

Liberty Township

Delaware County, Ohio

2845 Home Road

Powell, OH 43065

Trustees

Shyra Eichhorn
Mike Gempertline
Bryan Newell

LIBERTY TOWNSHIP BOARD OF TRUSTEES NOTICE OF PUBLIC HEARING

Fiscal Officer

Rick karr
740-938-2007

Administrator

Mike Schuiling
740-938-2000

Fire Chief

Thomas O'Brien
740-938-2022

Park & Road Services

Andy Curmode
740-881-5432

Zoning Dept.

Tracey Mullenhour
740-938-2010

The Liberty Township Board of Trustees will hold a Public Hearing on Monday, September 20, 2021 at 7:00 p.m. at the Liberty Township Community Building, 7761 Liberty Road, Powell, OH 43065. The purpose of this meeting is to serve as a Public Hearing on the Zoning Commission's motion to amend the text of the Liberty Township Zoning Resolution.

The proposed code amendments include, but not limited to, provisions for front yard fencing in the FR-1 zoning district through the Conditional Use process, revising the maximum sized permitted accessory buildings in the FR-1 zoning district, and several clarifications of existing code sections.

The proposed code amendments may be viewed on our website: www.libertytwp.org
On the bottom half of the home page under Liberty Township Calendar, click on Board of Trustees meeting, Monday, September 20, 2021. They will also be available for examination at the Liberty Township Government Office located at 2845 Home Road, Powell, OH beginning September 8, 2021 through September 20, 2021 from 9:00 am to 4:00 pm.

The person responsible for giving notice of this public hearing by publication is Tracey Mullenhour, Liberty Township Zoning Inspector.

For BOARD OF TRUSTEES PUBLIC HEARING
2021 PROPOSED CODE AMENDMENTS -

Front Page

Liberty Township Zoning ~~Amendment~~ Resolution

As amended XXX
effective XXXX

LIBERTY TOWNSHIP GOVERNMENT OFFICE
~~10104 Brewster Lane, Suite 125~~ 2845 Home Road
Powell, Ohio 43065 Delaware County, Ohio

Main Office: 740-938-2000
Zoning Office: 740-938-2010
Fax: 740-938-2001
www.libertytwp.org

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Liberty Township Trustees

Shyra Eichhorn, Chairperson
Mike Gemperline
~~Melanie Leneghan~~ Bryan Newell

Fiscal Officer

~~Nancy Denutte~~ Rick Karr

Administrator

Mike Schuiling

Township Zoning Commission

Bonnie Goodson, Chairperson
Joseph Karr
Todd Pomorski
Philip Fry
Suzanne Vais
Jerry Beigel, Alternate

Board of Zoning Appeals

Dana Costa, Chairperson
Butch Knowlton
Becca Mount
Kelly Kammann
Vince Margello

Zoning Inspector

Tracey Mullenhour

~~Assistant Zoning Inspector~~

~~Charles Hurt~~

Code Compliance Officer

Eric Gayetsky

Zoning Secretary

Mary Beth Robinson

Adopted by the Liberty Township Trustees / November 8, 1955

Amended by the Liberty Township Zoning Commission / June 25, 1977

Amended by the Liberty Township Zoning Commission / December 10, 1986

Amended by the Liberty Township Zoning Commission / May 1, 1991

Amended by the Liberty Township Zoning Commission / December 17, 1992

Amended by the Liberty Township Zoning Commission / December 18, 1996

Amended by the Liberty Township Zoning Commission / December 21, 2000

Amended by the Liberty Township Zoning Commission / June 20, 2002

Amended by the Liberty Township Zoning Commission / October 3, 2002

Amended by the Liberty Township Zoning Commission / December 8, 2004

Amended by the Liberty Township Zoning Commission / November 18, 2015

Amended by the Liberty Township Zoning Commission / July 6, 2016

Amended by the Liberty Township Zoning Commission / September 6, 2018

Amended by the Liberty Township Zoning Commission / September 16, 2019

Definitions

Acre: A unit of land area equal to forty-three thousand five-hundred sixty (43,560) square feet.

Attached: Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same. When Attached is used to define the connection of two (2) Buildings, they must either: A) Share a common wall; or B) Provide for internal access between the two (2) buildings.

Human Occupancy: Any portion of any structure wherein humans principally live or sleep.

Section 8.04 – CONDITIONAL USES Within this zoning district, the following uses may be permitted subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

8.04.A Expanded Home Occupations...

