



The Rootstown Township Zoning Commission met in regular session on Tuesday, September 18, 2018, at 7:00 p.m. at Rootstown Town Hall.

Present: Steve Brown, Chair
Roger Carpenter, Vice Chair
Rob Swauger
Theresa Summers
Stan Dannemiller
Pat Gintert, Alternate

Absent:

Also present: Jordan Michael, Secretary

Audience: See attached list

Chair Steve Brown called the meeting to order at 7:05 p.m. and asked everyone to stand for the Pledge of Allegiance.

Vice Chair Roger Carpenter made a motion to approve the meeting minutes from last month. Theresa Summers seconded the motion. The motion was passed 3-0, with Steve Brown and Stan Dannemiller abstaining.

Roger opened the public hearing for proposed amendments to the Zoning Resolution. (See end of minutes for proposed amendments.) First on the agenda was Section 150.02 B and the definition of a trailer. Roger said this is exactly what it says in the Ohio Revised Code. They did not make it any more or less stringent. There is also a second part, which is the "inoperable trailer or recreational vehicle" definition.

Joe Gadd, Tallmadge Road, said it is not the exact Ohio Revised Code definition. The Zoning Commission added the last sentence. Roger said that is correct and apologized. Mr. Gadd said Joe Paulus wrote in the Rootstown newsletter that the awareness of the people is lacking about the zoning rules, and if more people were aware of the rules, there would be less hassle and difficulty. When we sit and write laws that the Rootstown community is unaware of, we are unloading a big burden on our inspectors by not being clear. If we have arbitrary wording or ambiguous language--for example, "inoperable" could be interpreted in a number of different ways. He also suggested that the Rootstown Zoning Resolution is based on the comprehensive act, and many of the principles in the laws they are writing contradict what you set forth as your aspirations in the Comprehensive Land Act. There are a number of trailers that we have run into that do not fit under this definition and could be

excluded or included, depending on the whim of a complaint to the inspectors. Most are not taken on the road or are taken for less than 10 miles or less than 25 miles per hour. One lady used her trailer as a landscape feature and put plants in them. There are trailers used for hauling trash to the street, trailers used for kids that are never taken off the property, and trailers that are not licensed because the people have no reason to take them on the road. One definition has a requisite that it has to be licensed, and the other does not; that is a contradiction that needs to be sorted out. He suggested that all types of trailers should be considered and there should be more specificity. The BMV is not concerned about trailers that are used only on the property. He submitted a letter describing his input and comments and would like that to be part of their consideration and made part of the minutes.

Roger said the definition is not the resolution. The resolution at hand with the trailer issue will have something to do with the definition, but with the definition it will have to be changed to meet that. Theresa said there are a lot of definitions in our book that we do not have resolutions for. You have to go by the resolution. Mr. Gadd said citizens will say their trailer is not part of the definition, find reasons to excuse themselves, and wind up arguing with our zoning inspectors which is not fair to them. Theresa said we do not try to make it hard on the zoning office. This stuff is usually a result of issues that have come about, so we try to work together to find something that will work. Mr. Gadd said people have trailers that are not licensed and they only use at home. If you come through with a law that says you have to license this trailer, now they are caught. The Ohio Township Association and Ohio State University Community Development Board surveyed the 1,309 townships in Ohio and found three major challenges: that the Ohio resident did not know about the zoning resolutions; that the zoning resolutions were difficult for the inspectors to enforce. Why have public hearings when they do not work and the people do not know? He went to over 100 trailer owners in Rootstown and 95 percent of them had no knowledge about the old or new trailer amendments. Roger asked Mr. Gadd if the last line is what would be an issue. Mr. Gadd said yes. Roger said right now we are focusing on the definition, and the last part of that is what we added. If we do not add anything to our book, it can still be taken to a state level and that would have to be enforced. Stan said this was because we had multiple instances of trailers that were being kept on people's properties that were various levels of inoperable and unsightly, and this was a way of trying to encourage people to remove those. Zoning Inspector Mark Tirpak said it is covered under the definition for "inoperable trailer".

