

Minutes: Russell Township Zoning Commission
Russell Fire-Rescue Station
April 28, 2010

Present: Richard E. Snyder, Chairman
Bruce Murphy
Donna Weiss Carson
Wendy Bruzas
Ben Kotowski
Diana Steffen, Secretary

Also in attendance: Ric Machnics, Zoning Inspector.

The Chairman called the meeting to order at 7:30 p.m.

MINUTES OF MARCH 24, 2010 – *Mr. Murphy made the motion to accept the minutes, Mr. Kotowski seconded and the motion passed unanimously.*

CONSERVATION EASEMENT ZONING – Mr. Murphy introduced Ed Meyers, General Counsel for the Western Reserve Land Conservancy (W.R.L.C.), whom he had invited to talk with the Zoning Commission about the concept of a conservation easement zone. A property owner with a conservation easement on his property could ask to have it rezoned to mirror the existing easement, which would create an additional layer of protection in the unlikely scenario that the easement would be reunited to the property. The owner would then have to ask the Township to rezone the property before developing it. Mr. Murphy said they need to decide if such zoning would be useful, and not just create an unnecessary addition to the Zoning Resolution.

Ed Meyers explained that the conservation easements they write are perpetual. The W.R.L.C. currently has a staff of 30 people, including a department that monitors the properties on an annual basis. The baseline document describes the property in detail, so that in the future someone can read the document and know exactly what was there at the time. If a residence was built later that would be an obvious violation of the agreement. The sole function of the W.R.L.C. is to do this type of land protection, they have a strong donor base, staff and trustees, and plan to be in existence forever. However, Mr. Meyers said it would not hurt for someone else to hold a second layer of protection; sometimes the State of Ohio or the O.E.P.A. put on a second layer so they would have the authority to step in if W.R.L.C. was unable to do so. The W.R.L.C. holds easements on 1300 acres in Russell Township.

Mr. Meyers did not believe that merging of an easement and title was likely, since the easement holder would then become the title holder. Mr. Murphy noted that the easement templates prohibit a merger, so his only concern was if the W.R.L.C. had to get rid of its assets. If a new easement holder acquired the fee title then the Township would have some control over any further development on a property. He asked whether this was a valid concern worth writing a new zone into the Zoning Resolution. Mr. Meyers said this scenario is provided for by a clause that states that the remaining trustees of the conservancy would take over. The board consists of 36 people, and the remaining members must ask another body that can hold easements, such as the Nature Conservancy, a soil and water conservation district or Russell Township, to take them. The Ohio Revised Code states that a 501 C3 land trust or government agency may do this. Mr. Meyers said they do not like to amend an easement once it is recorded, and have only amended a dozen in the last ten years. There was a short discussion regarding an easement on lots on Cothelstone Lane, where it was altered to permit the relocation of the site for a new residence. Mr. Machnics remarked that, because he is aware of conservation easements on properties, he would deny any applications for zoning permits.

Mr. Meyers said the County Auditor does not lower the value of a property once it has a conservation easement, and the owner still pays real property taxes and income taxes. There is a deduction from federal income taxes for the difference between the land being buildable and then not buildable due to a conservation easement. A property with the CAUV agricultural designation is at the lowest tax rate

regardless. Asked where their funding comes from, Mr. Meyers explained it comes from individuals in the community and foundations, and some from program support. Since they have a four-million acre service area there is a large amount of land in the areas farther west and east where they are seeing a lot of activity that will continue to provide funding.

Mr. Murphy asked if there are other circumstances when an easement might cease to exist. Mr. Meyers mentioned eminent domain, and extinguishment if the purpose of the easement has disappeared. The latter must be done in a court of law. Mr. Snyder asked if a court granted an extinguishment, would that supersede township zoning, but Mr. Meyers explained that because the easement is a private contract between the landowner and the land trust it would not affect the zoning of the property.

Mr. Snyder questioned whether, in 50 to 100 years, if the Township has sewers and city water, and there is no need for large lot zoning, and P.R.D. areas leave land available, could open land be developed since there would be no reason not to do so. Mr. Murphy said a conservation easement would then be better protection than the Township zoning. He felt that if the Township creates a new zone today there could be political pressure in five years if there are new officials who do not wish to protect the zoning in the same way. Mr. Meyers said there would probably be a lawsuit filed against the Township, and agreed the conservation easement would be better protection since it is not subject to that political pressure.

Mr. Murphy said the County had suggested leaving it to the landowner to approach the Township to rezone property, and asked Mr. Meyers if he thought people would be likely to do this. Mr. Meyers said if the owner was the original grantor he might be interested in doing so since it would just add more protection. However, he cautioned that some landowners know they can get an easement amended if necessary, whereas they would have to work with a Township board to change the zoning. Mr. Murphy said the primary tool in rezoning would be to prohibit the subdivision of existing lots, and to declare nonconforming lots as unbuildable. The County had stressed the Township should not push rezoning on anyone but let people approach the Township.

Ms. Bruzas asked how many conservation easements there are in Russell Township. Mr. Meyers handed out a map of Russell showing protected properties totaling 1300 acres. Mr. Kotowski asked if anyone other than the W.R.L.C. holds easements on land in Russell, and Mr. Meyers said he did not think so. He said they currently protect 340 properties, 298 by conservation easement, for 21,400 acres in their subarea. They protect 6904 acres in Geauga County, the most in the area they work in, and more acres in Russell than in any other community in the county. Asked if any other township has done an overlay zoning district, Mr. Meyers said Hunting Valley Village recently passed a conservation development ordinance.

Mr. Snyder thanked Mr. Meyers for his time and advice. Mr. Meyers said the W.R.L.C. is willing to serve the community, and invited the Commission to call Pete McDonald if they have questions regarding mapping.

SPECIALTY FOOD SERVICE OPERATIONS – Mr. Kotowski explained that he and Mrs. Steffen had met to go over the most recent draft for grammar, accuracy and to check for any conflicts with other sections of the Zoning Resolution. They had prepared a redline version with suggested changes, which the Commission reviewed. One suggested change was to remove the one-acre requirement because the lots in the new C-S1 zone are smaller than one acre. The Commission discussed and agreed to the change. Mr. Machnics also agreed. They also discussed at length the off-street parking requirement, with Mr. Machnics asking that the requirement be specific and not vague. Ms. Bruzas said a regulation for off-street parking is necessary to ensure people allow for a minimum area, and Mr. Machnics mentioned ADA compliance and fire code requirements. This item will require more investigation. It was agreed to leave the buffer requirement as written. The Commission will continue review of the draft at the next meeting.

REVIEW PENDING ZONING AMENDMENTS – Mrs. Steffen had written up a list of amendments and the status of each. With regard to the rezoning of the south east quadrant of the S.R.306/87 intersection from

