



STAFF REPORT

OCRPC

Meeting Date: September 18, 2018

Zoning Commission

Meeting Date: October 3, 2018

Case #: ZC-2018-182
Applicant: Danbury Township

Request: **Request for Text Amendments** to Art.2, adding new definition #25 “Building Footprint” and amending definitions #70 “Floor Area” and #96 “Lot Coverage”. Article 5, Section 5.2.B clarifying parking standards when more than 50% of a structure is modified. Article 5, Section 5.5.7.C.i.e, remove reference to ‘reproduction value’ and replace with specific structural requirements for Nonconforming Signs. Article 7, Section 7.9, restructure entire section on Nonconforming Uses into like categories. Primary modifications include removing reference to ‘reproduction value’ and replace with floor area square footage requirements and to include a provision addressing the relocation of nonconforming structures.

DESCRIPTION:

At the advice of legal counsel and recent BZA cases, it became apparent that “Reproductive Value” in the zoning resolution was not clearly defined, nor is it a term commonly used in the construction business or appraisals. In an effort to elude any potential litigation over this, and after extensive discussion and research with the Zoning Commission, it was determined that referring to the square footage of the structure would be a better determining factor whether a nonconformity is lost because it provides a tangible number and not a subjective value.

AGENCY REVIEWS:

Ottawa County Regional Planning Commission (OCRPC) was forwarded the proposed amendments on September 6, 2018 and held a hearing on September 18, 2018. Attached is OCRPC’s decision letter recommending unanimous **Approval as Presented**.

A proposed amendment may be approved if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

A. **Text Amendments:**

- i. The proposed amendment will make the Resolution conform more closely with the Land Use Plan.
- ii. The proposed amendment will improve the public health, safety, or general welfare of Danbury Township.
- iii. The proposed amendment will clarify the intent of the Resolution.
- iv. The proposed amendment will better implement the intent of the Resolution.
- v. The proposed amendment will improve enforcement of the Resolution.

STAFF RECOMMENDATION:

None.

SUBMITTED BY:

Handwritten signature of Kathryn A. Dale in black ink.

Kathryn A. Dale, AICP
Danbury Township Zoning Inspector

Date Prepared: September 19, 2018



OTTAWA REGIONAL PLANNING COMMISSION

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September 19, 2018

Jodi Kopanski
364 N Florence Drive
Marblehead, Ohio 43440

RE: Danbury Township Text Amendments

Dear Ms. Kopanski:

At the regular meeting of the Ottawa Regional Planning Commission held on September 18, 2018 text amendments that were initiated by the Danbury Township Zoning Commission were heard. The Commission considered the following items in reaching its recommendation.

The text amendments were initiated by an application filed by Danbury Township Zoning Commission.

The text amendments propose to:

1. Make several changes to the zoning resolution which amend several sections to remove the term "reproductive value" and replace with specific structural requirements, these changes include:
2. Adding a definition for "Building Footprint" .
3. Editing the definition of "Floor Area" and "Lot Coverage.
4. Language regarding nonconformity including signs, was updated to remove the term "Reproductive Value" and add "Floor Area" and other structural components.

The Commission voted to recommend approval of the text amendments. Should you have any questions, please feel free to contact my office.

