

DANBURY TOWNSHIP BOARD OF TRUSTEES

February 13, 19

The Danbury Township Board of Trustees, Chairman Ms. Dianne Rozak, called the meeting to order. The pledge of allegiance was recited. Roll call Mr. Dress, Ms. Rozak and Mr. Hirt were present. Also present were, Fiscal Officer Carolyn Adams, Road Superintendent Brett Waldron, Police Chief Mike Meisler, Fire Chief Keith Kahler, and Zoning & Planning Administrator Kathryn Dale. Residents Susan Dress and Dennis Patthoff attended

Mr. Dress motioned and Mr Hirt seconded to accept the meeting of January 23, 2019 all voted yes.

Correspondence

- Ottawa County Engineer, upcoming events and deadlines for road programs submissions.
- Thank you note to Officer Fritz.
- February 25th, 8:30am Breakfast with First Energy at CIC
- Notice from Ohio Edison Nick Katsaros has been named First Energy Regional External Affairs contact at the Ohio Edison
- First Energy Utilities offers tips to stay safe and save energy during extreme cold.
- OTARMA Webinar HR Compliance Regulations
- Spectrum Mid America LLC .holds the state issued authority to operate the cable system in our community. Spectrum is wholly owned subsidiary of Charter Communication.
- 2019 Clean Water Contractor Expo Sediment & Erosion Control to be held February 28, 2019
- OTARMA hired risk control team member Cal Anderson. Cal is an IT Auditor and Risk Management Specialist. The Township will be contacted to schedule at risk control assessment
- Medi count year-end review received.
- BWC webinar 11:30 a.m. Thursday, February 28th.
- OTARMA 2018 MORE Grant for using risk management initiatives to reduce or eliminate risk exposures. Danbury Township received \$500.00.
- Information regarding upcoming census.
- Received draft of legislation from State Representative Steve Arndt regarding junk watercraft left on personal property.

During the November 14th meeting, residents from the Port Clinton Eastern /Bayshore Road area voiced their concerns for safety at the newly configured intersection. Numerous accidents have occurred, including damage to personal property owned by Danbury residents. Trustee Hirt has taken the lead on this project. After much discussion, the Trustees offered to contact Ohio Edison and the county engineer about possible additional street lighting. The county engineer becomes involved because the intersection is under the jurisdiction of the county. The Township provides streetlights at intersections throughout the township where deemed a safety necessity. A plan has be devised by the county engineer to include:

- Turning the existing light 90 degrees to the south.
- Install a new light at the intersection

There is been no time line when Ohio Edison will have engineering finished

Ms. Rozak motioned to proceed with the project (option 2) at a cost of \$6368.00, Seconded by Mr. Hirt. Roll Call Mr Dress YES, Ms. Rozak YES, Mr. Hirt YES.

Roads, Buildings, & Grounds

The department had two full service burials at Sackett Cemetery. The road program ride along will be held March 6th at 10 a.m. Several snow and ice events have kept the department busy clearing the roads. Maintance continues on the equipment. The final

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delivery of road salt (121 tons) has been received. Approximately 300-350 tons on hand for the remainder of the winter. During a high wind event a large willow tree in Battlefield Park fell. The department will remove smaller branches and Lake Erie Tree Service will remove remainder of the tree. Danbury North Road has experienced flooding. A road tile installed in 1918 appears to be the cause of the flooding. This repair may need to be hired out.

Resolution 1-2019

2019 Road Paving & Chip Sealing Program

WHEREAS; the Danbury Township Board of Trustees agree to hot mix, paving and chip seal on the following roads effective February 13, 2019 and now therefore;

Danielle Drive: \$41,026.

Donna Drive : \$15,864

Anna Drive: \$33,164.

Marblewood Drive: \$97,195.

Kirk Road: \$17,282.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF DANBURY TOWNSHIP on the 13th day of February 2019 authorize Ottawa County to bid, award and contract these projects on our behalf.

Resolution passed on this 13th day of February 2019

Mr. Dress motioned

Mr. Hirt seconded.

Rollcall: Mr. Dress YES, Ms. Rozak YES, Mr. Hirt YES

Police

Mr. Dress reviewed the monthly report ending January 31st. with 257 incidents. The month of February has seen 123 incidents to date. Chief Meisler discussed the acquisition of a new cruiser at a cost of \$30,861.50 with an additional \$4000.00 to outfit for duty. At this time, Fiscal Officer Carolyn Adams advised the need to wait until the property tax is received mid-March. Chief spoke of the new K-9 to become our newest officer in March. Mike Watkins is the Trainer; log onto his web site at MikeWatkins, com to see our Yellow Lab.