8.04.B Private Schools and Colleges....

8.04.C Private Kindergarten or Child Care Facilities...

8.04.D Parks, Playgrounds, Playfields, and Picnic Areas...

8.04.E Public or Private Golf Courses, Country Clubs...

8.04.F Cemeteries...

8.04.G Cemeteries for the Burial of Pets and Small Domestic Animals...

8.04.H Borrow Pits...

8.04.I Seasonal Markets that otherwise do not qualify as "Farm Markets" ...

8.04.J Telecommunications Towers as defined in Section 7.16...

8.04.K Model Homes...

8.04.L Projects specifically designed for watershed protection, conservation of soil or water or for flood control that have prior approval of the Ohio Environmental Protection Agency (OEPA) and Delaware County, Ohio...

8.04.M Front Yard Fences: In order to preserve and enhance the rural, farming character and history of the Township front yard fences shall be limited to locations in which the fencing will enhance the property and area for safety, security, aesthetics or privacy. A site plan shall be prepared and submitted, for consideration by the Board of Zoning Appeals, along with the style/height/color of the fencing. Front yard fencing must meet the rural nature of the Township and shall be considered with the following regulations:

8.04.M.1 The permitted styles shall include cross buck, three (3) or four (4) rail "Horse" post and board, and split 3-rail fences.

8.04.M.2 The height of front yard fences shall be no less than three (3) feet with the maximum height of four (4) feet.

8.04.M.3 Fencing materials shall include wood, cedar, pressure treated or composite materials. Other materials shall be under the discretion of the Board of Zoning Appeals.

8.04.M.4 Permitted colors shall include dark green, dark brown, black, white, or natural uncolored wood. Additional colors may be considered by the Board of Zoning Appeals based on existing fencing on adjacent properties.

8.04.M.5 Fences shall have a minimum setback of five (5) feet from the assigned road right-of-way for non-masonry fencing, or as determined by the Board of Zoning Appeals. Masonry elements shall have a minimum setback of fifteen (15) feet from the assigned road right-of-way.

Section 7.07 – ENTRY FEATURES TO PRIVATE RESIDENTIAL PROPERTIES Elements, including hardscape (i.e. brick, stone, rocks, walls) and softscape (i.e. plants, trees, shrubs) features, located near the entrance to a private residential property must comply with the following:

~~7.19~~ **7.07.A.1** Entry features shall not be placed within the intersection sight distance triangle as defined by the current edition of the ODOT Location and Design Manual, Volume 1.

~~7.19~~ **7.07.A.2** Entry features with fixed objects, such as rocks, walls, pillars, poles, trees, and other objects not prone to giving way upon impact, which protrude more than six (6) inches above the adjacent ground, shall not be located within fifteen (15) feet of the right-of-way.

~~7.19~~**7.07.A.3** Entry features with a gate shall locate the gate in such a manner so that the gate is located a minimum of fifty (50) feet from the edge of the paved roadway or face of curb.

Section 7.15 – FENCES AND WALLS

All fencing and walls (including stockade fences and chain link fences) shall conform to all of the following: (Please note that homeowners’ associations may have more restrictive regulations):

7.15.A No fence or wall shall be erected or constructed until a Fence permit has been issued. The application for this permit shall be accompanied by plans or drawings including a plot plan or property survey showing the actual shape and dimension of the lot on which the fence or wall is to be erected, architectural rendering of the fence or wall to include the exact height, style and type of material, location, length of the fencing, and the location of all existing buildings on the lot. Accurate distance measurements from all property lines must be shown. The signature of the property owner(s) must be shown on the plans or drawings submitted for the required zoning permit for the fence.

7.15.B The smooth finished side of the fence or wall shall be the side that faces outward from the yard being fenced, and any horizontal, diagonal, or supporting members shall be on the interior side of the fence.

7.15.C No fence or wall shall be located closer to any lot line than the minimum setbacks as shown on the table below:

ZONING DISTRICT	MINIMUM SIDE YARD	MINIMUM REAR YARD
FR-1	Five (5) feet	Five (5) feet
PR, PMFR, PRC	Three (3) feet	Three (3) feet

When erected near a property or lot line, the entire fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting said fence.

