

**PAINESVILLE TOWNSHIP ZONING COMMISSION  
MEETING MINUTES  
Monday, April 12, 2021  
Painesville Township Office 55 Nye Rd. Painesville Twp., OH, 44077**

**Present:** Amy Cossick, Darrell Webster, John Haught, Bailey MacKnight, Ted Galuschik

**Absent:** None

**Zoning Inspector:** Rich Constantine, Harley DeLeon

**Legal Counsel:** Jason Hartzell

Chairman, Ted Galuschik, called the meeting to order at 6:33 P.M. The meeting was held by video conference and in-person due to respectful response to the coronavirus mandates in the State of Ohio. The Pledge of Allegiance was recited. A roll call revealed that a quorum was present.

**Public Comment:** None

**Regular Meeting:**

Chairman asked if the board had any additional comments or edits to the **March 8, 2021 Meeting Minutes**. Hearing none, Chairman entertained a motion to approve the **March 8, 2021 Meeting Minutes**. John Haught made a motion. Darrell Webster seconded.

**Roll Call:** Haught; Aye, Mac Knight; Aye, Cossick; Aye, Webster; Aye, Chairman; Aye.  
Motion carried.

**Public Hearing:**

• **21-ZC-01:**

An amendment to the TEXT of the Painesville Township Zoning Resolution has been initiated by the Zoning Commission. The amendment proposes to add subsection 6.13 Line of Sight Visibility and re-number the remainders thereafter; to add figure 6-1 and re-number the remainders thereafter; to add 6.14(C)(7), to add 6.14(H), and add figure 6-3; to add definition for Line of Sight Safety Triangle (5.95) and figure 5-1 and add definition for Vehicular Entry Gate (5.164) and re-number the remaining definitions accordingly.

Chairman reminded the Commission **Case 21-ZC-01** had been sent to the Trustees and Planning Commission. The Trustees and Planning Commission had sent the case back with recommendations.

Zoning Inspector Harley DeLeon had given the Commission two different drafts of Section 6. One draft was with the recommendations from the Lake County Planning Commission. The second draft was without the Planning Commission recommendations.

Harley DeLeon stated that the Planning Commission had recommended changing the definition of Line of Sight Visibility for the Triangle to include an A and a B. Harley DeLeon continued that Line of Sight Safety Triangle Driveways is the smaller measurement proposed and would only be measured at driveways. The next is Line of Sight Safety Triangle Roads would be measured at a roadway intersection, being measured at one hundred (100) feet. Harley DeLeon let the Commission know that illustrations had been included. Harley DeLeon let the Commission know that she did not think the Line of Sight Safety Triangle measurement of one hundred (100) feet would affect most of the property owners in the Township; as this measurement was mostly in the front yard. Harley DeLeon commented that it was up to the Commission

to consider the Planning Commission's recommendation of one hundred (100) foot measurement, and a Variance would need to be applied for rare circumstances. Harley DeLeon commented that this may improve the amount of Variances the Zoning Office would receive.

Zoning Inspector Rich Constantine commented that he agreed with and was in favor of Zoning Inspector Harley DeLeon's proposal.

Harley DeLeon moved on to discuss section 6.14(H) Ingress/Egress Gates was written as the Planning Commission recommended with an eleven (11) foot clear opening. Harley DeLeon commented that she had spoken to the Painesville Township Fire Chief, and that he agreed with the eleven (11) foot opening with a thirty-six (36) foot setback from the roadway. Harley DeLeon continued that figure 6-3 had changed to reflect the eleven (11) foot clear openings. Harley DeLeon let the Commission know of the definitions of Section 5, included with her proposal, as suggested by the Planning Commission.

Chairman asked if Zoning Inspector Rich Constantine had any comments or suggestions.

Zoning Inspector Rich Constantine commented that there was a spelling error in section 5.96. Rich Constantine continued that in section 5.97 he was unsure what other categories were being referenced, if meant to be public and private roadways. Rich Constantine asked for Legal Advisor Jason Hartzell to provide legal guidance, so that what was intended is what is written.

