

The February 9, 2000 regular meeting of the Olmsted Township Zoning Commission was called to order at 7:40 p.m. Present were Chairman Michael Bajorek, Richard Witherspoon, Ronald Campanalie and Ryan Thomas. Also present was secretary Tammy Tabor. The secretary read the minutes of the last regularly scheduled meeting of January 12, 2000. Mr. Campanalie stated that the spelling of his name contains only one L. Mr. Witherspoon moved to approve as read. Seconded by Mr. Campanalie. Roll call . All approved.

The secretary read a the minutes from the special meeting of January 18, 2000. Mr. Campanalie moved to approve as read. Seconded by Mr. Witherspoon. Roll call. All approved.

#### Correspondence

The secretary received a questionnaire from McCloud USA. The company is requesting information on installing fiber optic cable in the Township. Mr. Bajorek stated that he was not familiar with any regulations regarding cable installation and was referring the questionnaire back to the trustees.

#### Resolution A-00

Mr. Campanalie moved to open the public hearing for Resolution A-00. Seconded by Mr. Thomas. Roll call. All approved. The secretary read Resolution A-00 and the public notice for Resolution A-00. The secretary read the recommendations for Olmsted Township Zoning Resolution A-00 from the Cuyahoga County Planning Commission. The County Planning Commission recommended disapproval of Resolution A-00. The secretary read five letters received by the Zoning Commission from residents opposing Resolution A-00. Mr. Bajorek asked for Mr. Murphy to explain his request for rezoning. Mr. Murphy stated that he would like to rezone his parcel on Cook Road to allow for a driveway to access industrial property 600 feet south of Cook Road. Mr. Murphy stated that he was told by the County Prosecutor and the Trustees that if he did a lot split he could get that parcel rezoned to access the property south of Cook Road. Mr. Murphy stated that he has been using this land for the past 40 years for landscaping and was the landscaper for the Township. He stated they patched roads and cleaned ditches in the Township. Due to his father's negligence, this rezoning should have been done back when favors were granted, there has been a small business run from this property for the last forty years. Mr. Murphy stated that the taxes are so high that he is trying to earn some money from the property to pay the taxes. Mr. Murphy stated that at previous meetings with the prosecutor and the Trustees, he was told that it was tentatively approved for rezoning if he split the lot. Mr. Bajorek stated that according to the Ohio Revised Code all rezonings must follow the current procedure. Mr. Bajorek said that he was unaware of any meetings or agreements with the Trustees. Mr. Murphy stated that he has followed all steps and procedures that he was told to do by the Trustees. Mr. Murphy stated that this has been going on since 1993. The taxes are going up and they are putting a hardship on the residents. The schools are expanding and the burden is put on the residents. That area on the map is proposed for light industrial, however you have had businesses that have left and now that area is intended for business.

Dave Guarnera would like to know if this has been going on for so many years. Why is this happening now.

Mr. Murphy stated that he has been before the boards and trustees since 1993. He stated that the zoning inspector signed off on the lot split.

Chester Szetela stated that he should be allowed to continue his business as he has been. Why has it taken so long to give him a decision. Mr. Bajorek stated that he was unaware of any previous applications to this or any board in the Township. Mr. Murphy has not been before this board. The procedures must be followed according to the Ohio Revised Code. Sharon Torok asked why he must rezone the property. Mr. Murphy stated that the Township told him, that the front of the parcel is Residential and the Rear is zoned industrial, that he could no longer use his property as a business. He stated that the township created the problem by splitting the property ½ residential and ½ industrial. The zoning should be blocked it shouldn't be half and half.

Biagio Impala stated by opening up the section it would be the access to the entire industrial section as stated by the county. Mr. Murphy stated that the county recommendations are false it is not opening up any thing. They are the ones who recommended that he split the lot.

Mr. Bajorek asked who recommended that. Mr. Murphy stated the county prosecutor. Mr. Bajorek stated that the recommendations are from the Planning Commission and not the Prosecutor. Mr. Murphy asked how he could get with all of the different boards since he has been doing this since 1993.

A resident asked if this would this be an industrial parkway on Mr. Murphy's property or is this already an existing industrial zone. Mr. Bajorek stated that the zoning is currently industrial 600 feet south of Cook Road. Mr. Murphy stated that he has been through courts and all he wants is to continue using his property as he has been.

Bob McKay is in agreement with the county and it will open up an alley way to the industrial land through the middle of a residential area. He also stated that Reliable Lawn Care is not Mr. Murphy's business and his father ran an excavating company. Reliable Lawn Care opened in the early 1990's to supplement his income.

