

YORK TOWNSHIP BOARD OF APPEALS

March 14, 2024

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on March 14, 2024.

Ronald Fabich called the meeting to order at 6:30 pm.

The Pledge of allegiance was said.

Board Members Present:

Christine Barnes, Colene Conley, Ronald Fabich, Jessica Gerspacher, and Richard Hill were present. Rachel Nagle was unable to attend tonight's meeting.

Guests:

Richard Monroe-York Township Trustee; Chris Kosman-York Township Trustee; Heidi Carroll-Medina County Prosecutor's office and Steve Ibos-Zoning Inspector/Township Administrator; Kenneth Barco-York Township Zoning Commission.

Minutes:

Ronald Fabich asked all Board Members to look at the February 6, 2024, minutes.

Richard Hill made a motion to approve the February 6, 2024, minutes with typographical corrections that were noted. Colene Conley seconded the motion. Roll vote: Christine Barnes-aye; Ronald Fabich-aye; Jessica Gerspacher-aye; Colene Conley-aye; Richard Hill-aye. Minutes approved.

Ronald Fabich asked all Board Members to look at the February 8, 2024, minutes.

Jessica Gerspacher made a motion to approve the February 8, 2024, minutes with the typographical corrections that were noted. Christine Barnes seconded the motion. Roll vote: Christine Barnes-aye; Ronald Fabich-aye; Jessica Gerspacher-aye; Colene Conley-aye; Richard Hill-aye. Minutes approved.

Correspondence:

Steve Ibos mentioned he has two residents that came to him with possible variances/conditional use for next month April 11, 2024.

Policy and Procedures for York Township Board of Zoning Appeals:

Ronald Fabich introduced Heidi Carroll from the Medina County Prosecutor's Office.

Ronald Fabich suggested reviewing the Draft Copy of the York Township Board of Zoning Appeals **Policy and Procedures for 2024**.

Board Members, Heidi Carroll, Steve Ibos, and Mary Lenarth reviewed the Policy and Procedures deciding to make multiple changes. The items being deleted are in **blue** additions are in **red**.

Board Members and Steve Ibos discussed and approved. **A. Regular Meetings**

Ronald Fabich asked Heidi Carroll if there is a Public Hearing that is tabled and carried over to the next meeting is it required to send another Public Notice to the Adjcent Neighbors or Property Owners. Heidi Carroll stated if you have advertised and sent it out to the Property Owners if you are carrying it over to the next month at 6:30pm during a regular meeting and it is a certain date you do not have to repost the Public Hearing. Heidi Carroll stated if you do not give them the certain date or time then you would need to republish the Public Notice.

Board Members discussed and approved **B. Special and Emergency Meetings:**

Board Members, Steve Ibos and Heidi Carroll discussed **C. Alternate: 3)** Board Member shall notify Chair/Vice Chairperson at Roll Call if they will recuse themselves from the hearing due to possible conflict of interest so that alternate can be seated.

Board Members approved **C. Alternate: 3)**

Board Members discussed and approved **D. Secretary.**

Board Members discussed **E. Seating at the Board of Zoning Appeals meetings:** changed 1) The Board area at the front of the meeting room. This area is limited to BZA Board members that are hearing or voting at the meeting. ~~Any non-voting Board members of the BZA or alternates not involved in the voting will not be seated in this area.~~

- 2) Secretary/Zoning Inspector table. This area is located at the north side of the room.
- 3) Audience seating. This area is in front of the BZA.
- 4) A designated area is reserved in front of the BZA for the applicant and the applicant's council.

