

BRIMFIELD TOWNSHIP ZONING COMMISSION

Held _____ 20_____

BRIMFIELD TOWNSHIP ZONING COMMISSION

REGULAR PUBLIC MEETING

MINUTES of ~~November 12~~, 2015 at 7:00 PM

WNO Amended corrections December

Brimfield Town Hall Meeting Room – 1333 Tallmadge Road, Kent

Present: Chairman Ron Jones V.P. Gary Rodd Debbie Darlas
William Kremer

Alternates: Tom Sargent Nicholas Coia

Absent: Terri Reed

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

Public Present: NONE

The Zoning Commission is called to order by Chairman **Ron Jones**, at 7:02 PM on Thursday, December 10, 2015 at the Brimfield Township Town Hall.

Roll call:

Darlas: Here **Jones:** Here **Kremer:** Here **Reed:** Absent
Rodd: Here **Sargent:** Here **Coia:** Here

MOTION #2015-062

William Kremer makes a motion to accept the Agenda as presented and was seconded by **Debbie Darlas**. Motion passes unanimously.

MOTION #2015-063

A motion is made by **Gary Rodd** to approve the minutes of the previous August 13, 2015, September 9, 2015, Public Hearing October 8, 2015, October 8, 2015, November 12, 2015 Brimfield Township Zoning Commission Regular Scheduled Meeting, with a seconded from **William Kremer**. Motion passes unanimously.

PUBLIC COMMENTS: NONE

OLD BUSINESS:

NEW BUSINESS:

Work Session,
Shipping and storage containers definition

Dick Messner: Notes that this meeting has been dually advertised. Also requests moving to shipping and storage containers first and moving to the work session second.

Ron Jones: Okay.

Wendi O’Neal: requests that the Board table shipping and storage container definitions until the January meeting.

Ron Jones: Okay, so the Board will further discuss the definition at the January meeting. Moving on to the work session part of the meeting.

Dick Messner: Okay, a few things have come up since the last meeting and I want to bring it to the Board’s attention. In your packet, you have what we submitted to the Board of Directors of the Brimfield Tallmadge JEDD. Also within your packets are the sections within the contract between Brimfield and Tallmadge as to different areas of the JEDD. Both eludes to that any retail, commercial or industrial district that is submitted in one what, way, shape or form for redirection back to residential to is go before city council and township trustees for their

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approvals before any rezoning would take place. It implies that to start the process you would take that information to the Board of Directors of the JEDD and get the feedback from them, and see what their thinking is and have them forward it to get an indication of their recommendations to the both elected parties. And then start the rezoning process. The idea there is to save valuable time of the zoning commission and also the money of applications and so forth from the applicants. In the final analyzes the JEDD Board of Directors reversed it and suggested that it would come back to the zoning commission, to have the zoning commission start the process of the rezoning, do the discussions, and the debates, and reach the conclusions, and forward those conclusions to the Township Trustees for action to send it back to the JEDD Board. The JEDD Board would then make their recommendations, so that you have that intermediate step.

Ron Jones: Okay, so any action or rezoning would we have to send that to Regional Planning before it would go further?

Dick Messner: Not in this, it would be in the final stages with the Trustees and Councils as to allow or not allow.

Ron Jones: So basically any discussion or decision that we would come to this evening

Dick Messner: It would not be this evening; it will probably be here for two or three discussions.

Ron Jones: Okay.

