

WESTFIELD TOWNSHIP ZONING COMMISSION

March 14, 2006 @ 7:30 p.m.

Public Hearing on Proposed Zoning Amendments

Public Hearing on G. Carrasco Proposed Zoning District Change

Chairman Russ Zupanic called the meeting to order at 7:35 p.m. Roll call indicated five members of the Zoning Commission were present: Scott Anderson, Jill Kemp, James Likley, Wayne Brezina, and Russ Zupanic. Others present were Trustees Jeff Plumer and Carolyn Sims, Ron Oiler (6969 Buffham Road), Denise Moteleski (8033 Lake Road), Steve Dembowski (5702 Buffham Road), Ken Jenkins (5666 Buffham Road), Bryan Harbaugh (5628 Buffham Road), Guillermo Carrasco (5695 Stow Road, Hudson) and Orlando Carrasco (939 Pitkin Avenue, Akron).

Minutes

Upon motion by Jim Likley, duly seconded by Wayne Brezina, the February 14, 2006, meeting minutes were unanimously approved as submitted. The original minutes were signed for the record.

Correspondence

The secretary advised that she had received letters from the Medina County Department of Planning Services relative to both the proposed Zoning Text Amendments and the Zoning District Change indicating that they will review both applications and prepare a recommendation at their meeting scheduled for Wednesday, April 5, 2006, at 7:00 p.m. Their review and recommendation will be available to this board after that date.

The following is a summary of tonight's meeting, which was recorded on audiotape.

Public Hearing – Proposed Zoning Amendments

Chairman Zupanic opened the public hearing in regard to the proposed zoning amendments, which related to the HC zoning code. The proposed amendments were read as follows:

Article III, Section 306 B.1.d – remove the words “uses and”.

Article II, Section 306 B.2. – add “h Accessory Uses as provided in Section 205 and including signs as regulated by Article IV and parking and loading as regulated by Article V subject to the subsections of Article VI, Section 606 A.32.

Article VI, Section 606 A. 32 – add the words “or Accessory Use” after the heading entitled Similar Use. Add the words “or accessory use” after the words ‘similar use’ in the second sentence.”

Article II, Section 205 A. 2. – remove the words “uses and”

Article II, Section 205 A. – add “6. Accessory uses must also comply with any and all conditions established for the primary use of the property.”

An explanation was made informing the public that the above proposed changes would allow the Board of Zoning Appeals to hear accessory use applications in the HC district as a conditional use and, upon review, set any conditions as the BZA deemed necessary.

The proposed zoning amendment relating to Section 303 B. 2 h was read:
Article III, Section 303 B. 2. h. eliminate the words “oil or gas wells” and replace with the word “reserved”.

An explanation was made informing the public that the proposed change to Section 303 B. 2. h. would bring the zoning code in conformity with State law since the State has taken over control of oil and gas wells, except for the distance you can built structures from the oil and gas wells.

Chairman Russ Zupanic stated that the public participation portion of the above hearing was closed. The hearing will be continued until April 11, 2006, at 7:30 p.m. in order to receive the recommendation of the Medina County Department of Public Services relative to all of the above proposed zoning amendments.

Public Hearing – Proposed Zoning District Change submitted by Carrasco

Chairman Zupanic opened the public hearing in regard to the Zoning District Change submitted by Guillermo (Willie) Carrasco, which requested a change for parcel number 041-15B-39-025 from Rural Residential to Local Commercial for property located at 8809 Lake Road, Seville, Ohio, to allow for continued campground use and a sports complex.

Mr. Carrasco was sworn in by the secretary. Carrasco – I want to put a big building in the back to do stuff like baseball, softball, lacrosse, and other sports besides soccer. To this I am asking for a zoning change because the bank will feel a lot better if the building is in the right zone. It could cost between two and three million dollars, I don’t know for sure. That’s a lot of money to ask for just a conditional use. That’s the reason I’m asking.

Chair – So your intended use is to build an additional sports complex. However, that is not of our concern at this point, our concern is just for the zoning change.

Question – Can we see a map of exactly what he wants to change.

Likley – The deed lists this as 90 some acres?

Carrasco – The deed lists it as 130 but 30 is the highways. And I’ll lose the road.

Likley – So it’s down to approximately 83 acres with what the highway is taking away, the interstate and the new proposal of the highway expansion.