Board Members, Steve Ibos, and Heidi Carroll discussed **F. Opening Meeting Comments:**

1) The tape may be destroyed according to the current record retention policy of the York Township

Board Members agreed to: **F. Opening Meeting Comments:**

1) The tape may be destroyed 60 days after the minutes are approved, unless an appeal has been filed. The tape may be destroyed after the appeal has been resolved.~~according to the current record retention policy of the York Township~~

2) All persons in attendance must sign in **at the front table/ podium is the sign sheet.**

3) People wishing to testify before the Board must be sworn in; give their name and current address. Testimony will be limited to three (3) minutes per person. ~~The Chairperson will notify the public at the start of the meeting their testimony will be limited to three (3) minutes per person.~~

Heidi Carroll explained to the Board Members and Steve Ibos you can consider correspondence you do not need to discard them totally, when they are brought up in an appeal the correspondence should be given the due weight. Heidi Carroll stated you can read the letter in the record if necessary or can be discussed but not a lot of weight will be on it, you should not completely discard it from a resident. Heidi Carroll suggested you can say something like “Due weight was given the letter since the person was not present.”

Heidi Carroll suggested keeping the letter in the file.

Heidi Carroll also stated it was ok for the Board Members to go into an executive session and discuss the letter as to whether to accept it or not.

Heidi Carroll also mentioned if the concerned resident was not at the meeting, did send a letter, the letter can be given due weight but cannot be considered if the resident wants to appeal the decision since the resident was not present at the meeting.

Heidi Carroll, Board Members, and Steve Ibos discuss correspondence being considered for a Public Hearing.

Board Members, Steve Ibos, Kenneth Barco, Chris Kosman and Heidi Carroll discussed **6)** During a Public Hearing if the Board has received correspondence regarding the Public Hearing the Board will disregard the correspondence. Due to the fact that the correspondence cannot be cross examined. **(Added) Board Members will give correspondence due weight.**

Board Members, Steve Ibos, and Heidi Carroll discuss **7)** The Board reserves the right to go into caucus during public meetings.

It was suggested making the change to read **7) The Board as a quasi-judicial body reserves the right to deliberate in private, per the Ohio Supreme Court ruling. However, voting by the Board of Zoning Appeals shall be made in public.**

Board Members, Heidi Carroll, and Steve Ibos discuss **G. Board**
Heidi Carroll, Board Members and Steve Ibos discuss the Duncan Factors.

Heidi Carroll stated the discussion regarding the Duncan Factors should be open to the public, you can go into deliberation to discuss them, but she did not like the idea of doing worksheets.

Heidi Carroll, Board Members, Steve Ibos, Mary Lenarth, and Chris Kosman discuss using Duncan Factor worksheets.

Heidi Carroll stated the Duncan Factors should be an open discussion and open vote, the discussion of the Duncan Factors is the record not the notes.

Ronald Fabich asked how much Mary Lenarth needs to put down of the discussion. Heidi Carroll stated Mary Lenarth would be typing the minutes off the tape which is the discussion.

Board Members approved **1), 2) and 3).**

Board Members, Heidi Carroll, and Steve Ibos discuss **4)** Applicant will be asked by Chairperson/Vice Chairperson if they will accept the Board if there is not a full Board present; four (4) of five (5) members. If there is only a Board of four (4) members and there is a tie vote

two (2) and two (2) the result automatically goes to a no vote. If the applicant requests a full Board the meeting will be rescheduled **within four-teen (14) calendar days at the next regularly scheduled meeting unless otherwise required by law.**

~~5) The board will inform the applicant that the hearing will be reschedule if there are less than four (4) Board Members present, The meeting will be rescheduled with seven (7) calendar days. (This sentence is basically mentioned in 4) this will be deleted and numbers changed to be in sequence.)~~

Board Members approved the revised 5).

6) The minutes of the Board of Zoning Appeals are not **final-official** until they have been approved by the Board with a roll call vote and can be amended before the Board's roll call vote. The minutes of the Board of Zoning Appeals are to be approved **on at** their next regular scheduled meeting unless there has been an appeal.

7) BZA board members should notify the Chairperson, Vice Chairperson or the Township Office if they are unable to attend the meeting **as soon as possible.**

~~8) **Duncan Factor: Each Board Member will fill out a Duncan Factor worksheet. The worksheets will be turned into the BZA Secretary to be filed by the Zoning Inspector with the variance request packet. (This is to be removed. Duncan Factors are only needed area Variances)**~~

Board Members agreed to keep the revised 8).