Ken Howe, Queen Road, asked if they referring to utility trailers or mobile homes in the definition for "inoperable trailer". Roger said it is an inoperable trailer or recreational vehicle. Theresa read the proposed definition.

Theresa made a motion on Schedule 150.02 B, proposed definitions for "trailer" and "inoperable trailer/recreational vehicle" be passed as written and sent to the Trustees for a public hearing, except to strike "Trailers parked or stored on lots shall not be allowed to be in an inoperable condition." from the trailer definition. Stan seconded the motion. A vote was taken as follows: Rob-yes, Stan-yes, Theresa-yes, Roger-yes, Steve-yes. The motion was passed 5-0.

Next on the agenda was definitions, 150.02 B, on "cultivating and processing of medical marijuana"; Schedule 370.03 E, which is the schedule of permitted uses in an industrial district. #7 would become a conditional use in L-I (Light Industrial) and G-I (General Industrial); and Section 390.06 Z, which is Regulations for Specific Uses of the medical marijuana cultivation and processing facilities.

Pam Krysiak, 5126 Tallmadge Road, said she does not think this is the proper forum for those who are for or against medical marijuana or its production. She thinks the "not in my backyard" mentality is not progressive. It is the law of the State of Ohio and it is allowed, and someone is going to make money. So why not allow our neighbors to make money, control the situation, and pay taxes. These people will make money and contribute to our schools. She has been Don Litsinger's neighbor for almost 40 years. His farm is neat, he is a known businessman and she has every confidence that any business that he is in control of or contributing to is going to be run to the letter of the law.

Lowell Stover, 4680 Tallmadge Road, said he knows it is the law of the land but it was voted on once here and the majority did not want it. He does not think it belongs in our neighborhood. He is all for medical marijuana but he is not for producing it here.

Cathy Stover, 4680 Tallmadge Road, asked if every time this issue is brought up we have to go back to the petitions and put it back up to vote for the people. Roger said that is the way he understands it. Rob Swauger said all we do is make a recommendation to the Trustees. Roger said the final decision will be made by the Trustees. This board sends a recommendation to the Trustees, hopefully with safety, moral, welfare and health involved.

Cindy Deak, Tallmadge Road, asked if this is just a resolution that goes to the Trustees. Roger said it is not a resolution, just a suggestion for the Trustees. Ms. Deak asked how many times it can come back. Roger said he does not know.

Dan Paulus, Bent Oak Trail, said he works for a building company that is currently building two facilities for medical marijuana. They have 75 to 100 guys working there. You will never see or smell the marijuana. It is in an enclosed building with security. Water is not an issue; two or three houses would use more water. The state mandates 24-hour security and a certain number of people allowed in the facility. This is legal by the State of Ohio and he does not see the problem with a business that is going to keep the money in Rootstown and employ people in Rootstown. We do not do this for Giant Eagle or any other company. There is not going to be money on the premises from what he understands.

Don Litsinger said the vote was only missed by 75 or 80 votes. If we vote on it again, he thinks it will pass. A lot of people want it in Rootstown, not only for the money but there are a lot of people that need it. We need revenue, we need a school, we need roads, we need bridges, we need a fire department.

Jim Ickes, 4301 Darrow Road, Stow, said he is an attorney and president of a medical cannabis developing company. He is here on behalf of Secure Cultivation and they removed some of the controversy from their last application, based on the open forum discussion. They removed "selling" from their application. When you look at the statistics, people want dispensaries in their neighborhoods because their property values go up. The federal

government still finds that cannabis is an illegal substance, but there is a slew of bills where they are trying to decriminalize cannabis on a federal level. Secure Cultivation plans on putting significant investment in Rootstown in this operation ultimately. They are not giving up because everyone is entitled to their opinion. The fact that cannabis is illegal is wrong, because cannabis has medicinal value. The federal government has a patent on the synthetically-derived THC. They are going to follow the letter of the law, which is some of the strictest legislation in this industry in the United States. A 21st-century mindset is that cannabis is a good investment. Everyone wants millennials in their community and millennials favor cannabis. They are trying to keep Rootstown from being on the wrong side of history.