7.15.D Fences and walls shall be built at or behind the **furthest forward rear corner, on each side rear line** of the principal structure on the lot, not to exceed six (6) feet in height, measured from the finished grade to the top of the highest point of the fence or wall. **Commercial or Industrial District fencing may exceed six (6) feet in height, but no more than eight (8) feet, measured from the finished grade to the top of the highest point of the fence or wall.**

~~7.15.E Fences and walls shall not be built within one hundred and fifty (150) feet of the right-of-way of a Class A or Class B road.~~

7.15.F A fence or wall may be built without regard to the building lines if it is more than one hundred and fifty (150) feet from any property line or any road right-of-way.

7.15.G No fence or wall shall be located within the public right-of-way of any road within the Township.

7.15.H Any and all masonry walls over thirty-six (36) inches in height shall be designed by a licensed professional engineer and, after construction, shall be certified by same as having been built according to the plan.

7.15.I Fences and walls shall be kept in proper repair and maintained.

7.15.J Decorative landscaping walls or timbers having a height of less than thirty-six (36) inches from finished level of grade are excluded from Section 7.15.D.

Section 8.07.F.2: Accessory Building Dimensions (Floor Space Limitations): The permissible dimensions of each accessory building hereafter erected on any lot or parcel in this district shall be determined by ~~the following:~~ **the acreage on said lot or parcel in which the accessory building is to be located. Accessory buildings may be up to one-thousand (1,000) square feet for each acre but not to exceed the size of the existing dwelling (the size of the dwelling shall include first and second floors, attached facilities, such as a garage, but not including space in basements, decks, porches, or patios).** The accessory building(s) shall compliment the primary structure in color and exterior materials. No accessory building shall be used for human occupancy.

~~Twenty-five percent (25%) of the gross square foot area of the dwelling on said lot or parcel to which the accessory building is incidental and subordinate (including any attached facilities, such as a garage, but not including space in basements, decks, porches, patios, or any unfinished space), plus an additional five percent (5%) of the gross square foot area of the dwelling for each acre or portion thereof on said lot or parcel, for a maximum cumulative total of allowable square footage for all accessory buildings located on the lot or parcel. The accessory building(s) shall compliment the primary structure in color and exterior materials. No accessory building shall be used for human occupancy.~~

Section 20.06.F Special Events Signs: A temporary free-standing or window advertising sign announcing a special public or institutional event may be located upon the premises on which the event is to take place. Such sign may be used to advertise a grand opening, a seasonal event, or a community event. Such a sign shall not exceed ~~thirty-two (32)~~ **twenty (20)** square feet in area per side, and shall not be permitted to be displayed for more than thirty (30) days ~~prior to the planned event, nor more than seven (7) days after said event.~~ **for each event.** Such signs must include identification (name and address) of the person charged with the duty of removing said sign. Not more than two (2) such signs shall be allowed to be displayed on any one (1) lot or parcel of land at any time. **In a multiple tenant retail building, each tenant may display a special events sign a maximum of four (4) times per calendar year.**

Section 23.01 – TOWNSHIP ZONING COMMISSION

Pursuant to Section 519.04 of the ORC, the Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the Township, to be appointed by the Board, and the terms of the members shall be of such length and so arranged that the term of one (1) member will expire each year. The Board may appoint qualified members of the Regional Planning Commission to serve on the Township Zoning Commission. The time of service of each member shall be limited to two (2) consecutive full terms of five (5) years each. Each regular or alternate member shall serve until the member's successor is appointed and qualified.

Members of the Zoning Commission shall be removable for non-performance of duty, misconduct in office, or other cause by the Board, upon written charge being filed with the Board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail, or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be appointed by the Board of Township Trustees and shall be for the unexpired term. Prior to making any appointment to the Township Zoning Commission, the Board of Township Trustees and/or members of the Zoning Commission may interview each candidate or applicant for such position. The appointment shall be made by public vote at such hearing or at a later public meeting of the Board of Township Trustees. The Board of Trustees may appoint two (2) alternate members to the Zoning Commission for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.

Section 25.01 – BOARD OF ZONING APPEALS

Pursuant to Section 519.13 of the ORC, a Township Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five (5) members who shall be appointed by the Board of Township Trustees and who shall be residents of the unincorporated territory of Liberty Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five (5) years in length and so arranged that the term of one (1) member will expire each year. The time of service of each member of the Board of Zoning Appeals shall be limited to two (2) consecutive full terms. Each regular or alternate member shall serve until the member's successor is appointed and qualified.