Colene Conley made a motion to approve the York Township Board of Appeals Policy and Procedures for 2024 on March 14, 2024. Jessica Gerspacher seconded the motion. In a voice vote all Members voted aye. Policy and Procedures for 2024 approved. (EXHIBIT)

Ronald Fabich asked Heidi Carroll to discuss nonconforming vs. variance.

Heidi Carroll just threw out an **example** explaining that nonconforming comes in play when you build a house in 1950 and at that time the setback was conforming to the rules at that time and allowed to build on a half of an acre lot. Heidi Carroll stated in 2023 the York Township now wants to change to rule and now they want everyone to have five acre lots. I am allowed to continue to have my house on my nonconforming 1950 half acre lot because that is what was approved at that time.

Heidi Carroll then threw out **another example** in 2023 she is now non-conforming, that does not mean that she is not approved of non-conforming to the new regulations, but because she was approved at the time she is grandfathered in for the half acre lot.

Ronald Fabich asked if someone is non-conforming do they have to apply to the York Township Board of Zoning Appeals if they are going to do something because it does not conform to the current zoning regulations. Heidi Carroll answered if they are changing what is on that property, yes.

Heidi Carroll stated now if on my half acre lot, I would like to expand my set back, I would like to ask for a variance to expand the footprint. Heidi Carroll stated that would be allowed. This would be an area variance.

Heidi Carroll mentioned the area variance goes under the Duncan Factors.

Heidi Carroll the use variance is you have found there is absolutely no other use for the property.

Ronald Fabich opened the discussion for Wolff Brothers Supply, Inc. Heidi Carroll mentioned she really needs to do a lot of research for Wolff Brothers Supply, Inc. but if you go back to the 1950 then approved in 1976 York Township has Wolff Brothers Supply, Inc. is in conditional permitted uses, you are allowing business to be approved.

Board Members, Steve Ibos, Heidi Carroll, Kenneth Barco and Chris Kosman discuss Wolff Brothers Supply, Inc.

Heidi Carroll stated once a conditional is approved it stays as conditional, it stays with the land, the only way it changes is when the property is no longer used as conditional use for two (2) years. Heidi Carroll also stated, or it can be pulled if you find that Wolff Brothers Supply, Inc. is no longer acting in good faith in what their original conditional was.

Heidi Carroll explained Wolff Brothers Supply, Inc. is a conditional; every application after it will be an opening up of that conditional application and an expansion of it. Heidi Carroll also explained at that point the Board has the right to add restrictions or add different things or deny it if they do not want to allow any growth any more in this area.

Heidi Carroll stated changes need to be approved.

Heidi Carroll also stated. Site Plan should be approved before the plan goes to the York Township Board of Zoning Appeals.

Steve Ibos mentioned all Board Members will be issued an email address for York Township business only. This is for your protection and protection for the York Township.

Old Business:

Richard Hill asked to mention the York Township Zoning Resolution for 2018 has not been signed.

Board Members, Heidi Carroll, Steve Ibos, Richard Monroe discuss the Zoning Resolution is approved just not signed.

Steve Ibos mentioned all changes have been approved and recorded.

New Business:

There was no New Business.

Adjourn:

Ronald Fabich adjourned the meeting at 9:10 pm

Ronald Fabich – Chairperson

Mary Lenarth – Secretary

(EXHIBIT A)

2024

York Township Board of Appeals

Policy and Procedures

On March 14, 2024, for the year of 2024

A. Regular Meetings: Regular meetings of the Board of Appeals will be held the second Thursday of each month at 6:30 p.m. unless otherwise provided. All meetings will be held at the York Township Hall/Fire Station Complex, located at 6609 Norwalk Road.

- 1) No more than two (2) hearings will be considered at a regular meeting.
- 2) Board members are to sign in for Board meeting, site visits, and classes attended.