Dick Messner: It's unique. It's the first time that we have had it in either of our JEDDs. In fact it is unique to everybody. Nobody has gone through this process before or at least around this area on this thing. And so it's kind of unique and everybody is feeling their ways on it. So the first letter that you got, that we sent with the information to the Board is pretty much self-explanatory. The request of five property owners to rezone five parcels from heavy-industrial to R-2 or other residential. Find attached request for property owners. And the five properties total to 16.8 acres. Four of those properties are 1.5 or 1.1 and the largest is 10.79 acres. The properties are located on Old Forge Road just west of Sunnybrook Road; on the north side of the road. The south side of the road is split by R-1 low density residential. There is no center water or sanitary sewer available. And the request of the change of the Tallmadge JEDD Section Five and Section Seven for contributions and services which we sent over there. Their debate, as I mentioned sent back and wanted the Board to look at it, discuss it, debate it, and come up with the Board's recommendations and start the process. Then give the recommendations back which we would send back over the JEDD. Okay, if you look at the signatures and you look at the map and so forth that was attached to it, two of the parcels that are attached to it are two of our Board members. It brings up a situation of conflict of interest of working with the Board. And that brings up a couple of questions. Number one: Is that any action that would be taken by this Board would be is that the two Board members would be recused which they could not participate in any action that the Board would take. The second question that would come up and I have asked for a legal opinion on this is, is would the two Board members still be able to participate in discusses and debates as to pros and cons and so forth on this. I think I know the answer but I want a legal opinion before we say anything on it. So that would bring it down to where we have five members and one alternate, so we are down to four people that would be making any decisions or any recommendations on it. So first and for most that has to be determined before we move any further, or in my opinion before you do any serious discuss about it. And hopefully by next week, and definitely by the next meeting, the organizational meeting we will have a legal opinion on it. Wendi put together a power point which is pretty much what you are looking at. There was some questions that came up. Bill was good enough to come in (B-T JEDD Meeting) from his perspective it goes back on one particular instance and you have a copy of a letter from the person that has the ten (10) acres on this thing. And he has brought up some questions particularly in the letter that we received today on it. Somebody dated it 12-9, I received it 12-12 and I would like you to look at that letter.

Wendi O'Neal states that the Board does not have that letter because the property owner wanted to turn it in with the application.

Dick Messner: Okay. I want to read this letter because I would like to make some comments on it: "To whom it may concerns, JEDD and Brimfield Zoning

I, Jeff Thomas, of 497 Old Forge Rd had my property along with four other adjoining properties rezoned to residential so I could build my house on 4/1/1986. The other properties already had houses on them. We have now found out that Brimfield – on their own rezoned these 5 properties to heavy industrial again with no knowledge to the 5 property owners- this is illegal. We only found out when one property owner tried to re-finance for lower interest rate. They

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Held ~~were denied due to the zoning of heavy industrial. Banks do not want to loan money on property not zoned right and it devalues the property.~~ ²⁰

Brimfield conveniently has no paperwork of the rezoning- but we do. This is typical practice of past zoning of Brimfield- do what they want at a citizen's expense. We paid in 1986 to right this zoning and now they want us to pay again to right their wrong. This needs to stop and be made right – you can be the first step in doing so.

We do not want to but will have no choice but to take legal action if this is not corrected.

(Signed) Jeff Thomas 12/7/15” [Exhibit A attached in the official minute book].

Dick Messner: REPLY: Dick Messner, Brimfield Township Zoning Administrator regardless of what happened prior to June 24, 2004 at which date after all due process and two and a half years of meetings of citizens, Zoning Commissions, Regional Planning Corporation, Home Builders Association and Zoning Department and volunteers in the two and a half year period under numerous open public hearings all dually advertised Brimfield Township Zoning Commission submitted recommendations to submitted to the Brimfield Township Trustees a complete packet to redo the entire township of the zoning resolution going from four (4) districts to fourteen (14) zoning districts. The packet was sent to the Brimfield Township Trustees under due process and fully advertising as specified by the Ohio Revised Code, had their public hearings and accepted the recommendations for the change to the new zoning resolution. In the thirty (30) days after the acceptance of the Brimfield Township Trustees and no challenges per law made; on June 24, 2004 made the Brimfield Township Zoning Resolution as it stands has become the dually and legal Zoning Resolution for the entire township. **END OF REBUTTIAL**

