

The special Tri-Board meeting of Newbury Township Trustees was called to order by Glen Quigley at 9:30 a.m., February 11, 2017, with Glen Quigley, Bill Skomrock, Jr. and Jan Blair present. All joined in the pledge of allegiance.

Mr. Quigley announced that as Marcia Mansfield was not available, Marge Hrabak would record the minutes.

Mr. Quigley welcomed all, introduced Kimya Matthews as a new BZA alternate member and asked all present to introduce themselves. Attendees present were: Kimya Matthews, Ed DeIuliis, Jerry Hudak, Mike Joyce, Tricia Hajma, Lou Tomsic, Chris Yaecker, Karen Endres, Mike Nelson, Margaret Avalon and Steve Boughner.

Mr. Skomrock introduced a county request confirming road inventory in Newbury. Jan Blair moved to approve the motion to accept as presented, that was seconded by Bill Skomrock and passed by unanimous vote.

Mike Joyce gave his report on open zoning court cases with a brief explanation of long outstanding problems of each:

Thomas on Sperry Road with a 4/15/17 compliance deadline,  
DeNardo on Burton Hts Blvd. denied, needs building permit and  
Roberta Ann on Munn Rd. scheduled for court end of February. Signs are posted as “Veterans Camping”, Mike was advised to request a sheriff’s deputy to accompany him on any visit on the property. Karen Endres reaffirmed the decade long struggle with Ms. Ann. Mr. Skomrock said the township and court issued multiple fines with no solution. Mr. Joyce said Ms. Ann claimed the court notice was served improperly. Ms. Blair said the township’s letter of complaint to the prosecutor was “not appreciated”.

Ms. Mathews asked whether a letter to the newspaper editor would be helpful?

Mr. Quigley responded that Newbury had received “one excuse after another” from the prosecutor – remarking that had this complaint been from Russell or Bainbridge, it would have been solved immediately.

Mr. Joyce asked for guidance on a request for leasing a property on a “rent-to-own” contract that was not covered in our zoning code.

Mr. Quigley addressed the ongoing problem whether accessory buildings claimed as agriculture needed a zoning permit – discussion continued under the broad definition of “agriculture”. Many insurance companies will not insure accessory buildings without a building/zoning permit. Karen Endres said it was up to the county auditor to assess the “agricultural value” that may impact the neighboring property values by 20 to 40%.

Mr. Quigley noted that the trustees have powers to correct violations but it involves a lengthy process. Chris Yaecker identified instances where trustee expenses imposed as \$170,000 in back taxes accumulate without sale repayment – no standard exists for sale or eviction and violators know “how to play the system”.

Mr. Quigley advised “treading lightly” on these R. Ann issues including the culvert ditch differing pipe sizes for road department installation.

Mr. Tomsic reported on current BZA outstanding/overdue Conditional Uses that require a 5 year renewal BZA hearing. Discussion then centered on how the OLD CU list should be addressed, many cases no longer in business, or if a NEW 5 year renewal CU standard should commence that is not capricious or arbitrary. Mr. Tomsic questioned whether some CU's could be renewed as they never were and are not now listed as "permitted uses". He asked whose job it was to enforce these 82 outstanding CU cases? Mr. Quigley suggested asking the prosecutor to be present at any BZA hearing the Trustees will pay for a stenographer, if needed. Mr. Tomsic said that the Precious Cargo hearing was the BZA's biggest case.

Mike Joyce reported on the status of Dollar General: the EPA turned down the DG request, DG says they still want a Newbury location. Mr. Tomsic said that DG had several BZA hearings, had made significant plan changes that the BZA tried to accommodate but found DG too rigid wanting the "up-front location". The EPA concerns regarding the changing nature of the wetlands, the stream vs. drainage ditch definition and projected costs of mitigation are still to be resolved.

Ms. Matthews asked if it would help the trustees to circulate a survey in the newspaper – the cost of mailing too high. Ms. Endres suggested using the Knight Lines to survey the community response. Mr. Quigley reminded all that the township cannot by law collect money, sell, join in a circulation etc. – he suggested contacting Marcia Mansfield for full details.

Mr. Tomsic said he was glad to see that solar panels were now permitted. The roof snow load would be controlled by the Building Dept.

Mr. Joyce said he was concerned about the safety of the structures on the Roberta Ann property and the possibility of collapse of the partially completed barn. He said the animal hospital had run into other difficulties and is looking for another Newbury location – requiring another BZA hearing.

Mr. Quigley explained that Engineered Endeavors will be moving to a Burton Industrial Park; they were asked to leave by Kinetico who needs expansion space.

Jan Blair reported that Kinetico had been asked to develop a community industrial park on their rear acreage. Mr. Quigley said that Engineered Endeavors also favored this site as Newbury has no income tax. St. Gobain also wished to stay in Newbury but had problems with electricity interruption – the sub-station upgrades should correct this problem but after St. Gobain had moved. Newbury school would be adversely impacted by any tax abatement.