The township map was reviewed by the applicant, the board members and the audience with the parcel being pointed out as well as a general explanation of where the new road would be, what the state is taking, where the present soccer building is, etc.

Chair – To summarize, this property is located directly behind the current indoor soccer facility. It's currently the campground and what the applicant is looking at doing is changing it from the current Rural Residential, which has a conditional use to allow it to be a campground. For him to build he's going to have to have it zoned commercial in order to construct this building. Keep in mind that a good portion of this is actually within an 100 year flood plain and ...

Likley – A 100 year flood plain and a small section is a 500 year flood plain.

Carrasco – The building is going to be right along 224 – away from houses, etc. – right along 224 – that is the highest place on the land. You're right, it's a flood zone but in that area you can build in, no problem. In fact, one side is a little higher – it will be real close to 224, not near any houses, or anything.

Likley – At our last meeting we had asked if you had any idea as to how much land you would be needing as far as the building and parking for the facility. Have you come up with any information regarding that?

Carrasco – The building is about the size of a football field, so about 2 acres in the building and another 2 for the parking lot so you're talking about between 5-10 acres.

Chair – I would like to again reiterate that we are here to discuss the rezoning not what's actually going in. Your intentions could be public but we are not here to decide upon that. We're just here to decide upon the rezoning.

Carrasco – I don't have too much other information because first things are first. Then I can go and order the building and then I still have to come before this board or another board to explain exactly where things are going to go, etc.

Likley – At the application we also brought to your attention that the campground would be considered a nonconforming use with this change, if this change is approved. A nonconforming use has strong restrictions as to what you can do in the future with that property. Either you or another owner – you're limited as to the amount of improvements on that property – to 25%.

Carrasco – You mean the property when it comes to the campground – right. I know that, I understand.

Likley – So you're going to be really limited as to what your improvement ability will be on that property whether it is you or another owner in another 10-15 years from now – it would still be limited as to what they could do as far as improvements on a nonconforming use property. I just want to make sure that you realize that.

Carrasco – You're telling me that it's going to be like that for good?

Likley – Yes, forever.

Carrasco – So if somebody decides – you talking about buildings or...

Chair – If there's a building now in a commercial area you will have to abide by parking and every other restriction in the book.

Likley – The campgrounds itself being in a Rural Residential District right now is a conditional use and it is allowed. Campgrounds are not part of permitted or a conditional use in the Local Commercial that you are wanting to change it to. So then it would become a nonconforming use and in our zoning book we have regulations for nonconforming uses. Any facility within a nonconforming use is limited to 25% from that point on in the amount of improvements that you or another owner or two owners from now could make on that property.

Carrasco – 25% of what?

Likley – Of your existing acreage – your existing property. You look at all the structures, your roads, your electrical, your plumbing – you would be restricted to 25% of improving that property up to 25% of its present condition.

Kemp – So if you want to do baseball camps like you were talking about, you would be limited as to what you can do.

Likley – It is not this board or the board of zoning appeals to issue variances. The board of zoning appeals issues variances but, in your circumstance, I would say that they would probably deny any variance because you are knowingly asking for this zoning change, understanding that you are limited to 25%.

Carrasco – Let me ask you this. If I rezone Local Commercial, you're talking about baseball, but baseball is allowed in Local Commercial, right?

Kemp – Baseball camps.

Likley – I'm talking about the campgrounds. The remaining campground facility, because you said you wanted to maintain the campground, the operation of the campground would be limited to 25% improvements from now on, if this change is approved. Say you wanted to build cottages for soccer or baseball camp and those cottages ...

Carrasco – Those would be part of the campground.

Kemp – But you're limited to 25% improvement – forever – in Local Commercial. You won't just be able to build cottages for a baseball camp. You are going to be severely limited as to the improvements you can make on the campground at that point.

Carrasco – Let me ask another question then. If, for next year, I close the campground – no more campgrounds – does that mean I cannot do sports in there? It's going to be zoned for that.

Chair – It will be zoned for Local Commercial and if you were building in essence an indoor baseball facility, that would still be permitted. But in essence if you close the campground, it's not going to be a campground any more – forever.

Carrasco – That's what I'm saying. Let's say next year I just close the campground and do sports, like baseball, softball, whatever. Does that mean that I'm limited again or what? It's going to be zoned Local Commercial.