I bring this to your attention for a couple of reasons the implications in the letter is that somewhere along the line there was either collusion or there was some areas perceived or not conceived of undertakings that were not in full compliance of the Ohio Revised Code. This department cannot speak or direct or nor can the Zoning Commission speak as to what was prior to the 2004 adoption of the Brimfield Township Zoning Resolution. The question about the rates being charged on it, again what happened prior to the 2004 acknowledgement and acceptance of the code is prior and has no effect on the legal operation of application and fully comply with the Township Zoning Resolution on this thing. It is the thinking of the Zoning Inspector, after reviewing 19 years with Regional Planning, 14.5 years with Brimfield Township and looking at all townships over that period of time what happens when deviation are made to the approved and legal code. In one instance in one township, because of deviation to the code the citizens rose and threw out the zoning code. In other instances there were areas of where trustees and zoning departments were changed over. It is the opinion to maintain the consistence the integrity and honesty of the zoning department is the recommendation of the zoning administrator that procedures follow past practices to maintain the honesty and integrity of this department, of the Zoning Commission and the Brimfield Township Trustees. **END OF CONVERSATION OF THE ZONING ADMINISTRATOR**

William Kremer: So having said that, what are you saying?

Dick Messner: What I am saying is that if we deviate it is going to have a perception, okay, of what has happened to other townships; that favoritism could be shown. Or areas of influence of other parties to elected officials could be shown.

William Kremer: And here is what I think should happen then, the two members that are here tonight, that own properties area should respectfully remove themselves from this discussion, and not be a part of the discussion or the voting what so ever. Let the balance of members do what is best for Brimfield Township and leave it at that.

Debbie Darlas: Then we would be here as the public.

Gary Rodd: There will be public hearings.

William Kremer: I think you have every right to be here as public but not on the board.

Gary Rodd: When there is a public hearing.

Debbie Darlas: When there is a public hearing?

William Kremer: But not on the Board.

Debbie Darlas: And that is fine that we don't get to vote, but I would like to say something.

Dick is there anyone that you have waived any charges for that came in?

Dick Messner: Never.

Debbie Darlas: Rhodes? Never?

Dick Messner: Never. I will take it one step further and I am fully insulted and highly pissed off because of the insinuation that anybody makes. I have gone out where I needed a thirty dollar electric connection tie in on vinyl to bring out an electrical connection on vinyl siding. I went out and got the zoning permit which I paid for and a building permit. I will guarantee you

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~~that nobody has done that. I have done work on my roof, and my deck and I have gone out of my way to get permits.~~ ²⁰

Debbie Darlas: Rhodes came in here and he said whatever fees I need to pay I will pay and you said that you don't have to pay any fees because we are cleaning the books. That is what you said to him. I was here when you said that.

Dick Messner: He paid everything in the book. The books are wide open and I deny it. And I am insulted and you are attacking my integrity, and honesty and I am sorry.

Debbie Darlas: Well I would like to see that. I'm insulted that you had said that I am corrupt. Because I am not corrupt.

Dick Messner: I am not saying that you are corrupt.

Debbie Darlas: With that 400 dollar fee, that fee is not from me, Jeff and Marie Thomas have paid 500 dollar fee and went through the hoops to get this property rezoned. I was a renter. They rezoned, the township rezoned it for them. They went through Steve Hutkins and whoever with Zoning Appeals to get the five properties rezoned. They did that. I was a renter. Those five properties were rezoned residential and then now they are heavy industrial. And it is not right. They need to go back to residential. They are the ones that are putting in the request.

Dick Messner: That's what the application is for.

Debbie Darlas: But to say that, and you're right but they paid the 500 dollar fee for the application fee.

Dick Messner: In 1986.

Debbie Darlas: Yes they did. He showed you the papers yesterday.

Dick Messner: I bought tickets to the Indians game in 86 and if I didn't use them can I go there and use them today?

Debbie Darlas: He paid to have the properties rezoned. Your Indian tickets have nothing to do with rezoning. He paid for it.

Dick Messner: What happened prior to 2004 that's due past.

Debbie Darlas: They never got any notice or anything like that. None of the five property owners got any notice about the rezoning.

Gary Rodd: Before we go any further, it's like Bill said, and I'm not taking any sides for anything, you two should probably excuse yourselves from this before it gets to be a heated debate and there are too many things discussed between everybody.

Debbie Darlas: Well I just want it on record that I am not corrupt and that 400 dollar fee, Mike Kostensky is handling things. So for you say that I'm corrupt, I'm not.

Dick Messner: I didn't say

Gary Rodd: Okay, we don't want to go any farther.

Debbie Darlas: I just wanted it on record, because he wanted it on record, I do to.

