

**SUGARCREEK TOWNSHIP  
BOARD OF ZONING COMMISSION  
TUESDAY, JANUARY 7, 2020**

This regular meeting of the Sugarcreek Township Board of Zoning Commission was held on Tuesday, January 7, 2020 at the Sugarcreek Township Administration Office, 2090 Ferry Road, Sugarcreek Township, Ohio at 7:00 p.m.

Mr. Betz called the meeting to order.

Everyone present stood for the Pledge of Allegiance.

Mr. Betz asked Mrs. Tilford to take roll. Upon call of the roll, the vote resulted in the following:

Mr. Betz-present  
Ms. Baldino-present  
Ms. Moore-present  
Mrs. Hellmann-present  
Mr. Schleich-present

For the record, alternates, Mrs. Gallagher and Dr. Mathews, were also in attendance.

Mr. Betz stated that the first order of business was the election of officers for 2020. He spoke with all members individually and three have expressed an interest. Donna has expressed interest in Vice-Chair, as has Denise. He noted he has expressed an interest in serving as Chair.

Ms. Moore made a motion to nominate Mr. Betz as Chairperson, which was seconded by Mr. Schleich. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
Ms. Baldino-yes  
Ms. Moore-yes  
Mrs. Hellmann-yes  
Mr. Schleich-yes

Mr. Betz noted next would be the nomination of Vice-Chair. Mr. Schleich made a motion to nominate Ms. Moore, which was seconded by Mrs. Hellmann. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
Ms. Baldino-yes  
Ms. Moore-yes  
Mrs. Hellmann-yes  
Mr. Schleich-yes

Mr., Betz reviewed the process for Public Hearings and opened the Public Hearing for Case BZC04-2019. Mrs. Tilford provided the Staff Report.

Applicant, Inverness Group, Inc., is requesting Final Development Plan Approval for Section 6 of the Landings of Sugarcreek subdivision. The subject parcel is 3820 Upper Bellbrook Road, contains 53.251 acres, can be further identified by parcel number L32000100120001900, is owned by Inverness Group, Inc., and is located in the PUD-R (Residential Planned Unit Development) District. Section 6 is proposed to contain a total of 31 building lots and 23.38 acres.

Mr. Bob Krohngold with Inverness, developer, came forward. He noted that they have had a number of issues with this development and he was brought in by Inverness to address them. He noted that they had a landscape plan that was designed that looked good on paper, but that had serious implementation issues. He noted they have been working with the homeowners to develop a plan that will satisfy them, Inverness and the township. Prairie grass is not native to the area and is not able to adapt to our conditions here. He noted that they have tried several times to plant it without success. The homeowners prefer a more usable open space area in the center of the community. They would like to balance that request with the township's expectations. He noted that Barry and Cara have been great working to protect the residents, as well as the township. He expects a more formal meeting with the township forthcoming. He noted that the request at hand is for an extension of the neighborhood. They have been successful here. He noted that Inverness has sold their home building operation to Fischer Homes. Fischer is not in this market, but they will be opening an office at Austin Landing. The HOA will not be impacted; it will be a seamless transition. They will remain the developer. He noted this is an 85' lot section. The last section before you for approval was Brescia's and those were 70' lots. He noted that they have contractual obligations to stay so many lots ahead of Fischer. Sections 7 and 8 will be forthcoming, noting they are smaller sections and they will finish out the community.

Mr. Betz asked about any issues with staff's recommended conditions.

Mr. Krohngold noted that he would hope that approval wouldn't be tied to the lawsuit related to the sewer. It is an independent issue and he noted that they are on the sidelines of that.

Mr. Betz stated he didn't see that as a condition here.

Mrs. Tilford stated staff has discussed the issue and the Zoning Commission could recommend that the Trustees prior to their consideration of Section 6 research with legal counsel if approval of Section 6 could be held until the issue with sewer is resolved. She noted that is what Mr. Krohngold is talking about.

Mrs. Tilford and Mr. Krohngold explained the issue with the sewer line in Section 4, noting that there are lots in Section 4 that cannot be built on until the issue is resolved as they are fed from the contested sewer line. Lots in proposed Section 6 currently under review would not be fed from the contested sewer line. Mr. Krohngold noted that the case is slated to go to court in December, but they are on the sidelines of that. It is an issue between their contractor and the county.

Mr. Schleich asked for clarification about Inverness and Fischer.