Members of the Board of Appeals shall be removable for the reason specified and in compliance with the procedure established in ORC Chapter 519. Vacancies shall be appointed by the Board of Township Trustees and shall be for the unexpired term. Prior to making any appointment to the Board of Zoning Appeals, the Board of Township Trustees and/or members of the Board of Zoning Appeals may interview each candidate or applicant for such position. The appointment shall be made by public vote at such hearing or at a later public meeting of the Board of Township Trustees.

The Board of Trustees may appoint two (2) alternate members to the Board of Zoning Appeals for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, an alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable for the same causes and in the same manner as regular members, as provided by Section 519.04 of the ORC.

Section 25.12 – FEES TO ACCOMPANY NOTICE OF APPEAL, APPLICATION FOR VARIANCE, ~~OR~~ CONDITIONAL USE, OR DEVELOPMENT PLAN VARIATIONS

For all actions of the Board of Zoning Appeals, the Board of Township Trustees shall establish fees to be deposited with each application. Such fees shall be set annually and shall be required generally for each application to defray the costs of advertising, mailing, and other expenses. The Zoning Department shall have no authority to modify or waive such fees.

ZONING COMMISSION RECOMMENDATION

August 18, 2021

Unanimous Approval

CONCLUSION:

This portion of the meeting concluded at 7:38 p.m.

PURPOSE:

2. Work Session to discuss proposed text amendments to the Liberty Township Zoning Resolution (Code).

Ms. Mullenhour stated two changes were made to the Zoning Resolution as a result of the July 21, 2021 Zoning Commission Meeting. In Section 8.04.M, the following language in red will replace “In addition, the following regulations shall apply:” at the end of that paragraph: Front yard fencing must meet the rural nature of the Township and shall be considered with the following regulations:

Ms. Mullenhour asked the Board if the above wording in red was strong enough language. The Board had no changes with the wording.

Ms. Goodson asked the Board their thoughts on Vince Villio’s comment about 8.04.M having a conflict with Section 7.15.F, which states as follows: “A fence or wall may be built without regard to the building lines if it is more than one hundred and fifty (150) feet from any property line or any road right-of-way.” Ms. Mullenhour stated she understands Mr. Villio’s comment but she does not feel anything needs to be changed. She said if a fence is 150 feet from the right-of-way and all property lines, this gives the property owner the right to move forward with having a front yard fence without having to get approval for a conditional use.

Ms. Vais stated she did not see a conflict. If a property owner wants to put in a front yard fence that is closer than 150 feet from the right-of-way, they will need to get a conditional use. Mr. Pomorski agreed with Ms. Vais.

Ms. Mullenhour stated the second change was under Section 8.07.F.2: Accessory Building Dimensions. In the second sentence, the words “or portion of an acre,” will be removed.

Ms. Mullenhour said that the proposed Zoning Resolution revisions have been reviewed by Legal.

The Board discussed Mr. Villio’s comments regarding Section 20.06.F – Special Events Signs where it states: “In a multiple tenant retail building, each tenant may display a special events sign a maximum of four (4) times per calendar year.” He feels this is likely an unlawful restraint on commercial speech. Ms. Mullenhour feels that what is displayed on the sign is what would be the “unlawful” part. She does not feel putting a limit on the number of times per year puts a “restraint on commercial speech.”

Ms. Vais said by using the words “special events” indicates the event should not be all the time. Mr. Fry asked if the Board needed to added a definition for “Special Events Signs.” Ms. Mullenhour stated that definitions are not supposed to contain limitations.

There was discussion among the Board for how many signs someone can use in a year's time. The Board decided to leave Section 20.06.F as it is currently being revised. Ms. Vais stated if someone wanted a special events sign more than four times a year, they could apply for a variance.

PUBLIC COMMENT:

There was no public comment.

MOTION:

Zoning Commission Member Joe Karr made a motion to approve the Zoning Resolution changes, as currently stated, and to send them on to the Liberty Township Board of Trustees for their review and approval.

Zoning Commission Member Suzanne Vais seconded the motion.

The roll call was as follows: Mr. Karr – Yes, Mr. Fry – Yes, Mrs. Vais – Yes, Mrs. Goodson – Yes, and Mr. Pomorski – Yes. The motion passed with 5 – Yes and 0 – No votes.

CONCLUSION:

This portion of the meeting concluded at 7:52 p.m.

3. APPROVAL OF MINUTES

Zoning Commission Member Joe Karr made a motion to approve the minutes from **July 21, 2021**.