Ron Jones: We are not going to get into name calling or anything like that.

Debbie Darlas: But you did. You said...

Dick Messner: Let's forget it.

William Kremer: Okay, time-out. I said here and volunteered my time and never got paid one penny, not one penny for two and a half years.

Ron Jones: Yea, we both did.

William Kremer: And you don't know how many times I commented, "Why doesn't anybody else come to these meetings? This really important. It is being advertised every month, sometimes two or three times a month and nobody comes. You know, I came and Ron came. But we didn't do this because we felt we needed paid, we just did it because we felt that we had valuable input that we could add to our community, which is where I live and plan on dying here. So I get that I volunteered my time and that's it. And it is very frustrating that people don't come in, don't come to a meeting, just like the meeting tonight and nobody ever attends and then they stand up and bitch because I wasn't told. Well you know I'm sorry you got to get into your car and come to a few meetings once in a while.

Ron Jones: And everything that, you know everything we do is publicized.

Debbie Darlas: A lot of people don't read papers. A lot don't read papers anymore.

Tom Sargent: So I have no problem excluding myself from the voting or anything like that.

Debbie Darlas: I don't either.

Tom Sargent: The only thing that I really care about is that because I trust you guys, I believe that you guys have integrity so I'm not worried about that. And I am open to hearing both sides of the coin, is there negative/positive ramifications? The only thing that I would ask that everybody understand why we are here. Why we are discussing this in the first place and I would glad to go over those details, to outline it. But going back over the years when I bought

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Held by property in 1980 it was residential. Sometime after that, between then and 1986 it was rezoned to industrial. I was never notified. I'm sorry if I don't ever look at the paper. I don't, it's like I don't have time. I never thought that I had to protect myself and read the classified section every night to make sure that somebody is not going to rezone my property. I was pretty ignorant of that; I was 20 something years old. I was told there was letters sent out. But none of the five property owners ever recalled seeing a letter, so when I was made know that we were rezoned industrial was in 1985 or 86 when Jeff asked if I pay the rezoning fee would you rezone to residential? And I laughed at him, I said I am residential. He said no you are industrial. So anyways that is what started it. So Jeff pays for it, and then several years later the same thing happens again.

William Kremer: And prior to 2000 whether you were zoned industrial, commercial, whatever it was, the underlining guidelines on mortgages were not what they are today.

Tom Sargent: Right.

William Kremer: You know when you look at what the underwriting guidelines are today, and this started 1999 with the changes in the banking laws and then after 9/11 there was other changes. And now there are other changes that went into effect in September of 2010 and most people haven't really had the impact placed upon them by what zoning can do to them by them having the ability to finance a property. Today trying to finance to different types of properties is an absolute nightmare in America. And this isn't just Brimfield Township this is all over the country. If you have a condominium and you are trying to sell it, you better have someone with 30% down go into a local bank where they have lots of money and good credit where the terms are not that important to them, otherwise you are going to have a really hard time. And not because of the buyer wars but because of the underwriting guidelines are for condominium association guidelines and rules and what has to be in the condominium bylaws; its become really ugly. And then real residential properties that are not in a residential zoning district, underwriters simply don't want them.

Tom Sargent: Well that's what we ran into. We were able to get refinancing but not conventional so the comment from the banker, was HomeTown Bank, called me and said you know I didn't think that this was going to be a big deal, but apparently it is. Now to gain perspective of this, you know I sit here and look at this zoning map and over the last couple years just trying to get my arms around zoning, I haven't really focused on my own property at all. And it never really occurred to me that we were industrial. He called me one day, and I said can you call my wife and give her the information because I'm at work. So he did and she calls me back and says that you understand that we cannot get a conventional loan because we are industrial? And it was like the light went off, and I happened to be home when she called; so I went back and got my book and looked, son of a gun, it didn't even dawn on me.

Debbie Darlas: Yea me either.