Mr. Krohngold indicated that Fischer would be the sole builder, Inverness is out of the home building business, but would remain the developer of the subdivision and would sell lots to Fischer.

Mr. Betz asked for comments from the public. There being none, Ms. Moore made a motion to close the Public Hearing, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
 Ms. Baldino-yes  
 Ms. Moore-yes  
 Mrs. Hellmann-yes  
 Mr. Schleich-yes

Mrs. Tilford noted condition 8 and 13 are the same. We would strike 8.

Mr. Betz noted that we had gentleman that had concerns about drainage come to the board.

Mrs. Tilford stated he was from Highview Terrace. His issue has been addressed to the best of our knowledge. We have heard from other residents within the development with drainage concerns. We maintain a close relationship with Ken Middleton with Soil and Water and respond to these types of issues quickly. She noted that the construction on EDCI's section of the development should help with those drainage concerns internal to the development.

Mr. Baldino noted that the Final is consistent with the approved Preliminary.

Mr. Schleich made a motion to recommend approval of BZC04-2019 subject to staff's recommended conditions less condition 8, which was seconded by Mrs. Hellmann. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
 Ms. Baldino-yes  
 Ms. Moore-yes  
 Mrs. Hellmann-yes  
 Mr. Schleich-yes

Mr. Betz stated the next case on the Agenda is Case BZC05-2019.

Mrs. Tilford provided the Staff Report for BZC05-2019. The Sugarcreek Township Board of Trustees initiated, by passage of a motion, a text amendment to the Sugarcreek Township Zoning Resolution. The text amendment initiated proposes modifications to Section 4.08 Table 4-3 to add Physician Directed Healing and Wellness Centers to the permitted use table as Conditional in the A-1 District with use specific standards and to add a definition of the use.

Mrs. Tilford explained that the idea behind this amendment came from a local physician that was frustrated with the way medical care is being provided in this country. Doctors are losing autonomy to care for patients in a way that is most responsive to a patient's needs. The idea of

this amendment is to allow another option for medical care delivery that is truly patient centered and one that cannot be successfully taken on in a sterile office environment. Mrs. Tilford also noted that the Trustees do see this as an alternative to some of the large lot residential development that we have been seeing. We have seen an uptick in the number of large lots being broken down into five-acre tracts. This will allow another option for development on these large parcels. Staff does not see any issue with enforcement of the limited use specific standards. She noted that the county saw this as a type of spot zoning. She noted her disagreement. This is no different than any other conditional use permitted in the A-1 District, including daycares and churches. This type of use is dependent upon a rural, bucolic environment.

Mr. Schleich made a motion to close the public hearing, which was seconded by Mrs. Hellmann. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
 Ms. Baldino-yes  
 Ms. Moore-yes  
 Mrs. Hellmann-yes  
 Mr. Schleich-yes

Mr. Baldino stated that this is basically a doctor's office out of my house.

Discussion ensued on the definition of physician directed healing and wellness center, particularly the necessary integrative modalities.

Mr. Baldino stated concern with the "not limited to" language.

Mrs. Tilford noted that this is a conditional use. An application with detailed information would need to be submitted and the BZA would determine if it should be permitted on a specific property and if it was to be permitted then what conditions would be necessary to ensure adjacent property owners would not be negatively impacted.

Mrs. Hellmann asked why it has to be so specific. Why couldn't we just use professional/business office or personal services (existing uses with existing definitions).

Mrs. Tilford stated that we don't want to open the door for professional and business offices within the A-1 District. That is not what the Trustees intended here. This use is keeping with the rural character of the A-1 District, it is holistic and responsive to the environment in which it's located. Turbo Tax would not be and we would not want to create a framework wherein that type of use could be established in the A-1 District.

Mrs. Hellmann asked why not just make them Conditional Uses and allow the BZA to decide if they are appropriate.

Mrs. Tilford indicated that is opening a door too wide. Not having a specific definition and going with any office uses would allow uses that may be more appropriate in a business district to creep into our A-1 areas; that is not the intent of this amendment. The specificity here is

purposeful so this is limited to a use that only works in a rural area surrounded by nature and open space.

Mr. Betz asked if medical massage would be permitted.

Mrs. Tilford indicated if it were physician directed, yes. It could not be someone becoming a licensed massage therapist and opening a salon out of their home, no.

Mr. Baldino indicated his wife could get her license to cut hair and open a salon as long as it is physician directed.

Mrs. Tilford indicated she appreciates Mr. Baldino playing devil's advocate, but she believes we would be hard pressed to find a physician willing to do that.