Mr. Murphy stated that he rents out the building to reliable Lawn Care There is less traffic going in now then their was 15 years ago.

A resident, 26948 Elizabeth Lane, Is asking about trees that were removed from his property. Mr. Bajorek stated that after the public hearing for the resolution we would be able to address his questions.

Otto Rousek of Cook Road asked if Mr. Murphy rezoning the front half of his property? Mr. Murphy stated that he is trying to access his industrial property at the rear of the parcel. The secretary showed a map explaining the area proposed for rezoning. Mr. Rousek asked if this will be a street or a driveway. Mr. Bajorek stated that this application has no indications of a road the only matter before the board is rezoning of a parcel. Mr. Rousek stated that the industrial zones were initially created 600 feet south of Cook Road is because the residents in the area wanted a buffer zone between the industrial and residential zones. Mr. Bajorek stated that a Citizens Advisory Committee was formed to help determine the best interest of the Township. There was also a consulting firm that worked with the Citizens Advisory Committee. Mr. Murphy said that if

the sawtooth zoning was eliminated most of the problems would be avoided. A resident stated that block zoning is already in place west of Stearns and east of Jennings.

Beth McKay agrees with the county and feels that the best use of the land is residential. Mr. Murphy is renting his property to Reliable Lawn Care. He can say that he would like to access his property with only a driveway. He can sell that property as industrial and it can be created as an industrial parkway. Once this property is rezoned there is no control other than under industrial regulations how that would be used.

Mr. Murphy stated that Hennie Homes has approached Mr. Murphy and he will sell his property to Hennie Homes. We have no water and sewer and the taxes are hideous and the school systems are inadequate. Mr. Murphy stated that if he cannot use his property as designated, he will sell to Hennie Homes and he will annex to North Olmsted. Mr. Murphy stated that he is doing nothing different that hasn't been going on for the last forty years.

Judy Story stated that the driveway would open up a parkway to the industrial zone.

Barb of Schady Road, Would like to know what light industrial is. Mr. Bajorek stated that it is a business district, non polluting business, not retail.

Mr. Thomas asked Mr. Murphy where the industrial zone is located. Mr. Thomas asked when the lots were originally combined and what the frontage would be if the lots were split. Mr. Murphy stated that the parcel with the residence is proposed for 120 foot frontage and the proposed industrial site would be approx. 90 feet wide. Mr. Thomas asked what structures were on the property. Mr. Murphy stated that the proposed industrial property contained a garage. The other property contains two homes a garage and a shed. Mr. Thomas asked if Mr. Murphy owned Reliable Lawn Care. Mr. Murphy stated that he is a partner in Reliable Lawn and Pest Control. Mr. Thomas asked how many employees worked there. Mr. Murphy said seven. Mr. Thomas asked how many parking spaces were on the property and where they were located. Mr. Murphy said approximately 10 parking spaces located in the rear of the property. Mr. Thomas could not find an application for a structure on the property. Mr. Murphy stated that the structure was built in 1983. He stated that GTE built a driveway next to his property to access a tower. Mr. Bajorek stated that point was irrelevant. Mr. Thomas asked if Mr. Murphy had been sued by the Township because of the business on his property. Mr. Murphy stated that he came in in 1993 to get a sign for his business and that was when he was told he was in violation of the zoning resolution. Mr. Murphy stated that he was not sued and it has been in the courts since 1993. Mr. Thomas asked if before he was in court was he notified that he was in violation of having a home and a business on the same lot. Mr. Murphy stated that he was never found guilty or charged with anything it has been going around and around in the courts. Mr. Thomas asked if Mr. Murphy has ever been in violation or issued a stop work order by the Township. Mr. Murphy stated that yes he has and that is why he is here to comply with the zoning. Mr. Campanalie stated that the board is trying to find out information as to the history and reasons for the rezoning request. Mr. Campanalie asked if Mr. Murphy was in violation for selling Christmas trees. He asked if Mr. Murphy issued any conditional use permits through the board of appeals and who initiated the court proceedings. Mr. Murphy stated that the township initiated the proceedings. Mr. Campanalie asked what the

disposition of the court proceedings was. Mr. Murphy stated that the court told him that he should try to come into compliance with the zoning regulations. He has done the lot split and why doesn't the board know what he was told to do by the prosecutor and the trustees.

Judy Story wants to know why he is trying to change something that has been in the plan for the Township.