Tom Sargent: So what he said to me was that look your credit is good so we could underwrite the loan at the bank but it is not a conventional loan and it is not a fixed rate; it's an arm. Because Sally Mae, Freddy Mac, and none of them will underwrite, and I have been on this track for about three years to get re-financed on my house. And he said your problem is that, you guys said you want to move in five years, you are not going to find a buyer. Because what is going to happen is like you said, you are going to be dealing with people that are not going to borrow money, they are going to pay cash then your value is going to substantially drop. So again the whole reason we are here is to look at those kinds of things and say, Whoa, wait a minute.

William Kremer: And in 2002, 2003, and 2004 when the zoning code is coming into effect those underwriting guidelines did not exist at that time. But we didn't have the banking crash of 2007-2008 which created a lot of these new underwriting guidelines. And all the government is trying to do is ensure the banks don't have another belly flop because there won't be any tolerance for any, or another failure so they have become very tough.

Tom Sargent: The long and short of it is, there are two separate issues. One is we want to get rezoned back to residential so that we have some say in what we can do with our homes, if we could conventional loans it probably wouldn't be that big of any issue. I mean years ago you bought farm land and nobody cared, you know, they would want it. The banker and I had this discuss, its saying that basically everything you said. So the other issue is, there is that curiosity and that is why everybody is a little unraveled a little bit, like Jeff is upset and stuff like that because you know you don't understand, like "how did I get here?" You just don't understand. And I think a lot of times sometimes things are said, and we just have to calm down and let's take care of one thing first and then maybe visit well how did we get here or how do we keep from going back here again? So that these things don't happen. As a member of Brimfield

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~~Held~~ Township I don't want people to be surprised and I know you can only do so much and I think, ²⁰ honestly we could do a little more, a registered letter which we do send now for these kinds of things; I would have been forced to know what was going on. But I can tell you that in the spring time I will see letters and stuff in the ditch when the snow melts because they don't all make it into my mail box. Any ways that is why we are here.

William Kremer: Your mailman is the same as my mailman and I got a check and they sent it back because it was 2306 instead of 3206 Woods Trail, which there is no 3206 and it had my name, but they sent it back anyway and I said thank you very much, Merry Christmas!

Dick Messner: I think the situation is a very unique situation. Starting with the JEDD and back logging to get the member of this commission involved on it. I think the situation comes down to the discussions and debates in the future starting after the application has been received is the discussion from industrial to what options? And if you look you will have to look at the area requirements of the existing houses, frontage, and you will have to look if they are duplexes, single family or multi-family. And if you move in that direction you will have to come up with not only a rezone but what type of a rezone on it. And here again as all of you know, with a zoning change you cannot go from a non-conforming lot to a non-conforming lot on a rezone; it has to conform. The zoning code and by the Revised Code, so Mr. Chairman that is what the Zoning Commission will have to contend with on their discussions. Here are a lot of discussions going on, good information is coming out in the meeting and what was just said should be repeated when it's the public hearing time. As far as contact with people, you guys know by now, if there are ten parcels or less by code all people being contiguous have to be notified which we do all of the time on it. Even in some instances we have sent them out for more than ten properties on it. For ten parcels and over in which the major change in 2004 included every parcel in the township which was over a couple thousand and the law was followed on it by going to exact as prescribed by the Ohio Revised Code on this thing. I think that is the two or three areas the Zoning Commission has to contend with. Will try and get you a ruling as far as what I mentioned to you about the Prosecutors office and will try and get that emailed to you before the next organizational meeting. That will be your organizational meeting, first on the agenda.

Ron Jones: Okay, so what you are suggesting is that we table this until we get the opinion from the prosecutor? Do you want to go into discussion before?

Dick Messner: When the application is received. It is the same as we always do.

Ron Jones: Then we will discuss it.

Dick Messner: We are not going to deviate. You have to submit the month prior to get it on the next month's agenda. So anything that comes in between now and the end of December it will go on January agenda. If it comes January 2nd or 3rd, it will go on February agenda. This is the procedure we have followed for years on this thing. The application has to be submitted.

Ron Jones: Okay.

Nicholas Coia: So at this point we are just waiting for an application.

Ron Jones: Right. End the work session for this evening and discuss this after the application is submitted.

Gary Rodd: I just want to state one thing. We are not picking at anybody. It is a job just like anything else. Whatever way it comes out we have to look at the best for everybody. Just so everybody knows, we are not trying to be, you all have been here before and done it yourself so you all know what is going on.

