

BRIMFIELD TOWNSHIP BOARD OF ZONING APPEALS

MINUTES of September 17, 2014

Brimfield Town Hall Meeting Room – 1333 Tallmadge Road, Kent

Present: President Bruce Knippenberg Scot Etling Vince Murdocco
Ed Shetty Cheryl Rueschman

Absent: Vice President Lisa Cotton

Staff: Dick Messner, Zoning Inspector
Wendi O’Neal, Zoning Assistant

Public Present:

Name	Phone	Company / E-mail
Marko Zlatic	216.514.1950	mzlatic@omni
Pat Finley	216.514.1950	pfinley@omni
Thomas Finley		
Kellie McIvor	216.360.9441 x 127	Redwood

CALL TO ORDER:

Bruce Knippenberg calls the Wednesday, September 17, 2014 meeting of the Brimfield Township Board of Zoning Appeals to order at 7:00 PM.

Bruce Knippenberg does roll call:

Cotten = Absent **Etling** = Here **Knippenberg** = Here
Murdocco = Here **Shetty** = Here **Rueschman** = Here

Cheryl Rueschman reserves voting rights this meeting.

Bruce Knippenberg dually notes that the meeting has been advertised per the Ohio Revised Code.

MOTION#2014-0036

A motion is made to accept the Agenda by **Scot Etling**, seconded by **Vince Murdocco**. Motion carries.

MOTION # 2014-037

A motion is made to accept the July 16, 2014 Meeting’s Minutes, by **Vince Murdocco** and seconded by **Scot Etling**. Motion carries.

MOTION # 2014-038

A motion is made by **Ed Shetty** to accept the August 20, 2014 Meeting’s Minutes and seconded by **Cheryl Rueschman**. Motion carries.

PUBLIC COMMENTS:

SWEARING IN OF APPLICANTS AND COMMENTERS:

Chairman Bruce Knippenberg states that the Board of Zoning Appeals is a quasi-judicial board. We have an application for a conditional use permit tonight. Anyone having any statements, comments or questions to make tonight, any one new we ask that you state your name, address, and confirm that all the statements that you are making are true to the best of your

knowledge. Everyone else will be considered still under oath because this is continuation of the same permit.

APPLICATIONS:

Conditional Use Zoning Certificate for Multi Family Apartments

Applicant: Omni Property Companies, 26110 Emery Road, Ste. 250, Cleveland, Ohio 44128
Randy A. Minor II (TGC Engineering, LLC) 1310 Sharon Copley Road P.O. Box 37 Sharon Center, Ohio 44274

Location: Pleasant Lakes Subdivision

Zoning: O-C Open Space Conservation with Subdivision Override

Request: Preliminary Plan Review

Dick Messner gives brief overview:

- Final Revision drawings came through yesterday.
- Total number of units has been reduced to 358 units due to new wetland delineation.
- 190 Luxury units, 168 Garden units
- Total build out, 186 existing units, 358 new, 110 vacant buildable lots throughout the Subdivision, = 654
- The lower number of units voids the need of a variance for dwelling units per acre, which calculated with the proposed acreage, equals 5.37 dwelling units per acre.
- EPA protection requirements were set at 40/20 on what we looked at rather than 40/25 as Section 506 states; 25 foot setback from the restricted space for the wetlands and 40 feet from any pavement or buildings. Some parking lots that encroach somewhat.
- Do exceed parking, like to hold 1122 spaces; requirement would 1074 parking spaces.
- Parking area could be shifted and would eliminate the need for the any variance on that.
- We would recommended for your consideration the approval of the conditional use permit subjected to the conditions of Portage County Regional Planning and Brimfield Township's conditions if the applicant would agree and confirm.

Bruce Knippenberg: Is everything done over at regional planning on it then?

Dick Messner: No, they are still working on it. The permit will not be issued until all the conditions have been met from both Portage County and Brimfield. What this does with conditional approval is allow the developer to start on improvement plans on the infrastructure, and in this particular case working with their companies to put their financial packets together.

Bruce Knippenberg: Do you have anything new to tell us tonight?