B. Special and Emergency Meetings: Special meeting of the Board of Appeals will be held at the call of the Chairman of the Board of Appeals, or two (2) members of the Board of Appeals, or the Zoning Inspector. The call for a special meeting shall specify the date, time, location and purpose of the meeting. Unless otherwise stated, special meetings will be held at the same location as regular meetings. All legal requirements for these meetings will apply.

C. Alternate:

- 1) Alternate will be seated if a Board member is not present at roll call.
- 2) Board Member will not be seated in place of Alternate for a second hearing if continued and present pursuant to a) below.
 - a) An Alternate or Board Member cannot be seated for a continued meeting the original of which they have missed.
- 3) Board Member shall notify Chair/Vice Chairperson at Roll Call if they will recuse themselves from the hearing due to possible conflict of interest so that alternate can be seated.

D. Secretary:

- 1) Minutes of previous meetings shall be provided by email to the Board.
- 2) The Board packet will be mailed one week in advance of regular meeting
- 3) Agenda is to be provided to the Board and available to the public at every meeting.

E. Seating at the Board of Zoning Appeals meetings: There are three designated sitting areas:

- 1) The Board area at the front of the meeting room. This area is limited to BZA Board members that are hearing or voting at the meeting.
- 2) Secretary/Zoning Inspector table. This area is located at the north side of the room.
- 3) Audience seating. This area is in front of the BZA.
- 4) A designated area is reserved in front of the BZA for the applicant and the applicant's council.

F. Opening Meeting Comments:

- 1) The tape may be destroyed 60 days after the minutes are approved, unless an appeal has been filed. The tape may be destroyed after the appeal has been resolved.
- 2) All persons in attendance must sign in at the front table/ podium is the sign sheet
- 3) People wishing to testify before the Board must be sworn in; give their name and current address. Testimony will be limited to three (3) minutes per person.

- 4) Any testimony or questions will be directed to the BZA not to people in the audience. The BZA will redirect any pertinent questions.
- 5) The BZA may request that conversations or discussions not directed to the BZA be limited.
- 6) During a Public Hearing if the Board has received correspondence regarding the Public Hearing the Board will disregard the correspondence. Due to the fact that the correspondence cannot be cross examined. Board Members will give correspondence due weight.
- 7) The Board as a quasi-judicial body reserves the right to deliberate in private, per the Ohio Supreme Court ruling. However, voting by the Board of Zoning Appeals shall be made in public.

G. Board:

- 1) Board of Zoning appeals members are required to attend at least one updated training each year when available through the Prosecutors Office, Medina County Planning Services, other Zoning or BZA meetings. Per Resolution by Township Trustees.
- 2) Clear and exact (to scale) drawings need to be presented to the Board of Zoning Appeals before the visitation and meeting so they can be reviewed.
- 3) All Board of Zoning Appeals members should make a visitation to the property of an applicant for a conditional use or home occupation. The visitation is to be in groups of not more than two (2) Board Members to the property of an applicant for a variance or home occupation.
- 4) Applicant will be asked by Chairperson/Vice Chairperson if they will accept the Board if there is not a full Board present; four (4) of five (5) members. If there is only a Board of four (4) members and there is a tie vote two (2) and two (2) the result automatically goes to a no vote. If the applicant requests a full Board the meeting will be rescheduled at the next regularly scheduled meeting unless otherwise required by law.
- 5) The Board of Appeals will be furnished with a calendar of the upcoming year's scheduled meetings dates. If there is a special meeting or a cancelled meeting the Board will be notified by the Chairperson, Vice Chairperson, or Secretary.
- 6) The minutes of the Board of Zoning Appeals are not official until they have been approved by the Board with a roll call vote and can be amended before the Board's roll call vote. The minutes of the Board of Zoning Appeals are to be approved at their next regular scheduled meeting unless there has been an appeal.
- 7) BZA board members should notify the Chairperson, Vice Chairperson or the Township Office if they are unable to attend the meeting as soon as possible.
- 8) Upon roll call vote of a conditional use Board Members are to specify their reasons according to Section 505 General Standards for All Conditionally Permitted Uses.