

Violet Township Board of Trustees

March 2, 2016
Public Hearing

Mr. Dunlap made a motion to recess the regular Trustees meeting and open the scheduled public hearing at 8:00 pm for Case No. 04-ZC-2015 – Amendments to the Violet Township Zoning Resolution for Divergence in Planned Residential Districts. Seconded by Mr. Myers. Roll call vote: Mr. Dunlap, yes; Mr. Myers, yes; Mr. Monhollen, yes. Motion carries 3-0.

Mr. Dunlap asked Ms. Sarko to explain the amendments.

Case Number 04-ZC-2015, if adopted would add Section 3V3-01(B)(10) to allow applicants to request divergences in a Planned Residential Districts; replace existing text in Section 3V3-01(C) and add nine paragraphs for the basis of approval of a Planned Residential District application for amendment; add Section 3V3-02(G) to include language requiring a development to comply with Section 3V, standards approved by a divergence, and requirements applicable to all zoning districts in the Zoning Resolution; add Section 3V5-01 to provide an applicant for a PD approval to request a divergence; amend Section XI to include a definition for Divergence.

Ms Sarko reported The Zoning Commission initiated the proposed amendment on December 15, 2015 in response to discussions about variances to Development Standards

Prior to initiation of this amendment; if a development standard for a planned residential district could not be achieved, the variance would have to be requested and approved by the Board of Zoning Appeals.

The amendment to the Planned District has three aspects: a definition of divergence; the ability for the applicant to request a divergence and providing additional criteria for the basis of approval or denial of an application for a Planned District.

The definition will be provided in Section Roman Numeral XI: “11E Divergence: In a Planned Residential District or Planned Overlay District, a divergence is a deviation of development standards or requirements contained in the Zoning Resolution. A deviation may be approved by the Zoning Commission and/or the Trustees at the time of Development Plan Approval at the time of rezoning, provided the benefits, improved arrangement and design of the proposed development justify the deviation from the development standards or requirements of the Zoning Resolution.”

It was determined the divergences would be approved by the Zoning Commission and/or the Trustees at the time of Development Plan Approval at the time of rezoning

Section 3V3-01(B)(1) would be added and would provide the following:

- (10) The applicant may request a divergence from the development standards set forth in Section 3V. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Development Plan. Unless specifically supplemented by the standards contained in the Development Plan, the development shall comply with the requirements contained in Section 3V and the Development Standards applicable to all zoning districts, as set forth in the Violet Township Zoning Code.

Ms. Sarko provided an example of a divergence in a planned district; in the case of a platted subdivision, the new lots have to either comply with the adjacent straight zoning district or they have to provide a 100 foot buffer. A proposed development has increased the lot size for the lot adjacent to a platted subdivision with a straight zoning district. The front building setback in the R-1 district is 50 feet, all of the other lots the proposed development will have a front setback of 30 feet. Therefore, they will need a

divergence to a 30 foot setback in order to allow front setbacks to be the same throughout the development.

Ms. Sarko said Section 3V3-01(C) will include additional criteria for the approval of a Planned Residential District.

“A Planned Residential District application for amendment may be approved if the proposed development advances general health, safety and welfare of the Township in that the benefits, improved arrangements and the design of the proposed development justify the deviation from standard residential development requirements included in this Zoning Resolution as provided in Section 3V1-01 and:

- (1) If the proposed development is consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Code and whether any divergence is warranted by the design and amenities incorporated in the Development Plan.
- (2) If the proposed plan meets all of the design features required in this Code.
- (3) If the proposed development is in keeping with the existing land use character and physical development potential of the area.
- (4) If the proposed development will be compatible in use and appearance with surrounding land uses.
- (5) If the proposed development promotes greater efficiency in providing public and utility services and encouraging innovation in the planning and building of all types of development.
- (6) If the proposed development contains a nonresidential component (i.e. commercial, institutional or public service facilities), ~~is~~ the nonresidential component shall be compatible with any adjacent residential areas and is designed in such a way as to minimize any unreasonable adverse impact on existing and proposed residential uses in the development area.
- (7) Such other considerations which may be deemed relevant by the Board of Trustees. In approving the Application and Development Plan, the Board of Trustees may impose such conditions, safeguards and restrictions deemed necessary in order to carry out the purpose and intent of the PD”.

She noted these standards are some of the same standards provided in the Planned 33 Corridor Overlay District.

Section 3V3-02(G) will be added and read “Unless specifically supplemented by the standards contained in Section 3V or those standards approved by a divergence, the development shall comply with all additional zoning requirements applicable to all zoning districts as set forth in this Zoning Resolution” Ms. Sarko said unless a divergence is requested and improved, development shall comply with all additional zoning requirements.

The provisions to provide an applicant the ability to request a divergence states “An applicant for PD approval may request a divergence from any development standard or other requirement set forth in Section 3V from the Board of Trustees. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Development Plan.”