Mr. Baldino indicated that may be an issue with the definition.

Mrs. Tilford indicated that certainly the BZC can propose modifications to shore up the definition or improve upon it.

Ms. Moore questioned why the county would not have been in favor of this.

Mrs. Tilford indicated that due to scheduling conflicts, the township, as applicant, wasn't represented at the meeting where the text amendment was considered by the county. Had we had a representative there, perhaps they would have made a different recommendation.

Ms. Moore confirmed that we wouldn't be in the wrong to move the amendment forward given their recommendation.

Mrs. Tilford confirmed that was correct.

Discussion ensued on how this amendment would provide an additional option within our A-1 District for a use that would not necessarily result in the breaking up of large acreage tracts into smaller tracts intended for additional residential development.

Discussion ensued on the setback required for this use of 100'. 100' seemed to give an adequate distance between this use and any adjacent residential use.

Mrs. Hellmann questioned how many A-1 properties are owned by doctors.

Mr. Betz asked what would prohibit a doctor from constructing a 15,000 SF medical office that multiple doctors are coming to and seeing patients.

Mrs. Tilford indicated that the BZA would have to make a determination of consistency with the definition.

Mr. Betz inquired about the theory of this perhaps helping stop large lots from being broken up into smaller ones.

Mrs. Tilford indicated that the intent is to allow this use, the potential for this use to stave off what we have seen as an uptick in the breaking up of large tracts into smaller residential building lots would be a potential benefit, but it is not the driving force behind the amendment certainly.

Discussion ensued on the part of the definition that requires it be “physician directed”. Mr. Baldino noted that a physician could direct if from far away.

Mrs. Tilford suggested adding “onsite” to “physician directed”.

Ms. Moore noted that there is a movement toward this type of practice inclusive of these alternative therapies.

Mr. Betz asked if this was concierge medicine.

Mrs. Tilford indicated that this physician would not accept insurance and would take on a limited number of patients that would have full access to him whenever needed. He would be able to delve deeper into what may be causing a specific chronic illness; she noted it is one thing for your doctor to tell you to eat better, this would be your doctor actually showing you how to do that, as an example. She noted that the physician that started this conversation with the township is passionate about making this change in the way that he treats patients and the Trustees were moved by that and wanted to make it possible for him, and other physicians, really, to serve our residents in this way.

Mr. Betz asked about parking requirements.

Mrs. Tilford noted that with this particular use, and it would be determined by the BZA when an application is submitted, we wouldn’t expect any additional parking being required. He is not going to have patients lined up in a waiting room for their turn to be seen. The BZA would need to understand the intensity proposed and requirements would be very use specific and determined by the BZA. She noted that neighbors have a lot of input in these BZA processes too. The BZA can place whatever conditions necessary to protect the character of the neighborhood and they do that on a case by case basis.

Mr. Betz asked if some of these conditions can be spelled out.

Mrs. Tilford explained as part of the request to the BZA a site plan, landscaping plan, photometric plan, etc. are required. More use specific standards could be added to the text.

Mr. Baldino noted a desire to tighten up the standards to make sure this doesn’t become an acupuncturist, a massage parlor, etc.

Dr. Mathews asked if we have these elsewhere.

Mrs. Tilford noted we do not in the township.

Discussion ensued on whether to limit it to one doctor.

Ms. Moore noted that she can see this as having a dietician there, massage therapist under the direction of a physician, a nurse practitioner, etc. and that is not a bad thing.

Mr. Schleich noted that he could see multiple services occurring at the same time.

Mr. Betz stated he has mixed feelings about this and he feels it is spot zoning. He is 50-50. He doesn't see this as staving off more large lot residential development.

Mrs. Tilford noted that in the one instance that we have, the setback would require the combination of two 5-acre tracts in order for the use to move forward. She noted that in that one instance it would result in the elimination of one potential building lot. She noted that she certainly understands that may not always be the case, but it would be in this instance.

She noted that Conditional Uses are established in the zoning scheme as uses that may be appropriate in a zoning district but require more oversight and scrutiny. This particular use doesn't work in an office building on Wilmington Pike in the Sugarcreek Health Center. She noted that she respects Mr. Betz's opinion that this is spot zoning, but this is no more intense than a church or a daycare in the A-1 District as a Conditional Use. She noted that she sees this as more appropriate than those uses. This use really only works within that rural, pastoral setting.