Sincerely,

Mark Messa
Director

Cc: Carolyn Adams
Kathryn Dale
Jeff Morgan
file

Article 2.0
Definitions

Article 2.0 Definitions

2.1 Construction of Language

2.2 Definitions

1. Accessory Use	Enterprise	87. Industrial Park	134. Recreational Camp
2. Adult Arcade	42. Community Sanitary Sewage Treatment System	88. Industrial Unit or Dwelling	135. Recreation Facility*
3. Adult Bookstore	43. Community Water Supply	89. Institution	136. Recreational Vehicle*
4. Adult Cabaret	44. Composting Facility	90. Junk Yard	137. Research Laboratories
5. Adult Health Club	45. Conditional Uses	91. Kennel	138. Resort
6. Adult Material	46. Condominium	92. Landing Strip	139. Restaurant
7. Adult Motion Picture Theater	47. Condominium Development	93. Limited Home Based Business	140. Riding Stable
8. Adult Oriented Sexual Business	48. Condominium Property	94. Loading Berth or Space	141. Roadside Stand
9. Agriculture	49. Condominium Unit	95. Lot	142. Rock Crusher
10. Airport	50. Condominium, Water Slip Unit	96. Lot Coverage	143. School
11. Alley	51. Continuing Care Retirement Community	97. Lot Frontage	144. Setback Line
12. Alteration, Structural	52. Contractor's Establishment	98. Lot, Minimum Area of	145. Sexual or Genital Area
13. Automotive Repair	53. Converse Condominium Development	99. Lot Measurements*	146. Sexually Oriented Business
14. Automotive Service Station	54. Conversion	100. Lot of Record	147. Sign*
15. Automotive, Manufactured Home, Recreational Vehicle, Marine, and Farm Implement Sales and Service	55. Crematory	101. Lot Types*	148. Shop
16. Automotive Wrecking	56. Cul-de-sac	102. Manufactured Home	149. Specified Anatomical Areas
17. Bar, Saloon, Tavern/Night Club	57. Curb Grade	103. Manufactured Home Park	150. Slaughter House
18. Basement	58. Density	104. Manufactured Home Subdivision	151. Specified Sexual Activities*
19. Beach	59. Drive-In Theater	105. Manufacturing, Heavy	152. Storage Area
20. Bed and Breakfast	60. Dwelling/Dwelling Unit	106. Manufacturing, Light	153. Story
21. Bottling Works	61. Dwelling/Multi-Family	107. Marina	154. Street
22. Buildable Area	62. Dwelling/One-Family	108. Massage	155. Structure
23. Building	63. Dwelling/Two-Family	109. Massage Establishment	156. Substantial Progress
24. Building, Community	64. Easement	110. Masseur or Masseuse	157. Swimming Pool
25. Building Footprint	65. Entertainment Facility	111. Medical Marijuana	158. Tavern/Night Club
26. Building Height	66. Family	112. Metal Stamping	159. Telecommunication Tower
27. Building Material Sales/Storage Yard	67. Fence	113. Mini-Warehouse	160. Temporary Building/Structure/Use
28. Building, Principal	68. Fishing Business	114. Motel/Hotel	161. Townhouse
29. Building Width	69. Flea Market	115. Non-Conforming Uses	162. Trailer Camp
30. Business	70. Floor Area	116. Nude or Nudity	163. Unnecessary Hardship
31. Business, General	71. Food Processing	117. Nursing Home	164. Use
32. Business, Neighborhood	72. Foundry	118. Nursery School	165. Variance
33. Business, Recreational	73. Game Room/Arcade	119. Nursery, Plant Materials or Greenhouse	166. Veterinary Clinic or Animal Hospital
34. Cabins, Cottages	74. Garage, Private	120. Open Space	167. Warehouse
35. Cemetery	75. Garage, Public	121. Park	168. Wholesale Business
36. Child Day Care Center	76. Garage, Service	122. Parking Area or Lot	169. Wind Farm, Small
37. Church	77. Golf Course	123. Parking Space, Off-Street	170. Windmill, High Impact
38. Club	78. Golf Driving Range	124. Personal Services	171. Windmill, Low Impact
39. Cluster Housing	79. Government Building	125. Planned Unit Development	172. Yard
40. Commercial	80. Grocery Store	126. Playground	173. Yard, Front
41. Commercial Amusement	81. Helipad/Heliport	127. Printing Shop/Publishing	174. Yard, Rear
	82. Historic Site	128. Professional Activities	175. Yard, Required Front
	83. Home Occupation	129. Propane Storage Facility	176. Yard, Required Rear
	84. Hospital	130. Public Community Facility	177. Yard, Required Side
	85. Hotel, Motel	131. Public Park	178. Yard, Side
	86. Indoor Theater	132. Quarrying	