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Fire

Mr. Hirt read the report that Fire Chief Keith Kahler submitted that listed the details of the calls the fire department handled during the month of January and year to date totals.

		Fire & Ems Run Details					
		EMS	Fire	MVC*	Alarm **	CO***	Mutual Aid
As of 1/23/2019		45	1	0	1	0	0
To date		45	1	0	1	0	0
Year-To-Date		54					

*Motor Vehicle Crash(s)

** Alarm Activation(s)

***Carbon Monoxide Investigation(s)

RollnRack Hose Management System has been ordered. The DTVFF association will purchase 1 unit and the Department will purchase 2nd. at a cost of \$10,218.00. Elmore fire department has expressed interest in purchasing the old 800 band radios. Mr. Dress made a motion to declare the 800 band radios' as surplus, seconded by Mr. Hirt. All voted yes.

Mr. Dress motioned to sell the 10, 800 band radios to Elmore Fire Department for \$1000.00. Motion seconded by Ms. Rozak. Roll call all voted yes.

Zoning

Permits

To-date this month there has been 2 permit applications submitted/processed totaling \$ 130.00.

Board & Commission Activity

The Board of Zoning Appeals –

The BZA will hold adjudication hearings February 20, 2019 on the following cases:

- a. **BZA-2019-007**
129 Leddy. Request for an Area Variance to Section 5.1.1.C. to allow for the construction of an 18' x 20' detached garage to be 2.5' from the east, rear-yard and 1.5' from the south, side-yard where 5' is required. **Robert & Kathleen Lucak, Owners/Applicant.**

- b. **BZA-2019-013**
6721 E. Harbor Road (Lot 19, Snug Harbor). Request for an Area Variance to Section 3.5.7 to allow the east, front yard setback to be 5' (20' required) and 2.2.172 Front Yard Definition to rotate how the setbacks are applied to the lot. **Safe Harbor Marina, Mark & Kenny Montgomery, Owner/Applicant.**

- c. **BZA-2019-014**
0 Von Glahn Road (PIN# 0142000530464000). Request for an Area Variance to Section 3.1.1.D to allow for a lot split with a minimum width at the street for the remaining parcel to be 125' wide (150' required). **Charles Scott, Owner/Applicant.**

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The Zoning Commission -

The Zoning Commission scheduled for February 6, 2019 was cancelled. They are scheduled to meet March 6, 2019.

Department Updates

- Had a conference call 02.05.19 with Lakeside, their consultant MKSK out of Columbus and the “Core Team” they have formulated. Lakeside Association is in the process of updating the Lakeside Rules & Regulations, their Historic Preservation-Design Review Board (HP-DRB) review process and guidelines, and will likely be proposing later this year text amendments to the Danbury Township Zoning Resolution, specifically the “L” Lakeside, “LBO” Lakeside Business Overlay zoning districts and other sections that affect development and redevelopment within the gates of Lakeside Chautauqua. One of the specific items they are proposing, is to include into the zoning resolution a requirement that a Certificate of Appropriateness (COA) from the Association must be obtained prior to applying for, or receiving, a zoning permit or variance request. This requirement is currently in their private regulations, but they would like to make it apart of the zoning resolution. A “Request for Written Legal Opinion” has been made with the Prosecutor’s office regarding this.
- Meeting was held 02.08.19 with the Lakeside Historic Preservation-Design Review Board (HP-DRB) to review the recent changes to the zoning resolution regarding nonconforming structures and outlining how it effects properties there and potentially their decisions.
- Been working on cleaning up some of the permit logs to ensure better search results. Also conducting some research to be able to start the next rounds of potential text amendments to align with the Land Use Plan recommendation.

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To: James VanEerten, Ottawa County Prosecutor

From: Kathryn A. Dale, AICP,
Danbury Township Zoning Administrator

Date: February 7, 2019

Re: Request for Written Legal Opinion

Lakeside Association is currently in the process of updating the Lakeside Rules & Regulations, their Historic Preservation-Design Review Board (HP-DRB) review process and guidelines, and will likely be proposing later this year text amendments to the Danbury Township Zoning Resolution, specifically the "L" Lakeside, "LBO" Lakeside Business Overlay zoning districts and other sections that affect development and redevelopment within the gates of Lakeside Chautauqua.