Joel Holt, 4301 Darrow Road, Stow, also representing Secure Cultivation, said the proposed amendment is essentially the same one that was approved last year by this board and the Board of Trustees. He does not see any intervening cause why this board should change its decision.

Joe Gadd, Tallmadge Road, said he speaks on behalf of citizens that do not want the facility here. In the Rootstown resolution, the very first line calls for adherence to protecting the public health, safety and morals. It is illegal according to the federal government to have marijuana. It would be immoral if you pass it. You approved it before, recommended it to the Trustees, they approved it, and the citizens who you represent voted it down. He thinks the board is obligated by that mandate to reject this application today because they voted it down. To recommend approval to the Trustees would mean you are not representing the majority of citizens, who voted to reject the application. It was pointed out at a prior meeting that there was no tax benefit for Rootstown because the property tax is the same. There may be income tax if they pay income tax in Rootstown, but there is no big benefit to Rootstown welfare. There are 56 townships according to Google that have turned down applications for facilities, and we owe it to our citizens to look into the reasons why they turned it down. More research is needed, and a recommendation to table it would be more prudent at this time.

Stan read from the application and said that "selling" is still included. Mr. Ickes said it should not be in there.

Theresa said these guys were not chosen for one of the 24 small growing facilities. She imagines what is happening is they are trying to get their ducks in a row in case the state would decide to grant more operations. Mr. Ickes said there is anticipation that industrial hemp is going to be legal in the passage of the farm bill next month. The Department of Pharmacy is taking the stance that industrial hemp will fall under the "medical cannabis" definition, therefore the hemp would need to be derived from a licensed facility in the State of Ohio. As a result, these gentlemen would like to process and grow the hemp plant, so necessarily, if the Department of Pharmacy is going to regulate hemp as well, we would need to have the zoning changed. Pat Gintert asked if industrial hemp is going to be grown inside. Mr. Ickes said they are going to grow it outdoors but will defer to the states and their distribution channel.

Mr. Holt read the proposed text for 150.02 B from the application to clarify that it does not include selling.

Theresa asked if they think the state is going to give more for industrial hemp. Mr. Holt said the pending farm bill would decriminalize large-scale industrial hemp farming in the United States. The State of Ohio's definition would include hemp, so the Board of Pharmacy, who controls dispensaries, stated that any and all CBD will now, in the State of Ohio, have to run through the medical marijuana control program. If it is not passed, it would also prevent this company from manufacturing, growing, or cultivating industrial hemp; it would be legal on the federal level but not on the state level. Theresa asked if they think they would be able to grow this in an indoor facility. Mr. Ickes said it would not be practical. Theresa said after we approved this the first time, we made it conditional and had a whole bunch of conditions; one of the conditions was to grow indoors.

Mr. Holt said this is basically the same amendment that has been toned down. Pat said the confusion was that Regional Planning took the old definition.

Mr. Paulus asked if his kid has seizures, if it is immoral to take care of his kid. His high school buddy died of a seizure and if he had this he would probably be fighting for it right now. This is prescribed by a doctor to take care of adults and kids.

Theresa said she does not feel anything has changed since they did it the first time, from a zoning point of view.

Ken Howe, 3149 Queen Road, said he understands the economics of this and the whole concept of it. The property is probably a good location if it were approved, but the most appropriate comment tonight was to let the Trustees make that decision. For the people who voted against it, that would be like a slap in the face. He felt Mr. Gadd's comment was very appropriate for this issue.

Mr. Gadd said there have been some changes and impacts on other townships. In previous meetings it was pointed out that the state has repeatedly changed its position, so your decision should not be based on the fact that the state has approved this at this time. He suggested an impact statement from the applicant particularly around the area where this is going to happen. Listen to the people who are saying "no" and give credit to their reasoning. Rob said we are not making the decision tonight. Mr. Gadd said if they send it through as "not recommended", it will go a long way.

Ms. Krysiak said there are also neighbors who live extremely close and are saying "yes".