Janice Belzano asked if this zoning is changed does that mean he can do business out of that location.

Mr. Thomas stated that Mr. Murphy is currently under violation and currently has an injunction to cease all business on that property.

Otto Rousek stated that if the residents wanted industry in that entire area it may be acceptable. Instead of parcels being rezoned it should be an entire area.

Mark Chokan asked if a grandfather clause would come into consideration. In rural areas the zoning can be left as orchards, farmland and no industry is allowed. Could this be considered as an agricultural zoning. Mrs. Tabor stated that to be considered an agricultural business you must produce a majority percentage of what you sell according to the Ohio Revised Code.

Judy Story stated that if taxes are the issue, than could industry could help the tax base. Mrs. Tabor stated that industry could help the tax base in the future by not increasing taxes as much. The county auditor would be better able to answer those questions.

Scott Zieger stated that many of the rules that are enforced now have been on the books for years and were not strictly enforced.

A resident of Cook Road asked what is Mr. Murphy going to change that he hasn't been doing for years.

Mr. Murphy stated that absolutely nothing will change.

Mr. Thomas stated that since 1992 Mr. Murphy has been in violation and operating the business and 2 homes on the property which is prohibited by state law. Mr. Thomas stated that even if the rear of the parcel is zoned industrial and the front is residential until those areas are split you cannot have dual usage of that lot. Since the house was on the property first, the main use for the entire parcel is residential. There are conditions for home occupations, however that is approved through the board of Appeals.

Mr. Murphy stated that his taxes have tripled in the last 10 years what should he do with his property. Mr. Thomas stated that one dwelling per parcel is permitted. Mr. Murphy stated that he is a Cleveland fireman and has three children in private schools, how should he maintain that property without generating income from the property. He asked what he should do with the property. He has light industrial zoning at the rear of the property.

Mr. Thomas stated that the primary use of that lot is residential. Even though the back land is specified as light industrial, the property is being used as residential.

Mr. Campanalie stated that the Citizens Advisory Committee discussed and agreed with the residents in the area that bringing the industrial zone up to Cook Road would have an effect on the property values of the homeowners on the north and south sides of Cook Road. Mr. Murphy said

that the saw tooth zoning is ridiculous. Mrs. Tabor stated that the access to the industrial zone was meant to be through the industrial zone on Bronson Road or through the commercial zone on Stearns. The changes that are being made are to allow access from Bagley and Cook Roads. Mr. Murphy stated that his property will become North Olmsted if he cannot use his property. A resident asked how far is Mr. Murphy's property from the proposed industrial zone on Cook Road. Mr. Murphy stated two or three lots.

Mr. Rousek stated that the placement of the industrial zone on Cook Road was determined according to the traffic patterns in the area.

Mr. Murphy asked how GTE can put up a tower and bring commercial vehicles on that property and the resident who wants to do the same thing with his property cannot. And that he cannot use his property the way it has been used for the last 40 years.

Judy Story stated that she is sorry that he has so much property to have problems with. If Mr. Murphy was just selling trees that probably wouldn't be a problem.

Mr. Fries asked what is Jennings Road zoned as? He sees that there are many different types of zoning along Jennings Road.

Mr. Bajorek stated that right now the public hearing is for Mr. Murphy's rezoning request.

Mr. Thomas stated that the request has been recommended for disapproval by the county and the proposal is not consistent with the residential area. Mr. Campanalie moved to close the public hearing for Resolution A-00. Seconded by Mr. Thomas. Roll call All approved.

Mr. Thomas moved to deny Resolution A-00. Seconded by Mr. Campanalie. Roll call. All approved. Mrs. Tabor stated that this recommendation will be forwarded to the trustees for their action.

Mr. Bajorek thanked the residents and told the audience that a lot of changes will be proposed for the Township, and they should be aware of what's happening.

Mr. Thomas moved to reopen the public hearing for Resolution G-99 Seconded by Mr. Witherspoon. Roll call. All approved.

Mr. Bajorek stated that according to the Ohio Revised Code, a decision could not be rendered on Resolution G-99 until recommendations have been received from the Cuyahoga County Planning Commission. He stated that a decision will not be rendered tonight on that basis.

Mr. Fries asked if 350 homes or families are proposed, what is being done about water sewer and run off for those properties.

A Schady Road resident stated that the residents stand to lose by apartments or townhouses being built on that property. Her property is directly next to the proposed rezoning. She has lived there for 4 years and moved from a development on doctors recommendation for health reasons. The health problems may become worse from living in a congested area. She would lose money if she had to move and sell her house. She feels that the property owners should be compensated for property devaluation if this rezoning is approved.