*Multiple Definitions

67. **Fence.** A barrier intended to prevent intrusion or escape, or to mark a boundary; constructed of posts and wires, boards, metal, and/or plastic or similar durable material. Decorative structures not designed as barriers shall be excluded.
68. **Fishing Business.** An establishment primarily engaged in providing opportunity for fishing including the sale of related products.
69. **Flea Market.** An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.
70. **Floor Area.** The sum of the gross horizontal area of all floors of a building, measured as a square footage, from the exterior faces of exterior walls or from the center line of party or common walls separating two buildings., excluding basement areas and other areas not used for permanent occupancy or use. Calculation of **Floor area shall include:** only those areas used for living purposes; garages, carports, patios and other such areas should be excluded from said calculation.
- A. The area of attics when finished and habitable for residential, commercial, or industrial purposes with a valid certificate of occupancy; and
- B. Elevator shafts, stair wells, and closets on each floor; and
- C. Any covered, roofed-over space such as a garage or carport for off-street parking attached to the principal structure, including roofed enclosed or unenclosed porches, breezeways, patios, decks, interior balconies, and mezzanines.
- The following shall be excluded when calculating floor area:
- A. Attic space providing structural head room of less than 7 feet; and
- B. Basements or cellars
- C. Open, uncovered steps, terraces, patios, decks, balconies and porches; and
- D. Any portion of the building that would otherwise be included in the floor area but encroaches over a property line onto an adjacent parcel or road right-of-way.
71. **Food Processing.** The preparation, storage, or processing of food products including bakeries, dairies, canneries, or other similar businesses.
72. **Foundry.** An establishment employing the art, process or act of casting materials.
73. **Game Room/Arcade.** A room in which three (3) or more percentage games, such as pin ball, pool, video, computer and similar devices played on any mechanical or electronic device are located for use by the general public.
74. **Garage, Private.** An accessory building or a portion of a principal building used for the parking or storage of vehicles.
75. **Garage, Public.** A principal or accessory building other than a private garage used for the parking or storage of vehicles.
76. **Garage, Service.** Buildings and premises where motor vehicle accessories may be supplied and dispensed including motor vehicle repair, but excluding automotive wrecking.
77. **Golf Course.** A tract of land laid out for at least nine (9) holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse and shelter.
78. **Golf Driving Range.** A tract of land used for the practice hitting of golf balls.
79. **Government Building.** A building or structure, owned and/or operated, by a political subdivision.
80. **Grocery Store.** A retail store selling meat, fruit, vegetables, breads, dairy products, minor household supplies, beverages including beer and wine, and other foods, all for use or consumption off the premises.
81. **Helipad/Heliport.** A designated area on the ground or a structure rooftop where a helicopter can take off or land.
82. **Historic Site.** A structure or place of outstanding historical and cultural significance and designated as such by the county, state, or federal government.
83. **Home Occupation.** A home occupation is the less intensive form of home-based business where the occupation is conducted in a dwelling unit, by the occupant(s) of the dwelling, as a secondary use in connection with that dwelling and there is no visible activity occurring from the property. (See Also Limited Home Based Business)
84. **Hospital.** A facility or institution classified as a hospital under Section 3701.07 of the Ohio Revised Code providing inpatients diagnostic medical, obstetrical, psychiatric, rehabilitation care or surgical services for sick or injured persons primarily on an in-patient basis for a continuous period longer than twenty-four hours and including ancillary services for outpatient and emergency treatment, training, research, administration, and services to patients, employees, and visitors.