Harley DeLeon commented that section 5.97 is to ensure that it is applicable to all public and private roadways of all forms and that nothing is left out.

Legal Advisor Jason Hartzell commented that 5.97 may need to be written as "A triangular shaped area of land abutting any private or public roadway." to encompass everything needed.

Harley DeLeon asked Legal Advisor Jason Hartzell if the language following that change would also need to be changed.

A discussion was held regarding possibly needing to differentiate between minor and major roads.

Chairman commented that roadway would include all public and private roads.

Legal Advisor Jason Hartzell agreed.

Chairman asked if Zoning Inspector Rich Constantine had any more concerns.

Rich Constantine did not.

Chairman asked if the Commission had any questions or comments.

John Haught commented that he was confused.

A discussion was held regarding what was trying to be achieved with **Case 21-ZC-01**. Chairman gave a brief summary of the case.

Bailey MacKnight commented that some verbiage needs to be updated in the definitions on Section 5.

Bailey MacKnight continued that for section 6, the Commission would need to decide if they would go forward with the draft including the Planning Commission's recommendations, or Zoning Inspectors Harley DeLeon and Rich Constantine's draft.

A discussion was held regarding the two different drafts and what the Commission would be comfortable with.

A discussion was held regarding making a motion for Section 5 as amended, and to specify which draft of section 6 will be sent to the Trustees. The Commission agreed to use the Draft containing twenty (20) foot Line of Sight Safety Triangle.

Zoning Inspector Harley DeLeon needed a clarification on what was being amended. Harley DeLeon read Section 5.97, the definition as follows:

"Line of Sight Safety Triangle, Road: A triangular shaped area of land abutting any private or public that is required to be kept free of obstructions that could impede the vision of a pedestrian or a driver of a motor vehicle exiting onto or driving on public or private road."

Chairman asked Legal Advisor Jason Hartzell if that was the intent of the revision to Section 5.

Jason Hartzell replied yes. Jason Hartzell continued that Section 5.96 also needed corrections to follow the same type of verbiage but dealing with driveways.

Harley DeLeon asked the Commission if sidewalks should be included in Section 5.96. Harley DeLeon continued that a Trustee had been interested in including sidewalks for this section. Harley DeLeon asked what the correct verbiage would be to include sidewalks.

Zoning Inspector Rich Constantine commented that properties with certain configurations should be taken into consideration when dealing with including specific issues like including sidewalks.

A discussion was held regarding covering all scenarios for property owners with the twenty (20) foot Line of Sight Safety Triangle.

Chairman asked the Commission if they were deciding to amend Section 5.96 and 5.97. And if the Commission were deciding to send Section 6 with the twenty (20) foot Line of Sight Safety Triangle to the Trustees.

A discussion was held pertaining to continuing the Public Hearing for May 10, 2021 or to close the Public Hearing without making a recommendation. The Commission would have 30 days to make a recommendation to the Trustees.

Darrell Webster asked if the measurement for the Triangle was being measured from the road right-of-way or the center of the road. If the center of road for new subdivisions, the triangle would not meet the lot. Chairman believed the measurement was at the road right-of-way.

A discussion was held regarding the Commission being able to meet the thirty (30) day deadline if the Public Hearing was closed at the current meeting and continuing for the May 10, 2021 Meeting.

Chairman entertained a motion to continue or close the Public Hearing for **Case 21-ZC-01**.

Bailey MacKnight made a motion to close the Public Hearing for **Case 21-ZC-01**.

John Haught seconded.

Zoning Inspector Rich Constantine let the Commission know that he was retiring as of April 23, 2021. Rich Constantine continued that if the Commission needed his help with Case 21-ZC-01, if they chose to continue; he could help. Rich Constantine continued that if the Commission was comfortable closing and sending the case to the Trustees, that was ok also.

Chairman asked if the Commission had any questions or comments to close the Public Hearing. Hearing none.

**Roll Call:** Webster; Aye, Haught; Aye, MacKnight; Aye, Cossick; Aye, Chairman; Aye.

Motion carried.