Theresa said other townships and cities have made it a permitted use, but we have made it a conditional use. Roger and Theresa explained what a conditional use is.

Mr. Stover said he is all for medical marijuana, but it is going to be available all over the state eventually. Turning down one does not mean we are not going to get it.

Ms. Deak asked if they are going to be allowed to sell. Pat said it was not in their application.

Mr. Litsinger said he knows it got voted down but does not feel it is a slap in the face when less than 25 percent of people in Rootstown actually voted. He thinks it will be voted for overwhelmingly, not at a primary vote.

Patti Melton, 3864 Tallmadge, said she is confused about how much this is going to benefit the community. A few more people will get employed, but she does not see where it benefits very many of us. Mr. Ickes said the data suggests that the business and jobs are generated on the periphery of the industry itself: accountants, lawyers, construction, HVAC that service the industry. It is seven times more investment in those industries that go right along with it.

Dorothy Hurd, Sanford Road, said she calls for the question.

Rob made a motion to send Section 370.03, with modifications to include cultivating and processing of medical marijuana as a conditional use in L-I and G-I zoning districts, then also Section 150.02 B "Definitions", to include "cultivating and processing of medical marijuana", striking out the word "selling", to the Trustees. Stan seconded the motion. A vote was taken as follows: Rob-yes, Stan-yes, Theresa-yes, Roger-yes, Steve-yes. The motion was passed 5-0.

Stan made a motion to send the following to the Trustees: Section 390.06 Z, "Medical Marijuana Cultivating and Processing Facilities". Theresa seconded the motion. A vote was taken as follows: Rob-yes, Stan-yes, Theresa-yes, Roger-yes, Steve-yes. The motion was passed 5-0.

Roger closed the public hearing at 8:31 p.m.

Secretary Jordan Michael reported on the Trustees' public hearing for proposed amendments regarding recreational vehicles and trailers. The Trustees did not approve one of the amendments and suggested further modifications. Mark and Jordan submitted a recommendation to the Zoning Commission based on the concerns of the residents and Trustees. Theresa said she felt there was misinformation at the trustee meeting.

Mr. Gadd said he was one of those who gave out alleged misinformation. The reason he argued against approving it was that he felt if it was approved, then nothing would happen for a long time on the other issues. He wanted the Zoning Commission to address the other issues and campaigned to have it rejected. The second reason is that Judge Doherty has made several rulings in favor of the owner on similar zoning circumstances when it was arbitrary and capricious. Stan asked how much data one has to have before something is considered arbitrary and capricious. Mr. Gadd said he does not know. Mark said right now it would be a public hearing.

Mr. Gadd added that the nuisance resolution could be tightened up to cover all irregularities that they feel are unacceptable. There are 1,309 townships in Ohio; 46 percent of them have no zoning regulations at all. Of the other 56 percent, at least 80 percent have no regulations regarding trailers. The preponderance of townships not regulating trailers far exceeds the townships including this one that does. He talked to one couple that has a speedboat, RV, and snowmobile, and they want to buy a fourth trailer and

go in the puppy washing business but they can't, so they feel they are being put out of business by Rootstown. Mark said that would be commercial, and to park a commercial trailer they would have to apply to the BZA. Some of what was mentioned is a "want", not a necessity. Mr. Gadd said he is speaking to the quantity of trailer owners that would be adversely affected by minutiae in the regulations. If they were much more liberal than they are now, it would be much more successful and there would not be a backlash.

Ms. Melton asked why can't they have the homeowners' associations dictate for those areas and let the rest of the rural areas still be rural. Stan said that is what we are trying to do. Theresa said areas such as Greenwood are not developments but they have small lots. Steve said it is not required to have a homeowners' association.