Patrick Finley: First, thanks putting us on the agenda, and Dick and Wendi for time and efforts. The plan has evolved over the last 7 months and we are ready to effectuate the plan if you are ready to give us a conditional approval. As it stands we now are very, very happy with the plan. We think it would be something that everyone would be proud of. The luxury, some of you might have already seen in Hudson or in Green; we hope that you are happy with those. The garden style apartments would be an upgrade from what you already have in your community; should be the nicest ones in your community to date. We do expect to have the stones on the exteriors be similar within the two complexes to keep continuity amongst the complexes. You may recall that there was a request for us to put in a four way stop sign to slow down the traffic coming through. That has been designed into the plans. Our plans are to request permission from the property owners on Sanctuary View and the 43 side to do some enhancement on the landscaping on the entrance of Sanctuary View. So that would be something that would get a significant enhancement. We do have to get permission, but I can't image them not wanting to make their property look nice down there. And of course we will be doing a landscaping plan for that as well. And we have had two meetings with the HOA's and to the best of my knowledge everybody seems to be somewhat satisfied. At least that is the feedback that we get and have not heard anything to the contrary. I don't know if you guys here heard anything. We have agreed as you may know to help out on improvements on some of the infrastructure that has

nothing to do with our particular properties, but we obviously want to be good neighbors and make the overall package within the neighborhood look better than it does now. The cleaning will begin, as soon as we transfer the land, we will be cleaning up some of the trash that is on the site now and making that look nicer. Would like to get it started as soon as possible before the interest rates go up, so if you have any questions we are here to answer your questions.

Bruce Knippenberg: Do we have a presentation again or is this only if we have questions on it?

Marko Zlatic: This is the newest version of the plan.

Dick Messner points out the area where they may be some encroachment on the wetlands. Also states that there will be a bit more sound buffering along I-76. Also, the fire inspector will go and check out all of the locations of the hydrants and give their report.

Bruce Knippenberg: Have you come to any conclusion on the lighting area?

Pat Finley: We would like to cooperation with the Township on the type of lighting that you prefer. I guess there is an example of lighting up here on Kelso Drive that was mentioned. We looked at it and we like it and we would like to price them out. And see if we can add that to the site. There is some lighting out on the site right now, and I don't know if that is an example of what you would want us to do or not. We are open to your suggestions on that.

Dick Messner: That lighting district that is on Kelso Drive, there is six in now as phase 1 and phase 2 comes with the end of one of the subdivisions and there will be matching lights up there. Standard unit that we have gone with, fluted pole, sometimes tapered sometimes straight, globe type of luminary and it follows to get the ESIP programs for the subdivision. That would include your lighting person meeting with Ohio Edison, the Fiscal Officer and us to set up the preferred lighting district. And that would be assessed to the owners of the property.

Bruce Knippenberg: Now this Sanctuary View Drive would be the only road that the Township would be receiving?

Dick Messner: Everything will be private drives except Sanctuary View Drive. It would be built to county standards; depending on when you break ground determines whether you would be under new or old standards. We are about to ready to go to the County Commissioners with the new standards. There would be performance and maintenance bonds placed on the roads. Hopefully the inspections will be better by then and that road will be finished and the bonds will be up before the county turns it over to the township.

Bruce Knippenberg: Well we have had some issues there, even with the ones that are at county standards.

Dick Messner: All the rest will be private drives that do not come out of the county or the township. It is the responsibility of the property owners.

Bruce Knippenberg: Do we have any more questions about what we were given today or do we need some more time to discuss?

Dick Messner: Standards and conditions to be addressed dated for September 17.

Bruce Knippenberg: Are we completely satisfied with all of the setbacks?

Dick Messner: The only question we had was that we did find a couple spots on the 506 Environmental where it was 20 feet rather than 25 feet. If it is in that one parking area on it, there are some other areas on it that is laid out as 'bank parking' that could be rearranged. To encroach on that 40 feet, remember we did it for Rubbermaid, as long as we don't encroach more than a couple feet on it. I don't think it is a big problem. The 25 foot is a no-no and we are not even close that 25 feet. So to do more into that area of 40 feet doesn't, at least from our point of view and our department, we have no problem. We have done it before.

Pat Finley: I will just note that we are way under the wetlands disturbance number of half an acre. So there is minimum disturbance. We have tried to work everything around it, as much as we could.

Dick Messner: The other area the architects will be working on that has affected the cut down in the number of units is the critical natural areas. That again is part of the Section 506 Environmental which is the difference in heights and elevations. That is being addressed, whether it meets the requirements, we have to wait to hear back from what the county stated. That slope is 18% and up to 27%.

Bruce Knippenberg: So everything will be 24 foot wide, all the private drives?

Dick Messner: I think, Mr. Chairman, it would be wise to go point to point on this and get an agreement for each one. Either from this chair or you can do it?

Bruce Knippenberg: You can do it. Go ahead.

