

MINUTES
ONTARIO PLANNING COMMISSION
JUNE 8, 2016

The Ontario Planning Commission met in regular session on June 8, 2016, at 5:00 p.m., in the Municipal Building with Chair Susan Wiles presiding. The following Commission members were present at roll call: Chair Susan Wiles, Mayor Randy Hutchinson, Service-Safety Director Jeff Wilson, Mick Motley and Jill Knight. Also, in attendance were Law Director Andrew Medwid, Zoning Inspector Dan Herrold, K.E. McCartney Engineer Mark Rufener, and Clerk of Council Cathy VanAuker.

Mrs. Wiles presented for approval the minutes of the regular Planning Commission meeting held May 11, 2016. Mrs. Knight moved to approve the minutes as presented with a second by Mr. Motley. Five members voted Aye, zero Nay, and the motion to approve the minutes passed.

First to come before the Commission was Tyler Edwards, Real Estate Representative for Menard Inc., requesting a rezone of .956 acres of parcel number 038-50-152-12-006. The proposed rezone would be from OS Office Service to B Business. Mr. Edwards said this rezone is part of a future expansion which they are doing with all of their stores in order to carry more product and have additional storage space.

- They will landscape the perimeter with trees and shrubs.

Mayor Hutchinson moved to recommend the proposed change in zoning to City Council for review and public hearing. Mr. Wilson seconded the motion. Hearing no discussion, five members voted Aye, zero Nay, and the motion was approved.

Next to come before the Commission was Ernest Shaffner appealing the Zoning Inspector's decision on the side yard setbacks of an existing plat in an R-2 Medium Density Residential District located on Yeager Drive. Mr. Shaffner owns the property on Yeager Drive where four doubles were built several years ago and now he would like to build a new double. The last permit he obtained was in 2006 when a 9' side yard setback was permitted but current code requires 10'. He is requesting permission to build the new doubles with a 9' side yard setback. The new doubles will be across the street and identical to the existing buildings.

- The 9' setback is consistent with the duplexes across the street.
- The other doubles, with the exception of the corner lot, were also built on 90' lots.
- The original drawings included all ten parcels.
- When Mr. Medwid asked if the increase to the 10' side yard setback deprived Mr. Shaffner of an economical viable use of the land he responded that he just spent \$1,500 on March 1, 2016 revising the plans due to the State of Ohio changes and was not aware of any changes in Ontario. Mr. Medwid said unless he is being deprived of an economical viable use of the land the setback requirements are valid and when he had the plans revised he should have also checked with the city.
- Mr. Herrold said the reason for the appeal was due to the change in code to a 10' side yard setback replacing the 9' set back that was in place when his plans were accepted. The original plan was submitted as a complete project but the project stopped for an extended amount of time. Now that Mr. Shaffner would like to continue building the 10' setback is in effect because this is not a continuation of the original project. The permit expired after 18 months because there was not a request for a continuation.

- If the appeal is not approved then Mr. Shaffner may come back before the Commission requesting a variance for a 9' side yard setback. This decision pertaining to the appeal indicates if Mr. Shaffner needs to ask for a variance.

Mr. Wilson moved to grant Mr. Shaffner's appeal requesting a 9' side yard setback on the existing plat for construction on Yeager Drive. Mr. Motley seconded the motion. At roll call, no members voted Aye, five Nay, and the motion failed.

The next item on the agenda brought Michael Stransky, 880 Randallwood Drive, forward requesting a variance on the front setback requirement for a fence to be located in the front yard of his vacant lot located at 1952/1950 Rosewood Drive. Mr. Stransky said he has lived in his home for 33 years. There are five large apartment buildings in the area and when the landlord owned this lot next to him the renters used it when walking their dogs. Mr. Stransky recently purchased this lot and he would like to bring awareness to his property line to keep everyone out.

- Mr. Herrold said the front yard setback is 35' from the right-of-way. Fences are also to meet this same code as stated in 1145.11(a).
- Extending the fence does not interfere with the line of sight for motorists. The only utility is the telephone line which is more than 25' from where the fence will be installed.
- Mayor Hutchinson said he checked the site and Mr. Wilson took pictures at the proposed location and they did not feel there would be a site line problem.
- When Mrs. Wiles asked when someone builds a home on the neighboring lot if this fence would extend 15' past the front of that house, Mr. Herrold confirmed that it would.