Debbie Darlas: Right.

Ron Jones: No matter how we go with it, it goes ends up going back to the JEDD?

Dick Messner: Normal procedure except this in-between deal, quite honestly I think the JEDD Board threw, at least in my opinion that they should have said, okay if you want to go through the process, go through the process and then they would say we will listen to it and we could get an idea. It could go through this whole process and go to city council and they could say yes or no and then it is dead.

Ron Jones: I guess, one of the things I am getting at, before we get buried in this thing, do the application, go to the JEDD Board and see if..

Dick Messner: This is what the JEDD Board wanted. We have no choice; normal procedure.

Debbie Darlas: That's what they said we have to go through.

Ron Jones: There would be no sense getting through this if they are going to say no.

Dick Messner: It could go all through the steps and be shot down.

Gary Rodd: They are making us; we have no choice. Then the JEDD is going to decide what they are going to do. But if they weren't, and like you said this is very unique and I'm sure that

BEAUFORT, BRIMFIELD, BRIDGEVILLE, CHATHAM, GREENSBORO, HUNTERDON, JEFFERSON, MONROE, ORANGE, ROCKY HILL, WASHINGTON, WINDHAM, YORK

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is what they are thinking. That it is a very unique situation and they want to find out, our, as a Board feels about it and then they're going to discuss whatever they want and then it's either going to live or die. What we recommend doesn't mean is going to be.

Wendi O'Neal: They wanted the Commission to give an exact zoning district in other words, a recommendation of what residential zoning district.

Dick Messner: Take regular steps, except once making recommendations it has to be approved by Brimfield Township and City Council.

Ron Jones: Next meeting January 14, 2016

William Kremer asked for clarification on the 'shipping/storage' containers approved tonight and the definition.

GOOD OF THE ORDER:

Terri Lynn Reed resigned as a member of the Zoning Commission. Time she served was very well and offered unique position. Tom Sargent was approved by the Board of Township Trustees to replace the vacant position for the next full term.

Ron Jones: Do you have anybody in mind for the vacant alternate position?

Dick Messner: Any alternates have to be approved by the Board of Trustees.

Ron Jones: I understand, I would like to have someone as soon as possible with this upcoming application discuss since the Board will be down to four voting members, the fifth would be very helpful. I would like to have a full Board for this application.

Gary Rodd: If someone is sick, we are going to be in trouble.

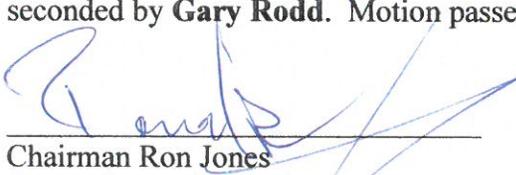
Dick Messner: If you know of someone that would be a good member; we don't want someone with their own agenda. If you know of anybody, have them send a brief resume over to the office.

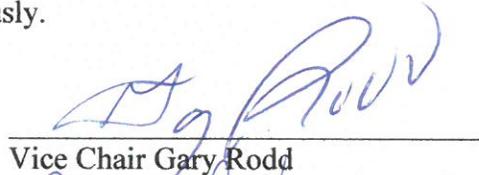
SET NEXT MEETING:

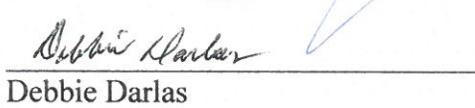
Thursday, January 14, 2016 at 7:00 PM is the next set scheduled meeting at the Township Town Hall.

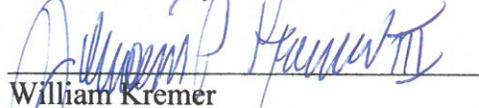
MOTION #2015-064

A motion was made by **William Kremer** to adjourn the December 10, 2015 at 8:45 PM, seconded by **Gary Rodd**. Motion passes unanimously.


Chairman Ron Jones


Vice Chair Gary Rodd


Debbie Darlas


William Kremer

Terri Reed


Secretary Wendi O'Neal


Alternate Tom Sargent

Alternate Nicholas Coia