### **Site Plan/Architectural Reviews:**

1. Architectural Review for GetGo Carwash at 1201 Mentor Ave.

GetGo Carwash is looking to update certain areas of the Carwash. They would like to add a second lane that will be for a membership kiosk, while still having a paid lane kiosk. The umbrella covering for the kiosks will be within the setback. GetGo Carwash would also be increasing the landscaping. Harley DeLeon also let the Commission know GetGo Carwash had a Variance Application sent in for the Board of Zoning Appeals to hear at their April 13, 2021 Meeting.

Chairman asked if Zoning Inspector Rich Constantine had any comments.

Rich Constantine commented that GetGo would be adding structures that are prohibited in the front setback; near Mentor Avenue, and fifty (50) feet away from the right-of-way.

Chairman clarified that if the Commission approved the Architectural Review, it would have a condition that the Variance Request be approved by the Board of Zoning Appeals. If the Board of Zoning Appeals did not approve the Variance, the Commission's decision would be null and void.

Chairman asked if the Commission had any comments or questions. Hearing none. Chairman entertained a motion to approve **21-ART-01** with a condition that the GetGo Carwash get approval of their requested Variance from the Board of Zoning Appeals.

John Haught made a motion to approve **21-ART-01** with the condition that GetGo Carwash get approval of their requested Variance from the Board of Zoning Appeals. Darrell Webster seconded.

**Roll Call:** Haught; Aye, Cossick; Aye, Webster; Aye, MacKnight; Aye, Chairman; Aye.  
Motion carried.

### **New Business:**

- Amendment to Section 31.

A new subsection 31.03(A) shall be inserted, and the current sub-subsections (A),(B),(C),(D) and (E) shall be re-lettered as (B),(C),(D),(E) and (F) respectively. New subsection 31.03(A) shall read as: No rooster shall be permitted as a part of an agricultural use on any parcel of land of 5.0 acres or less. Any Zoning Certificate or Conditional Use permit for poultry/fowl husbandry shall be revoked if it is discovered that the permit holder allows a rooster to be kept on the property so described.

Zoning Inspector Harley DeLeon stated that roosters had been excluded from Section 31 of the Zoning Resolution. Harley DeLeon continued that this text amendment is to re-add language that was previously in Section 31 but through all the amendments, had been mistakenly excluded.

Chairman clarified to the Commission that this text amendment will be decided to be sent or not sent to Public Hearing for the May 10, 2021 Meeting. Chairman asked if the Commission had any questions.

Legal Advisor Jason Hartzel commented that Section 31.03 of the Zoning Resolution copies the Ohio Revised Code Provision 519.21. Jason Hartzel did not think Zoning could put the provision that was wanted under Section A of 31.03. Jason Hartzel asked Zoning Inspector Harley DeLeon to present on screen the Ohio Revised Code Provision. Jason Hartzel stated that the Township could regulate agriculture on lots one (1) acre or less, including structures and setbacks. In the Resolution, the Township could not regulate agriculture on lots greater than one (1) acre and less than five (5); which in the Zoning Resolution does not start until 35% of lots are developed with at least one structure, building, or improvement. Jason Hartzel thought this should be under Section B of 31.03.

Harley DeLeon presented on screen the Zoning Resolution.

Jason Hartzel pointed out that Section A of 31.03 of the Resolution read lots less than one-half acre. This could be changed to one acre or less. Section B of 31.03 would also need to be updated. Jason Hartzell commented that the provision wanted may then fit under Section (B)(1) with Section B of 31.03 updated.

A discussion was held pertaining to the idea to add a new subsection and re-lettering the current sub-sections.

A discussion was held regarding clarification using the Ohio Revised Code and when the Ohio Revised Code was changed.

Harley DeLeon commented that the Ohio Revised Code was reading to her, that there are less strict requirements for Zoning to be able to have a say in regulating agriculture if the parcels are smaller. Harley DeLeon continued that for larger parcels, requirements would also need to be met, for the Township to have a say in regulating agriculture. Harley DeLeon felt that the Township would be in the right to update Section 31 with what was being proposed.