At 5:37 p.m., Mrs. Wiles opened the public hearing for the front yard setback variance request. Calling three times and hearing no one who wished to speak, the public hearing portion of the meeting was closed.

Mrs. Knight moved to approve the 20' front yard setback variance request by Michael Stransky for his property located at 1952/1950 Rosewood Drive. Mr. Wilson seconded the motion. Mrs. Wiles stated unless it presents a hardship for someone there is a reason the setbacks exist. At roll call, four members voted Aye, one Nay by Mrs. Wiles, and the motion passed.

Next on the agenda was the final site plan approval of Maple Ridge Villas to be located on Ferguson Road west of Stowell Park. Keith Amstutz of Shaffer Johnston Lichtenwalter & Associates, 909 S. Main Street, came before the Commission to explain a change request from the preliminary site plan: (1) build the entire complex in one phase as opposed to building in phases which was a request by the lender, and (2) other additions to the site plan include a small office, approximately 20' x 20', attached to one of the units in lieu of using a unit as an office, and (3) a 24' x 24' storage shed at the back of the development.

- When Mayor Hutchinson asked if the size of the trees and shrubs were discussed, Mr. Herrold said he received an email from Mr. Berry stating: the sycamore trees will be about 3" in diameter and 10' to 12' tall, the pear trees will be 2 1/2" - 3" in diameter and 9' to 10' tall, and the pine trees should be 6' to 7' tall.
- Mr. Herrold said the storm water bond was received. Once the final site plan is approved the normal fees will apply but everything has been received that was needed up to this point. All three proposed changes are within code.

- Mrs. Knight asked about the removal of the telephone pole in the middle of the street. Mr. Wilson said moving the pole was cost prohibitive due to the size of the pole and the amount of electricity it carries.

Lt. Mullins' Comments:

- There must be two separate taps. One to be metered from the apartment complex and the other to be unmetered with a Knox box lock for Fire Department use only that would be maintained by the apartment complex personnel.
- Recommended wider access from road than 28' at curb as specified by code.

Mr. Motley moved to approve the final site plan for Maple Ridge Villas to be located on Ferguson Road. Mrs. Knight seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion was approved.

The next item brought Aaron Bond forward, representing Buckeye Village, 1482 N. Lex-Springmill Road, requesting a modification to the October 14, 2015 approved final site plan, to not require paving of the rear parking lot at the present time. Mr. Bond stated they are not building the apartment buildings in sequential order. They are currently constructing Building #4 instead of Building #3 which is why they would like to postpone paving the parking lot until after the completion of Building #3 in order to prevent damage to the lot while they are under construction. The graveled parking area can be used for additional parking and will provide 68 spaces. Once completed the entire parking area will have 209 parking spaces.

- Mr. Herrold said the construction of Building #4 is almost finished. The order of the numbered buildings is easier for emergency response.

Lt. Mullins' comments:

- The proposed change is acceptable as long as there is 360° access and no vehicles block the path to maneuver around the buildings.

Mr. Wilson moved to grant Buckeye Village permission to keep the gravel parking lot until they complete construction of Building #3. Mayor Hutchinson seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion passed.

Next on the agenda was the request by Bendan Cain, representing the Ontario Local Schools, requesting a sign permit and sign variance for a 39.6 sf digital message board, requiring a 21.6 sf variance, to be installed on their property at 457 Shelby-Ontario Road. This sign would give them the ability to display multiple notices.

- Their message displays must hold for 8 seconds and not flash or scroll per ODOT specifications.
- The purchase of the sign is privately funded through the Ontario Growth Association who will be donating the sign. The order for the sign will be placed as soon as the sign is approved. The project will be completed this summer.
- A smaller sign may be selected but approval of this larger sign variance request would apply if a smaller sign is chosen.

Mayor Hutchinson moved to approve the sign variance request for a digital message board sign up to 39.6 sf to be located at the Ontario Local Schools. Mr. Motley seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion was approved.

Mr. Wilson moved to approve the sign permit requested by the Ontario Local Schools. Mrs. Knight seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion was approved.

