

RECORD OF PROCEEDINGS

Minutes of

Meeting

Danbury Township Zoning Commission

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

February 5, 20 2025

The Danbury Township Zoning Commission was called to order at 5:03 p.m. at the Danbury Township Meeting Room by Chair, Susan Dress. The pledge of allegiance was recited. The roll call showed the following present: Ms. Susan Dress, Ms. Jodi Kopanski, Ms. Barbara Singer and Mr. William Tuttamore. Alternates, Doug Huber and Cynthia Mahl. Mr. Vito Kaminskas was excused. Ms. Kathryn Dale, Zoning and Planning Administrator, and Dawn Connor, Zoning Assistant, were also present.

Approval of the December 4, 2024, Minutes

The Chair asked if all the Commission Members had had an opportunity to review the minutes from the last meeting. All indicated they had. Ms. Dress asked if there were any corrections or modifications. Ms. Kopanski made a motion to approve the minutes of the December 4, 2024, meeting. Mr. Tuttamore seconded the motion. All Ayes. The motion carried.

Public Hearing

There was none.

Unfinished Business

There was none.

New Business

There was none.

Other Business

Swearing-in of William Tuttamore as Regular Member & Cynthia Mahl as Alternate Member. Ms. Dale swore in both members.

Work session on Storage Regulations:

Ms. Dale began by explaining that the proposed language for the storage area definition was compiled from the general consensus of the work session the Commission had on December 4, 2024. She stated that when these new regulations are adopted, this section will contain all new language covering these regulations. She continued that the definition of storage appears to be generally accepted by the Commission and confirmed that storage areas in the R-C and C-2 zoning districts would be set as a Conditional Use. She demonstrated, on a visual display, the existing storage facilities in the township and whether they would be permitted use or become nonconforming based on the new regulations. She emphasized the need to consider how the Commission was going to word these new regulations. Ms. Dale provided possible language for a section 4.20 "Storage Areas" of the Danbury Township zoning resolution to cover existing and future storage facilities, using similar language to other existing Conditional Use sections found in the Zoning Code. She pointed out the importance of addressing existing storage areas and future storage areas based on the date of adoption of the new regulations. She continued that the Commission would need to accommodate property owners who already have a plan, or will have a plan, registered with the Zoning Department before the date of adoption that will allow them to continue with their plan, even after the new regulations are put in place. She explained that a lot of these properties would be considered as grandfathered or nonconforming. She said that part of this section would be the need to come up with a timeframe that a property owner would have to follow before their plans would expire and eventually be subject to the new regulations. Ms. Dale explained that as part of the O.R.C. (Ohio Revised Code), any nonconforming use property or structure, if it's abandoned for a period of two years, they lose their nonconformity, protected status. She continued that she was trying to keep with the same sort of timeline for the registered plans. She proposed a timeline that would put in place restrictions so that any development plan that is inactive, with no open zoning permits and not actively under construction two years after the adoption date, or one year from the last permit issued, would be deemed expired and thus would have to follow any new regulations in the zoning code. She further explained that this would mean the property owner's plan would have to be registered and while they don't have to have them finished in two years, they must actively and continuously be working on them towards completion. The point of this language would mean that if a property owner registers a plan and then let's the property sit idle for almost two years, they are going to have to pull a permit before that two years is up and start construction and then every year before the next permit expires, they will need to pull a permit for the next building and start construction. The property owner will have to continue this cycle until the full project is completed. If the property sits idle with no activity for two years, even though there is a master plan on file, their plan will expire, and they would have to conform to the new requirements. This language establishes some type of expiration for those properties to make them either work towards completion of their project or come into compliance with the new requirements.

Mr. Huber asked for clarification on why they would need to get a permit one year from their last permit. Ms. Dale explained that a permit is good for a period of one year and a property owner