Jerry Hudak stated that the Zoning Commission had only 1 legal member – Mr. Quigley said the trustees would formalize the re-appointments effective retroactively at their next meeting. Mr. Hudak asked that Margaret Avalon be appointed as a full ZC member. He asked what projects the trustees recommended the ZC work on next.

Ms. Endres recalled that BZA and ZC members had attended each other's meetings and concluded that no repetitive variance hearings indicated any needed ZC change.

Mr. Tomsic stated that progressive zoning now permitted residential houses in all districts except parks. Mr. Joyce asked if this was intended. He agreed that reducing the size and number of parking spaces is warranted as well as driveway widths now wider than state commercial requirements.

Mr. Quigley agreed the ZC should adopt ODOT regulations for driveways. He said logic behind any action must be defensible – see ODOT highway use manual on the website. The Model Zoning is available on the prosecutor's website.

Mr. Quigley asked about the proposed changes reviewed with Dave Dietrich. Mr. Hudak was concerned how these massive changes should be presented. It was suggested that the simple format corrections be submitted separately from the changes of substance. Mr. Hudak said that auto sales are currently left out and questioned which district they belonged in. Ms. Avalon said she believed auto sales belonged in commercial, not industrial districts.

Mr. Quigley restated the amendment process: the ZC initiates the changes that are sent to the Planning Commission, reviewed at a ZC public hearing, then sent to the Trustees who accept/deny/revise at their public hearing – the circumstances differ case by case.

Mr. Hudak said the ZC needed more flexibility regarding “specifically listed” uses or more inclusive permitted Conditional Uses. Mr. Quigley explained the Judgment Entry (JE) process that allows the trustees to go beyond the zoning limitations with a legal settlement – not a zoning variance. Mr. Hudak asked whether the JE stays with the property vs. the CU that stays with the owner.

Mr. Tomsic said the BZA cannot tell the applicant about the JE but the Zoning Inspector could identify all options. Mr. Joyce explains the judge orders the applicant and trustees to work out an acceptable settlement that he confirms by court order. Mr. Quigley cited the example of Ralston/Cross Creek settlement against composting.

Ms. Avalon asked for the formatted ZC changes – available from the Planning Commission. She was told that any reference to “similar uses” was not permitted as the BZA could not create appropriate uses.

Mr. Tomsic asked Mr. Quigley if it is possible for the BZA to grant a Use Variance – yes, per unique property characteristics citing property next to the freeway as an example.

Mr. Boughner said it was impossible to list all the appropriate uses in the ZC.

Ms. Endres asked about continued education opportunities. Mr. Quigley said the township would only pay for objective training such as that given by the Township Assoc.

Mr. Quigley offered training sessions available to new board members, specifically the 3 hour on-line course offered by the Attorney General on sunshine and public hearing laws. He asked the ZC to work on the marijuana restrictions distributed by the Planning Commission with examples already adopted by Russell and Thompson Townships saying it was a stronger position to oppose marijuana than not. Copies of Zoning Law are available from the State.

Mr. Quigley said the Trustees could go beyond zoning citing noise control (Zeppe’s), junk motor vehicles and unsafe buildings. He asked whether trustees should expand the power of local government – what they hear is “you don’t do enough”. Mr. Boughner said zoning already does too much! Jerry Hudak said we should go back to the Green Book.

Ms. Matthews asked if zoning would be more effective if Newbury had a police department – no – now covered by the Sheriff’s Department.

Jerry Hudak said the prosecutor suggested adopting prohibited regulations governing medical marijuana.

Lou Tomsic queried Glen Quigley on administrative help and prosecutors enforcement specifically on junk cars – define: runs, moves, plated etc. Mr. Skomrock replied the

trustees can remove junk cars putting the cost on the tax duplicate with repayment uncertain.

Jan Blair reported on the upcoming events associated with the Newbury Bicentennial celebration spear headed by Carol Drabek. The Memorial Day Parade will begin the festivities; see listing of events including movies in the park and ice cream socials on June 9, 2017. Commemorative Calendars are for sale at Middlefield Bank for \$13 each. The Newbury Kiwanis is supporting the Bicentennial sale of banners to be hung from electric poles.

Mr. Quigley asked whether a community survey would support a single rubbish hauler to reduce the number of trucks on township roads. Survey costs and recycling center operations were discussed.

Mr. Quigley said the township is taking a street-light inventory with proposed new LED lights saving 50% of the lighting cost – projected as much as \$10,000 per year.

Mike Joyce asked whether updated zoning manuals were available. Mr. Quigley said a current copy was posted online. He will supply new zoning manuals to all who request them.

At 11.50 a.m. a motion was made to adjourn and passed by unanimous consent.

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Glen Quigley - Chairman

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William Skomrock, Jr.- Vice Chairman

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Jan Blair

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Marcia Mansfield – Fiscal Officer