Likley – Local Commercial does allow for recreational use - permitted uses in LC...bowling alley, recreational activity such as club pool or commercial pool, tennis, basketball, badminton, volley ball courts, football and soccer fields, motion picture and theatrical playhouse. (The entire list of permitted uses under Section 305 B. 1 was read.) If your expansion falls under those permitted uses, it would be allowed but campgrounds does not fall under a permitted use in LC. That's why I said it would become a nonconforming use and the campgrounds would be limited to the 25% improvements on a nonconforming use in the LC District.

Carrasco – I'm confused in my head big time because LC it's allowed – all of what you said in recreation. What do you mean by in recreation. In English, it's recreation, right?

Likley – If your facility – your sports facility that you're planning to build falls under the recreational activity such as club pool or commercial pool, tennis, basketball, badminton, volley ball courts, etc. – it's a permitted use in LC. The campground is not in that permitted use in LC.

Carrasco – I understand all that but I'm saying – let's say next year I close the campground so I can do whatever you listed there, right? I still can do whatever is listed there.

Likley – Right. If you close the campgrounds, the trailers all come out, the sign comes down and it's no longer a campground facility and it's now zoned LC if this application is approved and you could do the things permitted and conditional uses in LC. Once the campground is closed, it can never come back though.

Carrasco – Yea. That's fine. The only problem – I still have a problem because the campground is recreation – people – I don't understand why. If it fits in a Residential and I could put it next to houses, it would be easier to me to allow it in a commercial area but...

Likley – That’s why we have certain districts – certain things are allowed in certain districts. We have a Rural Residential district, we have a Local Commercial, a Highway Commercial, and an Industrial district.

Carrasco – I understand that but did you understand what I said. I think to me it would be easier to put a campground in a LC.

Chair – No, it’s not allowed.

Carrasco – That’s the rules, I understand. I’ll go along with it.

Likley – In RR, under conditional uses, governmentally owned or privately owned and/or operated recreation area, which include overnight campground, either as a primary or secondary activity. We have language in RR for campground facilities – just in RR. That’s why I said if this application goes through that you would be strongly limited as to the campground operation because you are knowingly changing from a permitted or conditional use to a district that doesn’t allow it.

Carrasco – That’s fine.

Chair – Let’s move on to the rest of the public hearing. You are aware of the restrictions by changing it from RR to LC.

Brezina – Not only on you but on the future buyer – future owners –

Chair – If the parcel would be changed to LC you are aware of all the regulations that go along with that change.

Carrasco – Yes.

Likley – The only other thing that I’ll bring up again, which we did during the application process, is that 99% of that property – what you’re asking for – is in a 100 year flood plain. I think if this application is approved it could send a wrong message to you or to future owners that within the LC that anybody going in there, whether it is you or future owners of that land, could build within the permitted and conditional uses of the LC district. The problem with that is – it is still within a 100 year flood plain.

Chair – But it’s not up to the board to decide if he wants to build in a 100 year flood plain.

Likley – You’re right. But we do have language that limits the amount of structures that can be built in a LC district and I think it is our responsibility to make sure that this owner and future owners clearly understand that our zoning code right now does not permit any structure to be built in a LC district or HC district that is within the 100 year flood plain. In RR we allow it. It doesn’t make sense to me but that’s what it does. We

say that in RR zoning district that houses can be built in a 100 year flood plain. Our language is very clear as to the natural hazards overlay district so I want you and I want this board to realize that if this passes that it is understood that as our zoning language reads right now in LC there is no building allowed within the 100 year flood plain outside of RR districts.

Chair – With that being said, there is one location or some locations within this area that is outside of the 100 year flood plain.

Likley – Right, that's why I asked how much land he was needing for this structure. He said approximately 5-10 acres. We're looking at an application for 83 acres of land to be changed to LC within a 100 year flood plain. Our zoning code clearly states that no structures can be built within a 100 year flood plain. Only in the RR district is there any building to be allowed within a 100 year flood plain.

Chair – Last meeting we basically had an overlay handed to us and we could see those locations that he could actually build.

Carrasco – Is this a different rule than the engineering department on Smith Road – they have rules that yea, you cannot do that, but if you elevate it to a key number that they have, then you can do it.

