

The Chester Township Board of Trustees met in special session **Tuesday, December 19, 2023** in the Town Hall Meeting Room at 7:01 P.M. Trustee Ken Radtke was appointed Clerk pro tem.

Roll Call for Board of Trustees:

Present: Chairman Craig Richter, Vice-Chairman Joe Mazzurco, Trustee Ken Radtke
Absent: Fiscal Officer Jarrett

Roll Call for Board of Zoning Appeals:

Present: Ms. Klemm, Ms. Fadorsen, Ms. Sritalapat, Ms. Denamen, Ms. Muehling and Mr. Ziganti
Absent: None

Pledge of Allegiance to the Flag

The Board led the audience in reciting the Pledge of Allegiance to the Flag.

Trustee Richter began the meeting stating this is a special joint meeting with the Board of Zoning Appeals. Mr. Ziganti added a list was put together of topics for discussion including difficulties they have had over the years as a Board, with hope that these topics could be discussed. Lorrie Sass Benza will be leading the training session and passed out reading material and will be using a power-point. Each Board of Zoning Appeals member introduced themselves and shared something about themselves as well as what each of their experience with township zoning is.

Ms. Sass Benza said not every parcel will fit exactly into the rule book. You want to be able to allow people to use their property and allow for some leeway regarding the rules and regulations. Zoning is a police power. Infringement is only going to occur when the greater good is served. Rules and regulations are for the greater good. That is US Constitution, incorporated into the State of Ohio Constitution and incorporated into the Ohio Revised Code.

Lorrie Sass Benza explained the difference between a township and a municipality. Municipalities are villages and cities. Townships are simply townships and are permitted to do only what the Ohio Revised Code authorizes townships to do. Ohio has more townships than cities and villages combined. General information was supplied.

Ohio Revised Code Chapter 5-19 applies to Township Zoning Rules and Regulations. Title 5 is Townships broken down into chapters. Board of Zoning Appeals should be most interested in 5-19. The Board of Zoning Appeals gets to interpret the Zoning Resolution. The Board of Zoning Appeals looks out for duties set out in the Zoning Resolution and the Ohio Revised Code. There are four things which include:

- 1) Hear and decide appeals
- 2) Hear and consider variances (use and area)
- 3) Consider the granting of conditional uses
- 4) Revocation for an authorized variance or conditional zoning certificate

Ms. Sass Benza reminded everyone she is not Chester Township's legal counsel and she does not give the Township any legal advice. Today she is only giving general zoning training. She reminded everyone there are three levels of government which are Executive (Board of Trustees), Judicial (Board of Zoning Appeals) and Legislative (Zoning Commission). The Zoning Commission writes the rules including the language. Zoning Amendments are not in effect until the public notice and the hearing have been

completed. The Board of Trustees must approve and sign the resolution and then there is and then there is a thirty (30) day window before it becomes effective. The Board of Zoning Appeals does not have authority to say it's a bad law so vote against it. Once the rules are in place, then the Board of Zoning Appeals gets involved if there is a variance requested. A Zoning Amendment can be initiated by a property owner, the Board of Trustees and the Zoning Commissioner. The Zoning Commission will always be adjusting things as they go along. Three (3) general purposes are health, safety and welfare.

The Zoning Secretary and the Zoning Inspector are or should be your right-hand people and you should rely on them. Board of Zoning Appeals only interprets and does not initiate. Should someone feel they have enough evidence and should be granted a variance, the procedure for filing an appeal in Common Pleas Court was discussed as well as the action that will be taken by the Court.

The actual meeting minutes are kept forever. The recordings for Chester Township were being kept three (3) months, although recently its been revised to six (6) months. Chester Township's records retention policy is in the process of being amended. Mr. Richter led the discussion regarding meeting minutes and not having them verbatim. It is necessary to have minutes.

Conflicts of interest, ex parte communication, Sunshine Law, conduit and how to prepare for meetings was discussed. Lorrie Sass Benza stressed the importance of reading the Zoning Resolutions and said it really is mandatory. It was also noted that decisions do not need to be made the evening of the meeting. The hearing can be continued. Deliberations can also be done in executive session. All voting must be done in public session. If no hardship or difficulty appears, there is no issue with condensing the meeting. There is no obligation to continue with the hearing. Unnecessary hardships are for use variances and practical difficulties for area variances. A couple Court cases were discussed as examples and the outcome.

After a property owner files an appeal, the Zoning Secretary has 40 days to put together the transcript of proceedings and file them with the Court. The Court will then issue a briefing schedule. Eventually the Court will make a ruling.

When conducting a meeting, there needs to be ground rules established at the beginning. It is up to the Chairman to determine if everyone will be sworn in at the beginning of the meeting. You must close the hearing for the public first. Rules need to be established for the members. All questions and comments should be going through the Chairman. Be loud and be clear so people can hear. Never feel compelled to make a hasty decision. Always use the review standards of the Zoning Resolution.

Be aware of both use variances and area variances. Use variances are more involved normally than area variances. Once a variance is granted it runs with the land. Variances relate to the land. Financial difficulties can be a factor, but not the sole factor or the driving force.

When the hearing is completed the findings are documented. It was highly recommended that current members attend other Township Board of Zoning Appeals meetings to see how they are handled. If unable to attend meetings, pull up meeting minutes on-line and review. There is not only one way that is carved in stone. The motion will then be prepared, a vote will take place, and then a Findings of Fact will be put together (can be at next meeting). Ms. Sass Benza suggested always phrasing the motions in the "positive". It was stressed to make sure everyone is clear on exactly what the motion is. The more information placed in the minutes the more ammunition you are going to give a Court if there is an administrative appeal. Make it as rock solid as possible.

Mr. Richter left the meeting at 9:00 P.M.

Mr. Richter raised the question that after the hearing is closed is it possible to re-open the meeting for a specific purpose. It was suggested to look at other boards and see how they handle a situation like that. The applicant should be sent the result of the vote and the Findings of Fact (if they are available). A reminder that any decision is not final until minutes are approved 30 days later. If they chose to undertake any activity (construction for example) relevant to the variance, they are doing so at their own risk. There is a standard form that they will be signing at the hearing detailing it. In that 30 day period someone who attended the meeting and vocalized their opposition to the variance may then and only then file an appeal in the Court of Common Pleas. The Findings of Fact are the bones of the issue at hand. It was again stated to sincerely try and see how other Boards in the county handle appeals.

Dialog then jumped to issues of attaching conditions to a variance. The attendees were aware of this. Conditional variances that are granted remain with the land. The language must be rationally related to the variance. If the conditions are violated, then it shall be considered a violation of the Zoning Resolution and enforcement goes through the Muni Court and is filed as a criminal complaint. Broad categories are recommended and should remain open ended and can be interpreted individually. During a public hearing the Prosecutor's office can represent either the Board of Trustees or the Board of Zoning Appeals and then the other Board would need to hire their own outside counsel. Again, the Board of Trustees are the ones that have the power to settle. The Board of Trustees would be the party submitting the brief. Chester Township is represented by the Board of Trustees not the Board of Zoning Appeals.

ADJOURNMENT:

There being no further business before the Board, Mr. Radtke adjourned the meeting at 9:20 P.M.

Respectfully submitted,

absent
Patricia Jarrett, Fiscal Officer

1-11-24 motion # 2024-11
Approval Date

Craig Richter, Chairman

Joseph C. Mazzurco, Vice-Chairman

Ken Radtke, Jr., Trustee