Zoning Commission Member Todd Pomorski seconded the motion.

The roll call was as follows: Mr. Fry – Yes, Mrs. Vais – Yes, Mrs. Goodson – Yes, Mr. Pomorski – Yes, and Mr. Karr – Yes. The motion passed with 5 – Yes and 0 – No votes.

CONCLUSION:

This portion of the meeting concluded at 7:53 p.m.

4. ADJOURN:

Zoning Commission Member Joe Karr made a motion to adjourn the meeting. Zoning Commission Member Suzanne Vais seconded the motion. All say aye.

The meeting was adjourned at 7:55 p.m.

Respectfully Submitted:

Liberty Township Zoning Commission

By: _____
Mary Beth Robinson, Zoning Secretary Date

And: _____
Bonnie Goodson, Zoning Commission Chairperson Date

REGIONAL PLANNING COMMISSION RECOMMENDATION

May 27, 2021

Conditional Approval

22-21 ZON Liberty Twp. Zoning Commission – text amendments

Request

Liberty Township has forwarded proposed text changes to their zoning resolution to the DCRPC for a review and recommendation. The proposed changes relate to the addition of a few definitions (Attached, Flag Lot, and Human Occupancy), and changes to Section 7.15 – Fences and Walls, Section 7.19 – Boarded-Up Buildings, Section 8.07.F.2 – Accessory Building Dimensions, and Section 20.06.F – Special Event Signs.

Changes in Section 7.15 – Fences and Walls includes updating some of the verbiage, adding an explicit prohibition on front yard fencing with some exceptions, clarification on regulations surrounding the types of fencing permitted in the front yards; limited to existing fencing.

Section 7.19 Boarded-Up Buildings is an entirely new section, and applies only to the Planned Commercial (PC), Industrial (I), or Planned Industrial (PI) zoning. Proposed regulations in this section permit boarding-up buildings with certain requirements; such as matching the boarding material colors to the structure, and the continuation of maintenance.

Updates to Section 8.07.F.2: Accessory Building Dimensions relate to the removal of ambiguity pertaining to how the allowable square footage is calculated, and Section 20.06.F: Special Event Signs reduces the permitted size of 20 square feet and limits the number of days the sign can be displayed to 30.

Staff Comments

In general, Staff supports the proposed text amendments with a few considerations. Part of the amendments to Section 7.15 – Fences and Walls includes, in Part D, “In all zoning districts, front yard fencing is prohibited, unless otherwise permitted under Section 7.15.F.” Section 7.15.F mentions “all new fences and/or replacement of existing fences,” but does not dictate under what conditions these may be permitted. If the only option for a front yard fence is the replacement of an existing fence, this should be clarified.

Section 7.15.D does provide an exception by permitting fencing as part of an approved development plan, so this verbiage may be more suited to fall under 7.15.F instead. More importantly, the language insinuates that no fencing, other than existing fencing and fencing surrounding Planned Residential Developments, will be permitted. The Township should be aware that this regulation will prohibit any FR-1 zoned property, or any PRD property that didn’t include fencing from ever being able to have front yard fencing without an approved variance.

Due to safety concerns that higher fences pose, Staff would also recommend the solicitation of comments from emergency personnel (police, fire, EMS) on the provision to permit fencing up to 8 feet in commercial and industrial districts.

Staff Recommendations

Staff recommends **Conditional Approval** of the amendments to the Liberty Township Zoning Resolution to the DCRPC, Liberty Twp. Zoning Commission and Liberty Twp. Trustees, *subject to:*

- 1.) *Follow-up on the issues raised under Staff Comments.*

Commission / Public Comments

Mr. Shafer made a motion for Conditional Approval of the amendments to the Liberty Township Zoning Resolution, subject to staff recommendation. Miss Boni seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

SUBDIVISION PROJECTS

Preliminary

17-21 Hidden Creek Estates, Sections 2-4 – Berkshire Twp. - 88 lots / 69.528 acres

Conditions

- Applicant: Hidden Creek Estates LLC
- Subdivision Type: Single family residential community
- Location: East side of South 3 B's and K Rd., south of Cheshire Rd.
- Current Land Use: farmland
- Zoned: Planned Residential District (PRD)
- Zoning Approval: 05/09/2002
- Utilities: Del-Co water and central sanitary sewer
- School District: Olentangy
- Engineer: Hockaden & Assoc.