Dick Messner: The bullet points we have submitted to the Board of Zoning Appeals and that if the applicant agrees for conditional approval it is what we have recommended for their consideration.

EXHIBIT A:

- Private Drives: Finished, 24 Feet Wide, Inverted-Crown.
- Setbacks: 25 feet from Private Drives to building, Minimum of 25 feet for Fire Break as required by Brimfield Fire Department.
- 35 Feet Perimeter Setback from existing parcels and contiguous properties. (All the way around the whole property).
- Buffering and Landscaping as required from existing parcels and interstate 76.
- Parking: 3 spaces per Two-bedroom unit / 1.5 spaces per One-bedroom unit.
- Each Apartment Complex to stand alone for parking. (Luxury apartments will have 2-car garages and 2-spaces in the drive, total of four. This count cannot be carried over to the garden style apartments parking count and each complex will be separate in the count of parking spaces required).
- Portage County approval of: The public road (Sanctuary View Drive), Storm Water Management Systems, All EPA Requirements, Regional Planning Report received by Township.
- EPA Wetlands setback protection and subject to Section 506 Brimfield Zoning Resolution.
- Front setback 100 feet from Sanctuary View Drive right-of-way.
- Luxury Apartments – All apartments to be two-bedroom units with two-car garages.
- Garden Apartments – Meet Brimfield Zoning Resolution height requirements; parking and ADA parking, and garages evenly spaced.
- Luxury and Garden Apartments – parking requirements to stand alone.
- Lighting District – established and put into place by means of the applicant, Ohio Edison and Brimfield Township Fiscal Officer, John Dalziel and Brimfield Township Zoning Department.
- Variance
 - Excess of six units per acre was calculated to 5.37 units per acre based on the project number area of 66.56 acres. Not the construction area because it is the total project area taken in the open space and so forth. No need for a variance.
 - Section 506 Brimfield Zoning Resolution 40/25 EPA requirements.

END OF EXHIBIT A

Scot Etling: Dick who is responsible for the maintenance on that light poles, or changing a light bulb?

Dick Messner: If it goes on an ESIP Program, which all subdivisions are on, we get a usage factor from Ohio Edison when it is setup and it goes on an assessment on the real estate taxes. It would appear just like your storm water assessments and so forth and every three years the fiscal office reviews it. If someone hits the pole or knocks the light out, it is pulled out of the assessments.

Scot Etling: So basically it would be the Township changing light bulbs and such?

Dick Messner: It is usually Ohio Edison. So the work is farmed out, but it is paid for by the assessments. One of the questions that have come up and you know is going to come up because of the situation of the other three condos sections, is the finishing of the private drives. If the phases would not be finished, and I know you and I, Pat, talked the other day about it, is that as you phase this in that you would do the finished product of that phase. So if you build three apartments and for some reason there is a delay to put in three more in that phase, you would finish that phase off. So that you do not have a situation like there is down at Creekside or the other ones.

Pat Finley: What we would rather do is, if you feel more comfortable, is reserve the cash so that we don't have to drive construction vehicles over the newly completed finished coat.

Dick Messner: That is going to be part of our new regulations.

Pat Finley: Yea, I really don't have a problem with that. The phases will be moving, hopefully at a pace that it won't make that much different that there is money sitting in an account.

Dick Messner: The other question that came up would be, this again, we have no legal matters in this Board members, but there has been constant talk since day one a commitment of helping the existing subdivision parcels and condos. The applicant, Pat in particular, has talked about their commitment at every one of our meetings, they would show as far as helping out the existing owners was for every dollar they would throw in an extra 25 cent or something similar to that and where possible they would bring a builder in to build a house or detached condo. I

think that has been since day one. Legalities would be worked out by your attorneys and the HOA's attorneys. And any other question you guys might have, that we might have missed.

Bruce Knippenberg: In the commitment that you have made to the existing subdivision, you are talking about any of the open land that you are buying, you would be giving them for every \$1.00 you would be giving \$1.25, until it is sold.

Pat Finley: The intention is to that the infusion that would have otherwise occurred as the units were taken down, or the streets are put in, there is some type of assessment within the Association documents, and if we were going to contribute a dollar, we would otherwise contribute a buck and a quarter; that 25 cents being earmarked for potholes that might be in the other part of the subdivision that have nothing to do with our units. I really don't know what it amounts to, we will have to do some calculations when we do the estimates. We have actually gone out and ask for estimates to do some work, but the scope of work is somewhat difficult to define because the HOA President are going to have to determine that. I think we requested from them, to let us know what it is they are expecting. I have also said all along that we are not going to be able to solve all their problems but we can certainly do better than anyone else, especially if the subdivision was parceled out to one buyer over here and another over there and etc. There wouldn't be any inputs or worse yet 80 buyers. So that is something that we could contribute by doing the entire package all at once and getting the approvals all at once.