85. **Hotel/Motel.** Any structure with more than five (5) sleeping rooms, that are each approved through a valid certificate of occupancy issued by the building code official having jurisdiction and the state fire marshal, which is specifically constructed, kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered for pay to transient guests for a period of thirty (30) days or less and licensed through the State of Ohio Department of Commerce as a hotel or motel. "Hotel/Motel" does not include one and two-family dwelling units, multi-family dwelling units, condominiums, or other similar places of permanent personal residence, bed & breakfasts, lodging houses, resorts, or recreational camps. A hotel/motel that is owned, or to be owned in a condominium form of ownership must meet all requirements for a condominium development in Chapter 4 of the zoning resolution.
86. **Indoor Theater.** A building, or portion thereof, devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.
87. **Industrial Park.** A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics, and compatibility.
88. **Industrial Unit or Dwelling.** A constructed unit that is approved by the Ohio Department of Industrial Relations and meets the requirements of Section 4101:2-98 of the Ohio Basic Building Code. Verification of whether the unit is an industrial unit or dwelling as approved by the State of Ohio can be made by the Ottawa County Building Inspection Office.
89. **Institution.** A building occupied by a non-profit corporation or a non-profit organization.
90. **Junk Yard.** An establishment or place of business, which is maintained or operated for the purpose of storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard.
91. **Kennel.** Any lot or premises on which four (4) or more domesticated dogs and cats, more than four (4) months of age are housed, groomed, bred, boarded, trained, bought, or sold for commercial gain and which offers provisions for minor medical treatment.
92. **Landing Strip.** Any runway and necessary taxiway areas for the use of no more than two (2) aircraft that are privately owned and used exclusively for the landing of crop dusting and similar function aircraft.
93. **Limited Home Based Business.** A Limited Home Based Business is the more intensive form of a home occupation where the property owner works from the home, as a secondary use in connection with that dwelling, but where there may be clientele that visit the home. Examples include, but are not limited to, a piano or dance instructor, a teacher/tutor, a CPA, an architect, seamstress, notary public, or cake decorator.
94. **Loading Berth or Space.** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
95. **Lot.** A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
- A. A single lot of record;
 - B. A portion of a lot of record;
 - C. A combination of complete lots of record, of complete lots of record or portions of lots of records, or of portions of lots of record.
- Once declared, such uses shall be identified in the zoning permit and none of these lands shall be sold separately, unless all parcels created by said division meet the minimum zoning size requirements for the zoning district in which they occur.
96. **Lot Coverage.** The ratio of enclosed ~~the~~ ground floor area (**building footprint**) of all buildings, principal and accessory, on a lot to the horizontally projected area of the lot, expressed as a percentage.
97. **Lot Frontage.** The width of the lot at the street right-of-way. In cases where lots front on Lake Erie, its harbors, or the Sandusky Bay, the front yard may be regarded as that portion of the lot oriented towards the water and is then measured at the water's edge. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to the street or the waters of Lake Erie, where appropriate, shall be considered frontage, and yards shall be provided as indicated under "Yard" in this section and Article 5.

Article 5.0
Site Standards

Article 5.0 Site Standards

- 5.1 Accessory Buildings and Uses
- 5.2 Automobile Parking Requirements
- 5.3 Off-Street Truck Loading
- 5.4 Front Yard Requirements
- 5.5 Signs
- 5.6 Fences and Hedges
- 5.7 Corner Clearance
- 5.8 Swimming Pools
- 5.9 Storage of Boats and Trailers

Accessory Buildings and Structures	Districts												
	A	R-1	R-2	R-3	L	C-1	C-2	C-3	R-C	M-1	M-2	MHP	PUD
Accessory Buildings	P	P	P	P	P	P	P	P	P	P	P	P	P
Swimming Pools	P	P	P	P	P	P	P	NP	P	NP	NP	P	P
Signs	P	P	P	P	P	P	P	P	P	P	P	P	P
Fences	P	P	P	P	P	P	P	P	P	P	P	P	P

P—Permitted NP—Not Permitted

5.2 AUTOMOBILE PARKING REQUIREMENTS

1. Quantity. There shall be provided at the time of the erection or enlargement of any main building or structure the following off-street parking spaces, with a minimum area of two hundred (200) square feet per parking space with minimum dimensions of ten (10) feet wide by twenty (20) feet long, and with adequate provision made for ingress and egress to the parking spaces.
2. Rules:
 - A. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

- B. No building shall be enlarged, rebuilt, or structurally altered to the extent of more than a fifty (50) percent ~~addition in~~ **of the** floor area unless there shall be provided the total number of off-street parking spaces required for the original use and its enlargement.
- C. All parking spaces required herein shall be located on the same lot with the main use served except that spaces may be located within three hundred (300) feet of the lot line on which the main use is located provided a conditional use permit for the parking is approved by the Board of Zoning Appeals and the zoning district is the same as the main use.