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would need to pull the next permit before their previous one expires. Ms. Dale confirmed to Mr. Huber, upon his further questioning, that the property owner would have two years from the time they filed their plan to pull their initial permit and then would have to pull a permit for the next phase of construction before that initial permit expires. This cycle would continue until the entire project was completed. Ms. Dress asked about a builder pulling permits but not starting projects. It was explained to the Commission that extensions would not be granted if the builders had not started construction on the storage unit contained in the permit. Ms. Singer asked if they got a new permit and it has been two years since they filed their plan, would they have to conform to the new regulations? Ms. Dale stated that as long as their old permit was not expired, they would not have to conform, but if their old permit was expired and they were past their two years, then they would have to comply. Mr. Tuttamore asked if property owners with current plans registered would be notified of the new conditions and Ms. Dale confirmed that they would. There was discussion between the Commission Members about the language regarding the timeframe of when the initial permit would need to be pulled and the subsequent permits after that. Ms. Dale explained that when you have a multi-building situation, it could take many years to complete the plan, with them pulling one new permit per year. Mr. Huber asked if there was a way to deny a permit if a property owner continuously pulls a permit every year but is not doing any of the construction of that permit. Ms. Dale answered that they could deny the permit based on the provision that the property must be actively under construction. Ms. Mahl asked if there was current language in the zoning code that required a property owner to pull a permit and start the project within a certain period of time. Ms. Dale stated that this is a special language for this type of plan and would establish this policy for storage areas. Ms. Dale then gave an example of another type of building project and how the permit and extension process works, including the expiration of their plan if they go beyond the two-year mark to pull their permit and start construction. Ms. Dale confirmed that this proposed storage language is in line with other types of zoning uses. Ms. Dale then explained that this language would exempt property owners who have a registered plan before the new regulations are in effect, from having to go to the BZA. Anything submitted for storage development after these regulations are put into effect would have to follow the new guidelines for conformity or go before the BZA. Per the BZA, they must submit their plan at a BZA hearing and if the plan is approved, the approval is valid for one year. They can ask for an extension for a maximum of one year. By the end of that second year, they must pull their permit, or they lose their approval. This new language would put a storage area project with the same time constraints as other township projects. This will ensure that plans don't sit dormant and protect against a property owner coming in years from now, wanting to start construction on a storage area whose plan was submitted prior to the adoption of these new regulations. Ms. Dale asked the Commission Members to consider the language regarding existing storage projects with plans registered before the date of adoption of new regulations and bring any suggestions to that section with them to the next meeting.

Ms. Dale moved on to cover a new language section regarding any new storage area plans which would be submitted after the adoption date. Referring to her visual display, Ms. Dale had the Commission Members look at storage properties based on acreage. The first section covered all properties that were under three acres. She explained that using the averages, a new storage property would need to be over three acres. This would be to try to limit the number of nonconforming properties based on acreage size and establish new regulations based on the averages. She explained that this language for new storage contained their purpose statement site development plans. The intent of those regulations is to ensure that storage areas are to the rear of the property and development site, to allow other non-storage uses along the main road frontage of the property. Ms. Dale then read a sample of possible language covering setbacks for those properties, which would account for not only the buildings themselves, but also all fencing and outdoor parking areas. These setback regulations would help distance the storage areas, to include their structures, fencing and outdoor parking areas, to a certain set percentage, or square footage, of their overall development based on lot depth and size. This will ensure these developments are an acceptable distance away from their road frontages. Ms. Singer asked if the setback was set at 25% of the property size, would they be able to build right up to that. Ms. Dale answered that they could build up to 25% of the lot depth of the overall development site or the underlying front setback for their zoning district, whichever is greater.

Ms. Dale then demonstrated how these regulations would work on an existing storage property. Ms. Kopanski asked if this particular property owner was aware of the current setback restriction when they put in a private road. Ms. Dale answered that they were aware based on the setback requirements for their zoning district. The new regulations would adjust one of their setbacks because it would be based on the entirety of the development, not just their roadway setback. Mr. Huber asked if the new setbacks would be based on their entire development and not each lot a particular owner has. Ms. Dale confirmed that it would be the whole development site, not based on each parcel or lot they own. Mr. Huber questioned whether this would lead to owners not conforming to the entirety of their combined parcels to follow these new regulations. Ms. Dale stated that when they come in with their development plans, that include multiple parcels of land, they will have to conform based on their total development

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site. She confirmed that there is existing language, under the Sign regulations, that defines what a development site is. That language defines the development site as the outermost property lines of the development which may include multiple parcels, lots or structures. Ms. Dale made a note to include the Sign regulation language for "development site" into the new Storage Area regulations. Mr. Huber expressed his concern that without language defining a development site, someone could try to manage the parcelization process to their advantage and not to what the Commission Members were trying to accomplish.

