500 square feet of total ground area, whichever is greater,** not including breezeways, decks, patios, and open-sided porches.

~~Detached~~ Accessory buildings shall be located to the rear **or side** of the ~~principle~~ **principal** building or structure, not in the required front ~~yard and side yards,~~ and shall be at least ten (10) feet from the rear ~~and side lot lines~~ **and ten (10) feet from the side lot lines, unless the accessory building is placed in a side yard at which time the accessory building shall be at least twenty five (25) feet from the side lot line. An accessory building shall not be closer to any street than the principal building and must be no less than fifteen (15) feet from the face of the principal building, measured from the closest vertical face as measured from the closest foundation wall to the street unless otherwise provided for in this resolution. An accessory building shall not be closer to any street than the principal dwelling; Decks, patios and open-sided porches may be permitted in the front, rear and/or to the side of the principal building provided they meet all the applicable set backs. Health District regulations require that accessory buildings and structure shall not be located over leach fields.**