Next on the agenda was the continued discussion about farm animals within the city limits of Ontario.

- Mr. Medwid said his research indicated there must be a balance so the ordinance must substantially advance a legitimate state interest or not take away any economically viable use the owner might have. There cannot be a government taking. The ordinance cannot be arbitrary or unreasonable without substantial relation to the public health, safety, morals or general welfare of the community. The city may create ordinances to promote the public health, safety and general welfare so it can't take away someone's right to earn a living but they must also take everyone else into account.
- Mr. Medwid referenced case law under Ohio law. His recommendation was to allow farm animals within the city but should the by-products, waste, etc. create noxious odors for other residents there should be a time limit to correct the situation and the burden is on the property owner.
- Mrs. Wiles said many cities have ordinances prohibiting farm animals. She requested that Mr. Medwid research legislation to the effect that in the future farm animals are prevented from coming into the city but existing farms may remain.
- Mayor Hutchinson suggested increasing the acreage allowed for farming from 5 to 10 acres to prevent new farms from being established within an allotment.
- When Mr. Motley said preventing animals in the future is not addressing the existing odor issue so Mr. Medwid suggested changing the existing noxious odor code by implementing a specific amount of time allowed to correct the issue.
- Lisa Wolf, Mabee Road, asked if they were going to define what constitutes a viable nuisance of a noxious odor.
- Susanne Carmack, 668 N. Rock Road, referenced the information found in Ohio Revised Code 920.01 on agricultural district.
- Mr. Medwid said the city wants to allow farming activities to continue based on the ordinances but residents who don't farm need to be able to enjoy their properties without worrying about the odors.

Mrs. Wiles asked the Law Director to prepare legislation for the Planning Commission to review regarding the noxious odors and the possibility of restricting more farm animals from coming into the city.

Tim Carmack, 668 N. Rock Road, said everything on his property on Mabee Road has been turned under. They purchased the property five years ago and have had hogs on the property for five years. The first time they were notified of any complaints was last spring. The Zoning Inspector has not been able to substantiate the odor complaints. They do their best to keep the odors down and everything turned under but there are times there is an odor when it gets wet and they can't do anything.

Mr. Medwid said, Ontario does not have an Agricultural Zoning District, the exception in code states if you own more than 5 acres you may use it for agricultural use.

- The requirement could be changed to require more than 10 acres. City code can be stricter than ORC.
- ORC 929.02 and 929.04 reference the case law.
- The increase in acreage requirement would apply only to animal farms.

Craig Hunt, 3680 Park Avenue West, asked since part of the Mabee Road farm was planted would there still be room to turn under the manure. Mr. Carmack said there was room.

Mrs. Knight asked about the food tent in the Lowe's parking lot. What do they do with the grease, does the city benefit from him being there, what will stop other food vendors from setting up in parking lots and does the city receive any taxes? Mayor Hutchinson said he pays income tax which is the only question that pertains to the city. Mr. Medwid said he directed the questions to the Zoning Inspector.

Mrs. Knight said there a numerous signs posted on the telephone poles. Approximately 30 signs were attached to the poles between Meijer's and Park Avenue. Not all signs are taken down after the events.

- Signs are not permitted in the right-of-way, therefore, the Zoning Inspector is allowed to remove them.

Mrs. Wiles felt the city should require residents to obtain a fence permit.

- The last fence permit legislation did not move forward due to the 3' setback requirement.
- Mr. Herrold will change the setback and present the ordinance for discussion at the next meeting.

Mrs. Wiles said she would bring information to review at the next meeting requiring housing developments to plant a specified number of trees and the maintenance of those trees.

Mr. Hunt returned to the podium to ask that yard fences should be installed with the smooth side facing the neighboring property and a requirement to maintain the fence on both sides.

- When he asked if there was a possibility to put the Zoning Inspector and Engineer on full time, Mayor Hutchinson said it would be discussed at budget time.

Mr. Herrold said Eric's Furniture sign is installed. The parking lot permit does not expire until October 16, 2016. Their plan is to have to parking lot in by December 1st.

At 6:43 p.m., with no further business to come before the Planning Commission, the meeting was adjourned upon a motion by Mrs. Knight and a second by Mayor Hutchinson.