Ms. Singer asked about a safety net being in place for properties that were smaller, being wider than they were deep, and how close they would be able to build to the road if the setback was just based on a percentage of the development site. Ms. Kopanski said they would still have to follow the setback regulation for their zoning district. Ms. Dale confirmed that the language would state that all structures, fencing, outdoor parking areas shall be no closer to the front property line than X% of the lot depth of the overall development site or the underlying zoning district requirement, whichever is greater. Each structure within the development shall meet the underlying zoning districts front yard setback from a dedicated internal public or private roadway. Ms. Singer asked about adding language that would create a landscaping buffer requirement to screen the storage development from the roadway. Ms. Dale stated that she had a note regarding this requirement to be discussed with the Commission Members but believes the Commission Members need to decide on the setbacks, before delving into the landscaping regulations.

Mr. Tuttamore asked about commercial and agricultural zoning along Rte. 269. Ms. Dale advised him that the old land use plan had encouraged splitting parcels with two different zoning districts, where the front was commercial and the rear was something else, but the new Land Use Plan that was updated in 2017 got away from zone splitting. The issues with how a parcel was divided between a certain amount being commercial, and the remaining balance being something else, did not make good planning sense. It made better planning sense to rezone the entire parcel. Ms. Dale pointed out an area on Rte. 269, which, because of split zoning, left an island of residentially zoned property surrounded by all commercial properties. Mr. Tuttamore asked how you would differentiate between what the new regulations would require and what the normal commercial regulations require. Ms. Dale answered that it will be based off the zoning district. Ms. Dale then used several other properties to show how potential setbacks would work based on their surrounding zoning districts and how that would restrict any building areas on that property.

Ms. Dale then explained how she came up with the possible future storage area restrictions based on a percentage of lot depth vs. a set square footage setback of the current storage areas in the Township. These amounts were based on an average of current storage areas and their property sizes. Ms. Dress asked Ms. Dale to run the numbers based on the mean instead of the average. Ms. Dale then calculated what the mean would be after removing one particularly large property that is much bigger than any of the other current storage areas. The Commission Members were then able to see what the average was versus the mean and the difference between those numbers. Ms. Dale pointed out that the average or mean amount, basically equals what the current setbacks require and that is not the intent they are trying to accomplish, which is to get storage areas further back off from the roadways and possible other commercial enterprise in the frontage of those properties.

The Commission Members discussed the possibility of differentiating setback requirements based on whether they are on a main road or a side street. Several Commission Members stated their objection to that because there is the potential that what is not a main thoroughfare now could become one in the future. There was also debate on whether it would be appropriate to allow storage buildings to be closer to the road on streets that had more local traffic and residents than the mains with more regional and tourist traffic coming into the Township.

Mr. Tuttamore expressed concern about storage being built on some shallow properties that probably shouldn't have storage on them. Ms. Dale advised the Commission Members that these new regulations may weed out some of those properties from having storage on them. Some properties would be weeded out immediately due to acreage size and then others based on the setbacks. Those property owners may try to get a variance for their property, but they would have to show practical difficulty. The BZA would be able to make their decision based on why these storage regulations were modified and what the overarching goal and intent was in those modifications.

Mr. Huber stated that the Commission Members needed to calculate what the main logic was for the new regulations. If it was retail business in the front or just green space away from the roadways. This would enable them to figure out how big that area would need to be and that would establish the setbacks. Ms. Dale asked the Commission Members to consider a chart she had compiled based on the principal street frontage for existing developments. She showed how many properties become non-conforming based on the average. She then showed how many more properties become nonconforming based on increasing that average amount to larger percentages. Mr. Huber stated that if the Commission Members want to make new regulations, they are going to end up with a lot of nonconforming properties because they are all built according to the old regulations and setbacks. Ms. Dale said that is

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part of the battle of balancing the goal and how it applies to the existing storage areas. Mr. Huber asked what the downside would be of having a lot of nonconforming properties and was advised by Ms. Dale that if those properties suffered a catastrophic loss, they would not be able to rebuild on their original footprint. The rebuilt storage buildings would have to conform to the new setbacks and regulations, unless they got a variance from the BZA. Ms. Dale further explained that part of the goal should be finding a balance between the new regulations and owners with a financial investment in their business. Ms. Kopanski stated the goal is not to become anti-business. She stated there could be a concern that property owners would be discouraged from repairing buildings if they were not going to be able to make changes to those buildings because they are nonconforming.