A resident of Jennings Road asked who makes up the new master plan.

Mr. Bajorek stated that a citizens advisory committee was put into place. The committee was made up of several residents and a consulting firm. This study was paid for with Issue 2 funds. The Comprehensive Land Use Plan and the new Zoning Resolution was the result of this process. Public hearing were held and residents were allowed input on these plans.

Mr. Bement stated that every one should voice their opinion, if this should end up in court the only proceedings will be the minutes of these meetings and you should let the board know your opinions. The News Sun stated that there has been an agreement with the residents. There has been no agreement with any of the residents regarding the rezoning. The community should have the right to control their destiny. They should be able to keep the rural openness that is in place currently. Mr. Bement asked why builder is not present. He doesn't seem to be concerned with the residents opinions. Mr. Bajorek stated that Mr. Rosner had called and asked the status of the rezoning request and Mrs. Rosner was due to have a baby. Mr. Bement asked if any traffic surveys have been done.

Also the NRP Group has eluded to the fact that they would tie into the water and sewer that the Forest City development project would have. That would not benefit any of the residents. What would happen to the wells currently used by the homeowners once construction has begun. The proposed rezoning does not follow the Comprehensive Land Use Plan. Density levels would have a detrimental effect on the fire, police and schools in the Township.

A Lewis Road resident stated he lives near the Rados Farm that could be townhouses or annexed to Berea. You cannot just worry about what is in your area, you must know what is going on in the entire community. The commission is accountable to the residents. He feels that what the Zoning Commission is doing a good job in listening to the residents.

Mr. Fries asked if this rezoning is passed, would tax benefits be increased for the township. Mr. Bajorek stated yes. Mr. Fries asked if Mr. Murphy's rezoning would benefit the township's tax base. Mr. Bajorek stated only if Mr. Murphy built something on that property.

Mr. Zieger stated that he was also a member of the CAC and housing generally does not increase taxes for the Township.

Mr. Peters stated that the area on Schady Road where she lives, a lot of deer and wildlife would be interrupted by new construction. Also how long can developers continue to request rezoning on this property. Mr. Bajorek stated that the requests can continue indefinitely.

Mrs. Sharon Roth of Schady Road. Feels that this will start a trend of apartments and townhouses.

Mr. Gunner, 27029 Schady Road stated that the property near her home was proposed for rezoning and the residents fought it. It was annexed to Olmsted Falls and has been developed as cluster homes and townhouses, and has been detrimental to her property value and ruralness of the area.

Mark Chokan, Bagley Road asked if a resident would like to put an issue up for referendum on the ballot, what is the procedure? Mr. Bajorek stated that he is not familiar with the process. Mr. Thomas stated that the procedure is listed in the Ohio Revised Code.

Patty Hubbard stated that her property is right in the middle of the proposed rezoning and is

totally against the rezoning.

Patricia Gibson is concerned about the impact of this development on the community.

A Bagley Road resident feels that this development would put a strain on the police, fire and school systems.

Wes Bement asked if this meeting will stay open and at the next meeting will it remain on the table. He would like to know if there will be a decision on this proposal at the next meeting.

Mr. Bajorek stated that until recommendations have been received from the county no vote will be taken, however the issue will remain on the agenda until the time that the recommendations are submitted by the county.

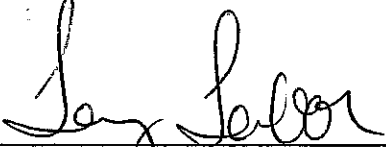
The county planning commission will not make a recommendation until they have more information on the water and sewer issues.

Mr. Thomas moved to table the public hearing for resolution G-99 until the next regularly scheduled meeting of March 8, 2000 at 7:45 p.m. Seconded by Mr. Campanalie. Roll call. All approved.

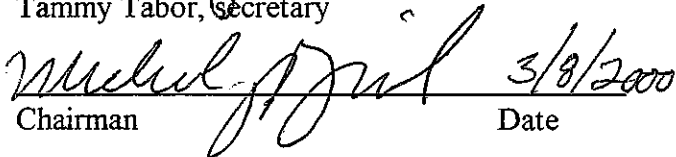
Floor discussion

Mr. Thomas moved to adjourn. Seconded by Mr. Campanalie. Roll call. All approved.

Respectfully submitted,



Tammy Tabor, Secretary



Chairman

Date