Theresa made a motion to amend Section 310.09 F.1.d: "On lots greater than five acres, not more than one recreational vehicle or trailer per acre may be stored outdoors."; #4: "Any recreational vehicle or trailer stored outdoors shall be maintained in an operating condition and shall bear a valid license. Yard trailers less than 300 pounds are exempt from this requirement. Farm machinery is exempt from this requirement."; #5: to strike "A recreational vehicle or trailer may be parked in a driveway for loading or unloading purposes for a period not to exceed 48 hours in any seven day period."; and to add the definition of farm machinery to Section 150.02 B, to read: "All machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm." Theresa amended her motion to amend Section 310.09 F proposed, as shown, and to send that to Portage County Regional Planning and the Prosecutor. Stan seconded the motion. The motion was passed 4-1.

Jordan announced the Cleveland Planning & Zoning Workshop on November 2nd, with the early-bird registration deadline on September 21st. He also handed out updated zoning maps from Regional Planning and asked the board to sign the full-size map.

Stan made a motion to adjourn the meeting. Rob seconded the motion. A vote was taken as follows: The motion was passed 4-1 and the meeting was adjourned at 9:26 p.m.

Steve Brown, Chair
Rootstown Township Zoning Commission

Zoning Amendment # 2018-005

Section 150.02 B – Definitions

Proposed New Definition:

TRAILER: Any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer. Trailers parked or stored on lots shall not be allowed to be in an inoperable condition.

Zoning Amendment # 2018-006

Section 150.02 B – Definitions

Proposed New Definition:

INOPERABLE TRAILER/RECREATIONAL VEHICLE: Any trailer/recreational vehicle, licensed or unlicensed, without regard to its age or value, and which is apparently inoperable, or is in such condition that it could not be legally operated on the public streets, or is in an extensively damaged, dilapidated, or disassembled condition.

Zoning Amendment # 2018-007 (Submitted by DonPhil Holdings Co. Ltd.)

Section 150.02 B – Definitions

Proposed New Definition:

CULTIVATING AND PROCESSING MEDICAL MARIJUANA: Growing, harvesting, drying, storing, and processing medical marijuana in accordance with Ohio Revised Code 3796 and corresponding regulations, and only pursuant to an appropriate license issued by the State of Ohio.

Schedule 370.03 E – Schedule of Permitted Uses, Industrial Districts

Section 370.03 E Existing:

	L-I Light Industrial/ Business Park District	G-I General Industrial District
E. Manufacturing and processing		
1. Dry cleaning plant	P	P
2. Extracting operations		C
3. General assembly	P	P
4. Machine shops	P	P
5. Light manufacturing, assembly of previous manufactured supplies	P	P
6. Manufacturing of products from raw materials		C

Section 370.03 E Proposed (shown in bold):

	L-I Light Industrial/ Business Park District	G-I General Industrial District
E. Manufacturing and processing		
1. Dry cleaning plant	P	P
2. Extracting operations		C
3. General assembly	P	P
4. Machine shops	P	P
5. Light manufacturing, assembly of previous manufactured supplies	P	P
6. Manufacturing of products from raw materials		C
7. Cultivating and processing medical marijuana	C	C

Zoning Amendment # 2018-008

Section 390.06 Z – Supplemental Regulations for Specific Uses

Section 390.06 Z Proposed:

Medical Marijuana Cultivation and Processing Facilities shall comply with the following:

1. Only one facility shall be permitted in the township.
2. The facility shall provide training and equipment related to firefighting for medical marijuana cultivation and processing facilities.
3. The facility shall not be located within 500 feet of any school, public park/playground, or church.
4. Open air growing or direct venting of untreated effluent shall not be permitted.
5. The facility shall be described in a written plan containing information for control of:
 - a) Liquid effluents and their treatment to meet state and federal Environmental Protective Agency regulations.
 - b) Physical security for the property and buildings containing marijuana plants.
 - c) Pest controls and plan for minimizing operational impacts on feral animals.
 - d) Performance standards as described in Section 370.10.
6. All cultivation facilities shall be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the premises.
7. Storage and disposal of fertilizers, pesticides, herbicides, and any other hazardous chemicals associated with the cultivation of marijuana shall comply with all local, state, and federal laws. An application for review of any marijuana business that includes the cultivation of marijuana shall include a floor plan showing the location of the storage of such chemicals and shall be subject to review and approval by the fire authority.