One of the specific items they are proposing, and the purpose of this request, is to include into the zoning resolution a requirement for a homeowner within Lakeside to receive a Certificate of Appropriateness (COA) from the Association before applying for, or receiving, a zoning permit and before applying for a variance request. This requirement is currently in their private regulations, but they would like to make it apart of the zoning resolution.

Background:

A COA is initially filed and typically reviewed by only the HP-DRB. Their scope of review is to determine the historic appropriateness for exterior modifications to a property, similar to what an Architectural Review Board would be considering. It can, at times, involve a second layer of review by the Lakeside Municipal Services Committee (MSC) when a variance to either the private rules and regulations or the zoning regulations is being sought, or if the HP-DRB denies a homeowner a COA, then the MSC is their internal appeal committee.

The MSC decision when involving a variance to the zoning regulations is only viewed by the Township as a recommendation. However, the MSC and Lakeside have historically in the past, taken the position with homeowners that if they do not receive approval of the request from MSC, then the homeowner is not allowed to pursue the variance with the Township. I personally have advised homeowners and Lakeside that this is not true since the Association is not delegated any authority over zoning in the ORC. As a result, the position of the Association has softened some in recent years to accept that any decision from MSC on variances to zoning requirements would be strictly a recommendation and not a final action or determination. It is not a requirement in the zoning resolution that this even has to be completed prior to filing a variance with the Township, which is in part what Lakeside would like to include into our text as well.

It has been an unwritten understanding with Lakeside and the Zoning Inspector of the Township, even prior to my employment, that Lakeside has an internal review process. When homeowners come to zoning to ask what is needed, they are told to make sure they get their necessary approvals from the Association first. I cannot speak for the Association entirely, but their concern is the vulnerability of avoidance. Their internal review process can be slow and daunting; homeowners have become frustrated and filed directly with the Township for permits and approvals without having a COA or approval from the Association, essentially circumventing the Association's process because the zoning resolution and ORC outline specific timeframes a zoning application must be processed.

Lakeside's intent is to have legal backing in the zoning resolution, but allow Lakeside to manage the approval process prior to applying for zoning review. I believe it is their intent to keep the HP-DRB as an internal, private committee and not under the umbrella of the Township.

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My specific questions for you:

- 1.) Can the Township make a COA a written, regulatory condition within the zoning resolution prior to the acceptance of any zoning application received from property owners within the gates of Lakeside?
- 2.) If so, can the determination of a COA be made by a Committee not appointed by the Board of Trustees?

Ottawa County Prosecuting Attorney James VanEerten responded as follows:

After a review of the attached memo, I do not advise the Township require a COA be granted before the acceptance of any zoning applications. Essentially by doing so, we would be delegating zoning authority to a private board that is not under the control of the Township Trustees. This could lead to additional liability and problems with enforcement. As a Township, this could lead to future requests from other HOA associations to condition zoning approval on their individual requirements.

My advice would be to continue advising zoning applicants to seek approval of the Design Review Board and to obtain a COA in addition to the zoning permit. If the applicant fails to obtain the COA, Lakeside would then have the ability to seek injunctive relief to stop the project through the filing of a civil action.

NEW BUSINESS

Dennis Pattoff, Danbury resident and President of Friends of Ottawa County Parks spoke on the group's ability to acquire land within the Township. The purpose is to create public trails. Mr. Pattoff asked if the Township would write a letter to a Township business requesting they limit bid acceptance to Friends of Ottawa County Parks only. Ms. Rozak to request an opinion from the Prosecutor on request.

Dismissal of Department Heads

Executive Session

Motion by Ms. Rozak to convene executive session at 7:56 to discuss personnel seconded by Mr. Hirt.

Motion by Ms. Rozak to reconvene to regular session at 8:25, seconded by Mr. Hirt.

FISCAL BUSINESS

Mr. Dress motioned and seconded to Ms. Rozak for accept the Permanent Appropriations for 2019. Roll call Mr. Dress YES, Ms. Rozak YES, Mr. Dress YES.

Motion to approve payroll and bills totaling \$96,381.25 was made by Mr. Dress and seconded by Ms. Rozak. Roll call all voted yes.

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Motion to adjourn by Mr. Hirt seconded by Mr. Dress. All voted yes.