Chair – If that's the case, then the Army Corp of Engineering can actually revise the 100 year flood plain if those conditions are correct. Again, I would like someone to correct me if I am wrong.

Carrasco – They have a number – it's a 993 or – so if you have an evaluation of 991 and you elevate it, then you can build it. That's what they said – that's their rules. I don't know if their rules are different than these rules are. I guess before you even build there you have to prove to somebody, either here or there, that the 993 number is correct.

Chair – To summarize what's going on in changing from RR to LC, we presented to the applicant that he can only build a commercial property outside of a 100 year flood zone. In his parcel there are some sections that are actually outside the 100 year flood plain but it's actually very limited. What we are discussing now is can he actually raise the soil to a point where it is no longer within the 100 year flood zone. For the record, I have a note here that I will contact the agencies within Medina to find out if that is true.

Chair – Again I want to reiterate that we are here just for the rezoning of the parcel. We are not here to talk about what's going in, what can go in, what cannot go in, just for the rezoning.

Brezina – That being said, are we really concerned about that?

Chair – I think for the township we should probably be aware of it. And I think for our voting we should be aware of it because if we go in here with the belief that they can only

develop within a small section of this and all of a sudden we get the information that the land can be modified – the 100 year flood zone can be changed – that’s different. I think we should verify that because I’m not aware of that; that’s a question that I will ask.

Carrasco – Can we just postpone this thing until then?

Chair – Be aware that we will postpone – we’re not going to vote on it this month. We will wait until next month. Are you looking at actually postponing these whole proceedings until an indefinite ...

Carrasco – No - I was in the engineering office – that’s what they told me. There’s only one area you can’t even touch – that’s the 500 year zone, but the 100 area you can do it if you reach that elevation, whatever that key number is. I know that because I went there before I came here, but if you want to make sure then...

Chair – I will contact the county and find out an answer to that question. I would like to open it up again to the audience. Does anybody have any other comments?

Joe Hanna was sworn in by the secretary. Hanna – I’ve got a question. You just said you don’t care what’s going on there, he’s here to change the use. But doesn’t that, maybe I’m thinking wrong, but as a resident I would rather know what’s going in before – we can’t comment on what’s going in if we don’t know so you might change it to this and he does something totally different.

Chair – And he does have the right to do that. We cannot control that.

Hanna – That’s what I don’t like. He could just go in and say, I can’t afford it, I’m doing this and you guys can’t say anything.

Chair – But what we can say is how it is zoned within the book and we went through that whole list of things that are permitted. Yes, so he can put anything of that in that area.

Hanna – I’ve got a question on that map pertaining to this a little bit but not a whole lot. (Discussion at map about his property, where the flood zone is, where the new road would be coming in, LC, RR, etc.)

Carolyn Sims was sworn in by the secretary. Sims – In looking at the application I had a couple of questions that seemed to linger unresolved. Question #19 on the application was the Township Comprehensive Plan - is that something you guys discussed at some point and took into consideration?

Chair – That’s something that would be weighed in my consideration of whether we want to rezone this. It would be something in my decision making and vote and I’m thinking that everybody else up here would probably take that into consideration also.

Sims – Okay. In mentioning that do we know what exactly the comprehensive plan was looking for in that area and is this meeting that?

Chair – Again, this is my own personal belief, from reading that and from what I understand is the public of Westfield Township wish to maintain the rural atmosphere but yet they recognize that the area is conducive to such a business – to highway commercial, to any type of commercial business – it is something that is addressed as long as it does not infringe upon the residential flavor of the community. That is another thing weighing on my mind – how is this going to effect the residents.

Sims – Okay. That really leads into the other portion of the application that didn't have a clear response, which is #22, detrimental to the public welfare or property or other persons located in the vicinity. I didn't hear any discussion of consideration, did you receive any feedback on that or comments to that effect?

Chair – I didn't hear anything. Again, I keep saying, we cannot actually judge what is going in there, we are just here to rezone. But with the fact that I do believe he wishes to build a sports complex, I did ask our fire chief if that is going to be a hindrance upon fire and rescue. Since it's a non-residence, basically a structure, no, it will not have any effect on the fire aspect or safety aspect. From a public welfare, that's very subjective. How are the soccer fields to the public – I hear a lot of complains about traffic up there. Again it's subjective.