Bruce Knippenberg: Right. And then the clean-up, is the clean-up just in your area or are you going to be assisting the clean-up of some of the areas that aren't yours?

Pat Finley: Anything that we own, we will clean-up. We are not really aware of what there might be in areas that somebody else owns, and whether we could even get access to that land, if it is an association land and we are there with a dump truck throwing old couches in it, then we just as soon clean-up those areas too if we have to get into those areas permission.

Bruce Knippenberg: I know there is a lot of open space that needs cleaned and may or may not be part of your properties.

Pat Finley: We would like to clean it all up and again if it is part of the associations there shouldn't be a problem to do that. It doesn't do us any good to have apartments for rent or homes for sale with old couches in the distant backyard.

Bruce Knippenberg: Ok, do we have any other questions or concerns? Ok, as Mr. Messner went down the list, you agree to everything on the list?

Pat Finley: Yes, we do.

Cheryl Rueschman: I'm just glad that as minimum as it might sound to you the people that live there that left here last talked about the traffic. So you have addressed that and more with implantation.

Pat Finley: Yes.

Bruce Knippenberg: Speaking of the traffic, did they ever get anything out of the school board once the road goes through?

Wendi O'Neal: My understanding is that they did confirm bus pickup.

Pat Finley: My third party understanding is that they are ok. There was some real concern which I could understand that.

Bruce Knippenberg: There was some major concern in the beginning; if the road went through they would no longer qualify for busing.

MOTION#2014-0039

A motion is made by **Vince Murdocco** to approve the Conditional Permit for Multi Family Apartments for Omni Property Companies, 26110 Emery Road, Ste 250, Cleveland, Ohio 44128 provided that the conditions agreed upon previously stated Exhibit A are met, seconded by **Scot Etling**. Motion carries.

AUDIENCE QUESTIONS:

OLD BUSINESS:

NEW BUSINESS:

GOOD OF THE ORDER:

Dick Messner: Walden Pointe has asked, every year, they haven't done anything down there in years. So what happens today? We get an application for a building for a new house down there. Every year for these subdivisions for these low peaks we would get letters asking for a one year extension of time on either phases or the subdivision. Normally we would go about three years on these things but with the way the economic conditions were we just carrying them through. Regional Planning received a letter from Walden Pointe asking for a one year extension and it was granted on it. I told Regional Planning that from some of the situations that we have been looking at here, Cranberry Creek one, is that I'm not so sure that we want to go more than three years anymore. Walden Pointe, Phase I ok, Phase II we haven't even seen anything on Phase II except back in 2000, when first things came through. That is 14 years ago. Again I was going to bring to you to see if we would deny the extension. Well long and behold the gal that handles all the Ryan Homes stuff walks in and hands us a new house for Walden Pointe. This house is in Phase I. Phase II, I think from the Township's perspective we want to see Phase II start from scratch and resubmitted.

Scot Etling: I agree.

Bruce Knippenberg: I have kind of been feeling that way, there for a while like you said during the financial situations were pretty rough for a while and that made sense. One aspect we have that hotel down here that is not going to be there anymore and we were fortunate that they lost track of time. And we were basically able to get rid of the hotel on that ground alone so. And even something like this, had someone else come in and push for their eleven hundred units which is another good reason to.

MOTION#2014-0040

A motion is made by **Scot Etling** to deny further extension of Walden Pointe Sub Division preliminary plan approval for Phase II, it is in the best interest of Brimfield Township to have the developer resubmit a new application for conditional approval and permit at such time at Phase II is ready to proceed. Phase I may continue. The motion was seconded by **Vince Murdocco**. Motion carries.

SET NEXT MEETING:

Next meeting is scheduled for Wednesday, October 15, 2014 at 7:00 PM.

ADJOURN:

A motion was made by **Scot Etling** to adjourn the September 17, 2014 Board of Zoning Appeals meeting, and was seconded by **Ed Shutty** at 8:00 PM. Motion carries.

Chairman Bruce Knippenberg

Vice Lisa Cotten

Scot Etling

Vince Murdocco

Ed Shutty

Secretary Wendi O'Neal

Alternate: Cheryl Rueschman