Mr. Huber expressed concern that the Commission was going to have great difficulty in coming to decisions which achieve the goal of what is trying to be accomplished. Ms. Dale agreed and pointed out that setting fair regulations was a struggle. She stated that if at some point there are new regulations implemented, the impact on existing storage properties needs to be considered. Mr. Huber then asked for clarification about what the Trustees' goal was in new storage regulations. Ms. Dale answered that it was to get these types of buildings back from the front of the property. Ms. Kopanski asked if the Trustees had explored any of the data presented by Ms. Dale and how it would affect existing commercial storage areas and owners. She expressed concern about potential discord from property owners regarding any new regulations which would make their existing storage properties now nonconforming. Ms. Dale answered that the Trustees have not reviewed this data. Ms. Dale stated that no matter what changes are made, some properties would become nonconforming. Ms. Singer stated the Commission Members and Trustees would have to consider how much tension from the now nonconforming properties they were willing to endure. Mr. Huber asked what rubric the BZA uses to grant variances. Ms. Kopanski stated it was like the guidelines the Zoning Commission Members use to make their decisions. Ms. Dale advised that the BZA would consider the Conditional Use section of the zoning code and read their specific decision standards. Ms. Dress questioned if the Commission Members decided to have storage be a Conditional Use, but did not set specific new setback standards, could each individual project be sent to the BZA for approval?

Ms. Singer made a statement that in looking at the potential nonconforming properties, most of them were marinas. She expressed concern about impacting the business operations of the marinas. She pondered whether the setbacks could be more stringent for any properties that were not waterfront, to make any new regulations fairer to marina businesses that don't have a lot of land, but a large need for boat storage. She stated she believes there should be two different standards because they are two different economic regions. Ms. Dale pointed out what Ms. Singer was proposing coincided with what Ms. Dress proposed about leaving the standards as they are in the zoning code for the underlying district but changing storage from a permitted use to a conditional use. This would automatically throw it into a hearing process for the BZA to decide based on whether the plan was appropriate or not. Ms. Dress stated that instead of the Commission Members trying to determine multiple scenarios for setbacks based on lot sizes, shapes and acreage, the BZA could look at each individual project and make the determination. Ms. Dale stated that in this scenario, the Commission Members would still need to set the site development minimum lot size and give the intent and goal for storage development. If no other standards are provided, the BZA still must follow the underlying zoning requirements and minimums, along with the preference and intent that post adoption date developments have their storage restricted to the rear of the property, leaving the opportunity for other uses to be developed in the front. This would be left up to the plan presented by the developer and the BZA to decide if it is appropriate or not.

Ms. Kopanski stated her belief was that the Zoning Commission really needed the Trustees to look at the available data and give the Commission Members some direction on how they wanted them to proceed and what level of regulations they are comfortable with. Mr. Huber agreed and expressed his concern about the potential to have to come up with multiple sets of standards based on individual properties. Ms. Dale clarified with the Commission Members what specific areas of direction they would like from the Trustees.

The Commission Members discussed updating the Land Use Plan to better outline the direction the Township wants to take regarding commercial development goals in the future and the development of this area in general.

Mr. Tuttamore asked about granting a clause to properties that were built before these new regulations were put in place. For an owner who suffers a catastrophic event and wants to rebuild on their original footprint, they should be allowed to do that. Ms. Singer pointed out that any new construction would have to follow new building codes. Ms. Dale then read the current language covering nonconformities and how it would apply in this situation. She explained that the main goal of the language is to convert or eventually eliminate nonconforming properties.

Ms. Singer returned to her discussion of marina storage versus regular storage. There was debate over whether certain properties should be considered marinas because they are inland as opposed to being directly on the water. There was also debate on the fairness of treating some storage businesses

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in a certain way and not treating another storage business equally based on what they store. Ms. Dress questioned how much more potential land could be developed as marinas around the Township. She expressed her opinion that the remaining land would not be developed into marinas or storage and would most likely be sold for residential purposes. Ms. Kopanski said there is a true need for marinas to have their storage. They need to have a way to supplement their income when dockage fees are not enough to maintain their business. Marinas rely on having available storage for this purpose and customers rely on storage for their boats in the off-season.

Ms. Dale advised that she would present to the Trustees the questions from the Zoning Commission Members regarding the direction in which they want them to focus. The Commission Members agreed that some direction would allow them to focus on the areas that would assist in achieving the end goal for the placement of storage buildings.

Reports and Communications from Members and Staff

There was none.

Public Comments Regarding Zoning Items Not on the Agenda.

There was none.

Adjournment

The Chair asked for a motion to adjourn. Ms. Kopanski moved to adjourn the meeting and Mr. Huber seconded the motion. All Ayes. The motion carried.

The meeting was adjourned at 7:16 p.m.

Kathryn A Dale
RECORDING SECRETARY

Susan Dress

Jodi Kopanski

Barbara Singer

William Tuffanolo

Douglas Huber
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