Mr. Betz asked if building size may be limited.

Mrs. Tilford said absolutely it may.

Mr. Betz suggested 4,000 to 5,000 SF as a principal building maximum. He noted he would feel more comfortable with a size restriction. He confirmed that the sign permitted would be non-illuminated.

Mr. Baldino stated 6' is too tall.

Mr. Betz suggested ground mounted.

Discussion circled back to size. Mr. Betz stated 4,000 SF.

Mr. Baldino suggested 5,200 SF.

Ms. Moore indicated that her house is just over 4,000 and it doesn't seem big.

Mr. Schleich stated we don't want it to limit it too small. Ms. Moore concurred.

Mr. Baldino suggested 5,000 SF of occupied area. Mr. Betz concurred.

Dr. Mathews asked if the doctor wanting to do this could come talk to the Zoning Commission.

Mrs. Tilford indicated that he could.

Mrs. Hellmann indicated he may have knowledge of those doing this elsewhere in the country too and provide that background.

Text changes were reviewed including a 5,000 SF building maximum, a ground mounted sign not to exceed 4' in height and the title of the use be changed to onsite physician led as opposed to physician directed.

Mr. Baldino asked about the need to maintain rural characteristics by way of architecture.

Mrs. Tilford clarified that he meant that construction should be consistent with rural character of the community.

Mr. Betz asked if the number of employees may be limited.

Mrs. Tilford indicated it could.

Mr. Betz stated limiting staff to 3 would seem to make sense.

Ms. Moore indicated input from the physician would be helpful on this issue.

Mrs. Tilford indicated that she would arrange for him to attend our next meeting, noting he indicated a willingness to do that.

Mrs. Hellmann indicated he may bring important background on this type of use in general to assist in their consideration.

Mr. Baldino made a motion to table, which was seconded by Mrs. Hellmann.

Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
Ms. Baldino-yes  
Ms. Moore-yes  
Mrs. Hellmann-yes  
Mr. Schleich-yes

Mrs. Hellmann made a motion to approve the November 5, 2019 Minutes, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
Ms. Baldino-yes  
Ms. Moore-abstain  
Mrs. Hellmann-yes  
Mr. Schleich-yes

Mr. Betz noted that the next item on the Agenda is a discussion on Bylaws. Ms. Moore has worked on this and will lead the discussion.

Ms. Moore indicated that she attended a zoning workshop and the lady presenting was discussing how a Zoning Commission should function and she indicated that a Zoning Commission should have Bylaws. She noted that she reviewed examples of Bylaws and put together a document that we could consider.

Mrs. Tilford noted that she has done a bit more research and there are a number of documents that govern how the Zoning Commission operates. One is our Code of Ethics which covers some of the Bylaws conflict items. She noted that the BZA does operate with Bylaws; they are a quasi-judicial board. She noted she discussed Zoning Commission Bylaws with legal counsel. They are not necessary, but it probably doesn't hurt to have them. Consistency with these other documents is the most important thing. She noted she has provided what the ORC says about a Zoning Commission and then what the Zoning Resolution says about how our specific Zoning Commission should operate.

Mrs. Hellmann noted that she attended a seminar where it was discussed that lawyers will scour through and try to find things that aren't being done consistent with established rules. It was frightening really; in their example it bankrupted a community.

Mrs. Tilford noted that it could be looked at both ways; is it best to have it all in one place or is it best not to add another document that someone could find fault with.

Mr. Betz noted it may be helpful to pull some of the conflict stuff actually into the Ethics document.

Mr. Baldino noted we need to decide whether we do this or not.

Mr. Betz noted he would suggest if we decide to do it, we have Denise and one other member finetune it. He asked if the Trustees need to approve it.

Mrs. Tilford noted legal counsel would need approve it, but the Trustees would not.

Mr. Betz noted if we do this, we need to make sure on a continuous basis that we are totally compliant.

Mr. Baldino noted some sort of minimalist document would be best. Mr. Schleich concurred.

Mrs. Hellmann stated she is most comfortable staying with the ORC but it is okay to review it. She is not sure Bylaws are necessary.

Ms. Moore stated she is not married to this idea. She brought it back as something they suggested so discussion makes sense.

Mr. Baldino stated having something that legally binds us doesn't make sense.

Mrs. Tilford noted our Zoning Resolution does a good job calling out what the role of the Zoning Commission is and defines responsibilities. The BZA on their agenda has a step by step public hearing process spelled out and we could add that to our agenda to provide that additional information to the public.