Zoning Inspector Rich Consantine agreed with Zoning Inspector Harley DeLeon, and would need clarification from Legal Advisor Jason Hartzell over the Ohio Revised Code. Rich Constantine suggested continuing the discussion until the next meeting so that the staff and the Commission had all the information to make a decision.

A discussion was held pertaining to clarification updating the verbiage in Section 31 to reflect the authority the Township had to regulate agriculture with certain parcel sizes.

A discussion was held pertaining to Ohio Revised Code 519.21 allowing or not allowing regulation over all parcels of property.

Legal Advisor Jason Hartzell offered to send Zoning Inspector to send an email with clarification of Ohio Revised Code Provision 519.21(A) not allowing regulation of agriculture, while 519.21(B) giving some exemptions.

Harley DeLeon clarified what the plan of action would be to amend Section 31. Harley DeLeon asked the Commission if they wanted to go ahead with setting a Public Hearing for a text amendment to Section 31. Chairman clarified that he would like to discuss Section 31 further after Legal and Staff have worked through matters. Chairman asked if a motion needed to be made to table the discussion.

Jason Hartzell replied no, the discussion of Section 31 would be tabled and moved to "Old Business" for the May 10, 2021 Meeting.

- Amendment to Section 7.

Section 7- Non-conforming Uses. Zoning Inspector Rich Constantine believes that the language constructed in the Resolution for Section 7 does not give the Township the room that the State of Ohio intended. Rich Constantine continued that he would pass to Harley DeLeon a recommended item for consideration by the Commission prior to his retirement. Rich Constantine would also pass along, an amendment to Section 6.

Chairman needed clarification from Legal Advisor Jason Hartzell that amendment to Section 7 would stay under "New Business" to be discussed at the May 10, 2021 Meeting.

Jason Hartzell replied yes.

Chairman let Zoning Secretary Rachel Muro know that Section 31 will be moved to "Old Business" and Amendment to Section 7 will be moved to "New Business" at the May 10, 2021 Meeting.

**Old Business:**

- **Case 20-ZC-07:** Section 28 Rewrite sign section

Zoning Inspector Rich Constantine reminded the Commission that he had sent revisions of Section 28 that he and Legal Advisor Jason Hartzell had discussed. Rich Constantine let the Commission know that Draft 8 of Section 28 was before the Commission at the current meeting. Rich Constantine continued that at the end of the section containing charts and calculations for sign sizes etc was ok, but that he had to discuss with Harley DeLeon what his thoughts were with Section 28. So that Harley DeLeon could take over for Rich Constantine. Rich Constantine suggested to table the discussion for Section 28 for the May 10, 2021 Meeting.

The Commission agreed to table the discussion for Section 28 would be best.

Chairman asked if the Commission had any questions or comments for Zoning Inspector Rich Constantine. Hearing none, Chairman tabled Section 28 for the May 10, 2021 Meeting.

#### **Dispensation of Closed Public Hearings:**

- **Case 21-ZC-01:**

Chairman entertained a motion to submit **Case 21-ZC-01** to the Trustees with a recommendation to approve the proposed amendments with modifications as discussed by the Zoning Commission to the Painesville Township Zoning Resolution Section 5 and 6.

Bailey MacKnight made a motion to submit **Case 21-ZC-01** to the Trustees with a recommendation to approve the proposed amendments with modifications as discussed by the Zoning Commission to the Painesville Township Zoning Resolution Section 5 and 6. Darrell Webster seconded.

**Roll Call:** Cossick; Aye, Haught; Aye, MacKnight; Aye, Webster; Aye, Chairman; Aye.  
Motion carried.

**Items being held for Public Hearing:** None

#### **Zoning Inspector's Report:**

Zoning Inspector Rich Constantine thanked the Commission for their help and input during his time as a Zoning Inspector for Painesville Township.

The Commission thanked Rich Constantine for all of his work as the Zoning Inspector. Harley DeLeon did not have anything to report.

**Any Further Business to come before the Commission:** None

Chairman adjourned the meeting at 7:59 P.M.

**Next Meeting will be on Monday, May 10, 2021.**

Respectfully submitted,



**Ted Galuschik, Chairman**



**Rachel Muro, Zoning Secretary**