Ms. Sarko reported the Zoning Commission held a public hearing for this amendment on January 19, 2016. The amendment was modified to change “shall” to may, “is” to “shall” and “is” to “may be”. She said the Trustees received a copy of the Zoning Commission’s Recommendation

Fairfield Regional Planning Commission considered this amendment during their January 5th meeting and accepted Staff recommendation of approval.

RPC Staff reported the following:

1. "Section 3V3-01(C)(8) should be revised to read as follows: "If the proposed development contains a nonresidential component (i.e. commercial, institutional, or public service facilities), the nonresidential component shall be compatible".
2. Section IX – the definition of Divergence – the third line should read Zoning Commission **and/or** the Trustees
 1. Divergences were included in Violet Township's Planned 33 Corridor Overlay District (PCOD) and are now being proposed to be used in the township's Planned Residential (PD) district. Other townships in Fairfield County have included divergences in their zoning code
 2. RPC Staff would recommend that the township consider adding language that states no divergences to the development plan be issued for density or open space requirements in the planned residential district (PD)".

The Zoning Commission did modify the amendment to include the first two RPC recommendations. They determined the applicant should have the ability to apply for any divergence, however a request may not be granted, and that is similar to variances with the Board of Zoning Appeals. Ms. Sarko noted the packet of information included a copy of the legal notice, the proposed amendment, Regional Planning's recommendation and the existing section of the code.

Mr. Myers asked what the driver was behind the amendment. Ms. Sarko said part of it is that Mr. Donley needs variances for his pending application. Prior to this amendment if a variance from the Planned Residential District (PD), was necessary, the Board of Zoning Appeals would consider the variance. The Board of Zoning Appeals has a different set of standards for approval than the Zoning Commission. The provision for Divergences allows the Zoning Commission to consider the request as part of the entire development. The Board of Zoning Appeals considers a specific code section. Planned Districts are complex matter with each aspect of the development dependent upon each other.

She believes divergence is and should be part of the Zoning Commission and Township Trustees purview in considering Planned Residential Districts.

Mr. Myers asked if this could come at any time during the project. Ms. Sarko said it can come at the time of rezoning. If it comes after the rezoning than it becomes a modification and the Board would still consider modifications. If there are less than five lots for, those requests would be variances and considered by the Board of Zoning Appeals.

Mr. Myers asked if this was all before the rezoning. Ms. Sarko said this would be (as an example) Meadowmoore Reserve is adjoining two platted subdivisions, Bates-Crawford on the north and Fox Run West on the south. The code requires that either they meet the R-1 District requirements for a lot size and area or they provide a 100' buffer. They made the lots meet the R-1 size requirement. However, the issue remains with the front building setback of 50 feet for those lots. All of the other the lots in the subdivision have a 30 foot front building setback. They want to make sure if they could have a 30' building setback on both sides of the street coming in from Meadowmoore instead of 50 feet on one side and 30 on another. They just thought it would be more in line with the remainder of the development.

Mr. Myers asked if there was fee for variances. Ms. Sarko said the application fee for variances for the Board of Zoning Appeals is \$475.00.

Mr. Myers said it is stated that it can be approved by the Zoning Commission. Ms. Sarko said the Zoning Commission can only recommend approval. She said the amendment says "and/or" meaning if you are going through a rezoning process for a Planned District the Zoning Commission recommends approval, denial or modification to the Trustees. If there is some event that a Development Plan changes at the request of the Township Trustees it would not necessarily need to go back to the Zoning Commission and go through that recommending process again. The applicant could make the changes requested by the Trustees and request a divergence directly from the Trustees.

Mr. Myers asked if Ms. Sarko could tell him that all divergences will be ready for the Trustees to approve or disapprove by the time they get to the Trustees. Ms. Sarko said in the event that the development plan changes after the Zoning Commission has recommended approval and the applicants need to change something and the change requires a divergence, it is not necessary for them to go back to the Zoning Commission and they can request the divergence directly from the Trustees.

Mr. Dunlap noted the Trustees always have the option of sending an application back to the Zoning Commission. As he understands it this allows all those divergences in the PD district to be worked out prior to the Trustees approving it.

Mr. Myers made a motion to close the public hearing for Case No. 04-ZC-2015 at 8:20 p.m. Mr. Monhollen seconded the motion. Roll call vote: Mr. Myers, yes; Mr. Monhollen, yes; Mr. Dunlap, yes. Motion carries 3-0.

Respectfully Submitted,

Brian Sauer, Fiscal Officer

Joniann Goldberg, Administrative
Assistant

Approved by:

Terry J. Dunlap, Sr., Trustee

Darrin Monhollen, Trustee

Date: _____

Harry W. Myers, Jr., Trustee