Mr. Baldino stated that the public expectations part is important. We walk the public through that. Having that available to the public would be helpful.

Mrs. Hellmann stated that is fine, but again less is better having gone through our experience a few years ago, referring to the ORC was helpful and easier than having to look at something else.

The board decided that they would take the issue under advisement.

Mr. Betz indicated what is expected of the audience and how the public meeting would be run would be super helpful to have. He noted he would not be at the next meeting but the discussion can be continued.

Mrs. Tilford noted we have no old or new business.

Mr. Betz noted a question on how the BZC could track cases.

Mrs. Tilford noted that we can add case update under Old Business section of the agenda moving forward.

Discussion ensued on the benefit of a joint meeting between the Zoning Commission and Trustees, particularly in advance of any coming work on the Long-Range Land Use Plan.

Mr. Baldino made a motion to adjourn, which was seconded by Mrs. Hellmann. Upon call of roll, the vote resulted in the following:

Mr. Betz-yes  
Ms. Baldino-yes  
Ms. Moore-yes  
Mrs. Hellmann-yes  
Mr. Schleich-yes

They are the sole builder. The houses that Inverness uses on their lots are also used on EDCI's lots. He noted they are the producer of the lots with Inverness on a take-down schedule. He noted that they are on schedule with Section 1. He noted that the development process ran a little behind when they covered over a sanitary line to shift some water; there had to be a redesign to move it to the pond a different way so that threw development back because we had to go through engineering and have it all approved by everyone again. It is all worked out now. He noted Inverness has approval for their Section but they are taking the EDCI lots down first then follow-up with Section 5.

Mrs. Hellmann asked if the houses going in are the larger ones on the north side.

Mr. Brescia said they are the smaller ones, mid \$300,000s. The other lots on the north side are starting \$50,000 to \$100,000 more.

Mr. Betz noted no one was in attendance to speak.

Dr. Mathews asked about drainage.

Mrs. Tilford noted that drainage issues had been an ongoing concern in this neighborhood. The County hired Cosler Engineering to review the original drainage plan and changes were made subject to that review. The county is satisfied with the changes made will remedy the issues, but are certainly monitoring. We have received a complaint internal to the neighborhood (previous complaints had come from an adjacent subdivision) and the county is monitoring that too. There is a pipe in this section slated to be buried which should help to address that specific concern. The county and the developers have been working well together to address the issues as they arise.

Mr. Schleich asked if there is a lawsuit about drainage.

Mrs. Tilford stated there is a lawsuit ongoing regarding a sanitary line, but to her knowledge not drainage.

Mrs. Hellmann asked about the mowable grass and asked if this is consistent with changes that might come to the other areas.

Mrs. Tilford concurred.

Mr. Betz asked about an area that was planted but died.

Mrs. Tilford noted that the developer was attempting to get prairie grass established, but was not successful.

Mr. Betz asked Mr. Brescia if he had any issues creating the path connection.

Mr. Brescia indicated that he did not.

Mr. Schleich made a motion to close the public hearing, which was seconded by Mr. Betz. Upon call of the roll, the vote resulted in the following:

Mr. Schleich-yes  
 Mr. Betz-yes  
 Mr. Baldino-yes  
 Mrs. Hellmann-yes  
 Dr. Mathews-yes

Mr. Baldino made a motion to recommend approval subject to staff's recommended conditions, which was seconded by Mr. Schleich. Upon call of the roll, the vote resulted in the following:

Mr. Schleich-yes  
 Mr. Betz-yes  
 Mr. Baldino-yes  
 Mrs. Hellmann-yes  
 Dr. Mathews-yes

Mr. Baldino made a motion to approve the March 5, 2019 Minutes, which was seconded by Mrs. Hellmann. Upon call of the roll, the vote resulted in the following:

Mr. Schleich-yes  
 Mr. Betz-yes  
 Mr. Baldino-yes  
 Mrs. Hellmann-yes  
 Dr. Mathews-abstain

Mrs. Tilford noted that she did provide information about the Miami Valley Planning and Zoning Workshop for those wishing to attend. She asked that responses be provided by the Monday of Thanksgiving week.

Mrs. Tilford updated the board on the Safe Routes to School path construction.

Mrs. Hellmann moved to adjourn, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes

Mr. Baldino-yes  
Mr. Schleich-yes  
Mrs. Hellmann-yes  
Dr. Mathews-yes