Use	Minimum Number of Parking Spaces ^{EQ} (exclusive of driveways) per Unit of Measure
A. Residential	
i. Residential Dwelling	Two (2) for each dwelling and unit (<i>inclusive of driveways</i>)
B. Institutional	
i. Hospitals and Institutions	One (1) for each eight hundred (800) square feet of floor area
ii. Churches and Schools	One (1) for each three (3) seats in the main auditorium or assembly area.
iii. Clubs or lodge halls	One (1) for each three (3) members
C. Business and Industrial	
i. Boat Storage/Dockage	One (1) space for every one and one-half (1 1/2) boats stored or docked except for winter storage where one (1) for every ten (10) boats are stored
ii. Commercial Buildings	One (1) space for each two hundred (200) square feet of floor area
iii. Hotels, Motels, Cottages and Cabins	One (1) per unit plus one (1) for every two (2) employees
iv. Indoor Theaters	One (1) for every three (3) seats
v. Industrial	One (1) for every two (2) employed on the largest working shift
vi. Restaurant, Bar, Saloon, Tavern or Night Club	One (1) for every eighty (80) square feet of floor area

7. Nonconforming Signs

A. General Provisions

- i. Except as otherwise specifically provided, nothing in this section shall require the removal or discontinuance of a legal nonconforming signs.
- ii. A nonconforming sign shall not be altered, modified, rebuilt, enlarged, extended, or relocated, or reconstructed except:
 - a. When such alteration, modification or reconstruction would bring such sign into conformity with these regulations;
 - b. When the existing use has new ownership which results in a change in the name or logo of the use or business on the property, and such change complies with subsection "d" below;
 - c. When the space is reoccupied by a similar use and the new occupant requires no external building or site renovation, and such change complies with subsection "d" below;
 - d. Any alteration, modification or reconstruction permitted in this section shall be limited to the replacement of a sign panel, replacing individual letters and logos within the same structural casing or frame, or repainting a sign face, and does not permit changes to the structure, framing, erection or relocation of the sign unless such changes conform to subsection "a" above.
- iii. Temporary or portable signs shall not be designated a legal nonconforming sign. Portable signs altered to be made non-portable shall still be considered to be portable unless such sign receives a permit in accordance with the permanent, on-premises identification sign regulations.

- ### B. Determination of Legal Nonconformity.
- Existing signs that do not conform to the specific provisions of this Section may be eligible for the designation of a "legal nonconforming sign" provided that the sign was covered by a valid permit or variance, or complies with all applicable laws on the effective date of this Resolution.

C. Loss of Legal Nonconforming Status

- i. A legal nonconforming sign loses the legal nonconforming designation if:
 - a. The sign is relocated;
 - b. The sign is replaced;
 - c. The structure or size of the sign is altered in any way except towards compliance with this Article. This provision does not refer to general maintenance, changeable marquees, or face and copy changes.
 - d. The sign is part of an establishment that discontinues its operation or has been abandoned for a period of 2 years.
 - e. ~~A legally established nonconforming sign which has been damaged by fire, explosion, act of God, the public enemy or voluntarily, **that severs all or part of the supporting structure(s), or posts in the ground,** to the extent of ~~seventy five (75) percent or more of its reproduction value at the time of damage,~~ it **the sign structure** shall not be restored except in conformity with the **setback** regulations herein. ~~When damaged by less than seventy five (75) percent of its reproduction value, a nonconforming sign may be repaired or reconstructed, and used as before the time of damage, unless such sign is located in the public road right-of-way.~~**The sign case or panels containing the sign face may be reused or repaired if damaged by less than 75% of the sign area as calculated in Section 5.5.3.B.v. If the sign case or panels containing the sign face are damaged or destroyed by 75% or more of the of the sign area, then the sign and its supporting structure(s) or posts shall lose its nonconformity status and comply with all requirements contained herein.**~~