Anderson – Businesses like that extra business from the soccer fields. It's extra revenue.

Chair – My own personal feeling is that I like soccer. I think it's a good thing to have up there. What I don't like about it is the fact that I would like to see them looking a little bit nicer. I've gone to other soccer facilities and they are a lot nicer than what we have here.

Sims – The only other question is the second map attached to the application. Do we have a reason why those particular parcels are shaded or highlighted?

Likley to Carrasco – This second map, do you know the significance of this map in your application. We have the map that shows your property and then there is also this other map. It almost looks like it is adjoining properties, but then it's not because there are parcels around that would be adjoining and aren't shaded.

Carrasco – I just went there the lady punched that to find out who lives around that area and then they gave me a list.

Likley – It appears the he went to the county tax map for the surrounding properties and this is apparently what they gave him.

Sims – So to clarify, there is no significance for the shading.

Chair – There is no significance.

Chair – I will read a letter that I received tonight into the record. It's dated March 14, 2006. It says – Dear Westfield Township – I'm sorry that we were unable to attend this evening's meeting, however I would like to express our thoughts in regards to the request to re-zone the campground property. As a long time resident and adjacent property owner, I wish to express my support of such change. This particular location is ideal for such zoning. Also, this particular location is not near any developed rural area. Thank you for your time. Sincerely, Ryan Gregoire – Medina Sod Farms, Inc.

Ken Jenkins was sworn in by the secretary. Jenkins – I am also a local resident. I think there are a number of other underlying issues here. We've lived there 9-10 years. I think what we have here is bad faith. I heard a number of different times about the soccer building that is existing on the property. The only reason it got built was because it was going to be a dance hall for the campground. I doubt if there's been one dance ever in that hall. I don't have a problem with commercial development. I'm fundamentally for it but there is a bad faith issue. Joe Hanna brought a piece of property that was basically zoned RR and he built his property at a significant cost to him on the back side of a RR zoned area and now there has been anything but rural residential uses of this. I've sat in 4 years of meetings, mostly with the zoning board of appeals, and I've heard everything except the problem is resolved or you won't play soccer until it is resolved. There is a history of bad faith and that's the reason we are all sitting here tonight. I think it's a good thing to put commercial or limited commercial development into that parcel. Many of my neighbors feel the same way but I don't feel that the present ownership is going to act in good faith and carry through or follow through with what they have said or have exhibited in the past. I think what Mr. Likley said tonight was a very pointed statement and I think it was very responsible. One of these days I might want to develop something within the rules or I'll ask you guys for a variance but I won't make plans for something before I do that – that would be irresponsible for me to do that. I think it is irresponsible to misrepresent that to anybody else as well.

Likley - We have to get more information as to the flood plain area, what can be built, if changes can be made to bring future building up above the flood plain area. There's a large area in that section there that is in the flood plain and it makes sense to have local commercial at that intersection – I'm not going to dispute that – there's probably no better section in the township for an opportunity for growth than Lake Road, 224, 76, 71 interchange area but we have to be aware of the flood plain area. Owners or future owners need to understand that it would take a great deal of dirt to get up above that flood plain and a great deal of expense. I didn't want this board to be misrepresenting that area as a LC zone as to building without realizing the natural hazard areas of that district.

Jenkins – I think this intersection of 76 and 71 is huge. I build buildings all over the state. This is a great place to build them. It's got to be done properly. It's got to be done with planning. It's got to be done the right way. It's a golden opportunity for all of us in the community if it is done properly.

Chair – I'll ask again one more time, does anybody in the audience wish to make any comments? What about the board? Should I close the meeting off for the public or should I continue it until next month.

Likley – I would recommend that we continue this meeting. Public input into any of our meetings is always appreciated and especially with an issue and the interest that we have in this area. I think it's only fair to the residents and to the community that we continue this public hearing until the April 11 date.

Chairman Zupanic stated that the public hearing in regard to the zoning of parcel #041-15B-39-025 will be continued to our next regularly scheduled meeting, which is April 11, 2006, at 7:30 p.m.

Upon motion by Scott Anderson, duly seconded by Jill Kemp, and unanimously passed, the meeting adjourned at 8:55 p.m.

Marlene L. Oiler, Certified PP, PLS
Westfield Township Zoning Commission Secretary

(Minutes approved 5/9/06)