D. Maintenance and Repair of Nonconforming Signs

- i. All existing nonconforming signs shall be kept in a state of good repair, good working order, and in a safe condition,

Article 7.0
Administration, Appeals and
Enforcement

Article 7.0	Administration, Appeals and Enforcement
7.1	Duties of Zoning Inspector
7.2	Ordinance Interpretation
7.3	Violations
7.4	Penalties
7.5	Zoning Commission
7.6	Procedure for Change in Zoning Districts
7.7	Application Fees
7.8	Board of Zoning Appeals Organization and Procedures
7.9	Non-Conforming Uses

7.9 NON-CONFORMING USES

1. Purpose. The purpose of this section is to (1) define the legal status of buildings or land uses which do not conform to this Resolution but which were in operation prior to the enactment of this Resolution and (2) to provide either for the conversion of nonconforming uses into conforming uses as soon as reasonably possible or for their eventual and equitable elimination.

A. It is not the intention herein to classify as nonconforming, a use allowed in a district as a conditional use under the regulations of this Resolution.

B. Regulations pertaining to nonconforming signs can be found in Article 5, Section 5.5.7.

2. Continuation of Use.

A. Any lawful uses of buildings and/or land existing at the effective date of this Resolution may be continued, even though such use does not conform to the District provisions, except as otherwise provided herein.

B. Whenever the use of a building and/or land becomes nonconforming through a change in the amended Zoning Resolution or in the District boundaries, such use may be continued, except as otherwise provided herein.

C. Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this Resolution, but not completed, may be completed and put into such nonconforming use, provided it is done within one (1) year after this Resolution takes effect.

3. Modifications.

A. The addition to or enlargement of a nonconforming building or structure shall be permitted provided it contains a permitted use and such addition or enlargement does not exceed twenty (20%) percent of the floor area contained in the original building or structure at the time of the adoption of this Resolution. All other requirements of the District (lot area, yards, etc.) shall be met unless a variance is obtained.

B. Any structure moved or relocated on a lot, in whole or in part, shall thereafter conform to the setback requirements of the zoning district in which it is located, unless a

variance is obtained. A structure may be lifted in place and set back down in the exact same location.

C. A nonconforming use or structure which has been damaged by fire, explosion, act of God, or the public enemy or demolished, removed, or structurally altered voluntarily, to the extent of seventy-five (75) percent or more of its reproduction value the floor area contained in the building or structure at the time of damage, shall not be restored, rebuilt or enlarged except in conformity with the regulations of the district in which it is located.

D. When damaged by less than seventy-five (75) percent of its reproduction value the floor area contained in the building or structure at the time of damage, a nonconforming use may be repaired or reconstructed, and used as before the time of damage, provided such repairs or reconstruction are started within one (1) year of the date of such damage.

E. A nonconforming use of land shall not be expanded or extended into any other portion of the lot or adjoining property.

4. Discontinuance.

A. After the effective date of this Resolution a nonconforming use which is discontinued for a period of two (2) years shall not again be used except in conformity with the regulations of the district in which it is located.

B. A nonconforming use may be changed to any use that is a permitted use in the zoning district in which it is located, or approved Conditional Use, subject to all standards and requirements applicable to the new use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.

5. Burden of Proof.

A. An applicant for any development review procedure that deals with a ~~nonconforming use~~ nonconformity shall bear the burden of proof in demonstrating that the ~~use~~ nonconformity on the property was a legal ~~nonconforming use~~ nonconformity on the effective date ~~§1.5~~ of this Resolution or at the time an amendment to the zoning resolution caused it to become a legal nonconformity.