

MINUTES  
ONTARIO PLANNING COMMISSION  
AUGUST 10, 2016

The Ontario Planning Commission met in regular session on August 10, 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, Service-Safety Director Jeff Wilson, Mick Motley and Jill Knight. Also, in attendance was Law Director Andrew Medwid, Zoning Inspector Dan Herrold, K.E. McCartney Engineer Mark Rufener, and Clerk of Council Cathy VanAuker.

Mr. Motley moved to excuse Mayor Hutchinson from this evening's meeting. Mrs. Knight seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mrs. Wiles presented for approval the minutes of the regular Planning Commission meeting held July 13, 2016. Mrs. Knight moved to approve the minutes as presented with a second by Mr. Motley. Four members voted Aye, zero Nay, and the motion to approve the minutes passed.

First to come before the Commission was a variance request submitted by Jerry and Linda Zeigler of 614 St. Rt. 314 to construct a detached garage that is 1,536 sf and 18' tall. Mr. Herrold said a variance was requested because code only allows a height of 14' which was calculated by using the height of the horizontal truss, the wall height, and dividing by 2. The extra room was being requested for storage and a workshop.

Hearing no discussion, Mr. Wilson moved to approve the variance request submitted by Jerry and Linda Zeigler for an 18' high detached garage. Mr. Motley seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Next to come before the Commission was Mary Martin, Program Manager for SureSite, seeking final site plan approval and a variance request submitted by SureSite, an agent for Verizon Wireless, to install three metal dual band omni antenna poles to boost the 4GLTE signal. Two poles are to be located in the right-of-way along Lex-Springmill Road (one in front of Burger King and one in front of the Meijer Gas Station) and one on Village Mall Drive.

- Mr. Herrold said two of the proposed poles would be 60' tall and one 35'.
- SureSite worked with the city on placement of the poles.
- Current code, 1145.33, specifies accessory facilities for a cellular telephone are only permitted in IP Industrial Park or GI General Industry Districts.
- Ms. Martin circulated pictures of similar poles and verified they would be metal, not wood. There is opportunity for another company to co-locate on the same pole in a right-of-way but the existing poles may not be in the proper location to serve another source so they would need to install their own poles.
- Mr. Herrold explained there was a possibility that more poles could be installed in the right-of-way. Companies are issued a certificate from the Public Utilities Company authorizing them to put in poles but they must comply with the municipality on location.
- The pole going near the Verizon store needs installed as soon as possible in order to improve their coverage.
- Mr. Wilson said they have been working with this company for a couple of months and they have been very cooperative and met all requirements.

Mr. Wilson moved to grant the variance requested by SureSite to install three dual band omni antenna poles in the right-of-way in a Business District. Mr. Motley seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion was approved.

Mr. Motley moved to approve the final site plan. Mrs. Knight seconded the motion. Mr. Herrold said, if for any reason the poles need to be moved it would be done at no cost to the city. Ms. Martin concurred, the pole and equipment are owned by Verizon so any maintenance, or if the right-of-way was widened, all costs would be absorbed by them. Four members voted Aye, zero Nay, and the motion passed.

The next item on the agenda pertained to farm animals within the city limits. Law Director Medwid referenced Ohio Revised Code 3767.13, Nuisances. Copies were distributed of the proposed language change addressing odors and the allowable amount of time to correct a situation before a violation would be served.

The proposed language follows:

**521.09 NOXIOUS OR OFFENSIVE ODORS.**

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.

(ORC 3767.13)

(b) No person shall allow the waste caused by farm animals to cause noxious exhalations or noisome or offensive smells which become injurious to the health, comfort or property of individuals or of the public which noxious odor must be confirmed by the City Zoning Inspector, or his designee.

(1) Upon a confirmation by the City Zoning Inspector, or his designee, that the waste caused by farm animals is causing noxious exhalations or noisome or offensive smells that are injurious to the health, comfort or property of individuals or of the public, the Zoning Inspector shall cause written notice to be served on the owner, lessee, agent, or tenant having charge of the farm animals, notifying him that such noxious smells are present and that they must be remediated within seven (7) days after service of the notice.

(2) For purposes of (b), farm animals includes horses, ponies, mules, donkeys, cows, pigs, sheep, goats, buffalo, llamas, alpacas and any other animals which are raised for the purpose of providing food, entertainment, clothing, or to be used as a beast of burden.

~~(d)~~ (c) Whoever violates this section is guilty of a misdemeanor of the third degree

Mr. Wilson moved to forward the Law Director's proposal of Section 521.09 Noxious or Offensive Odors to Council for consideration and changing item (d) to (c). Mrs. Knight seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mr. Medwid said the result of his research on not allowing new farm animals into the city could be handled in a similar manner like they just passed, which was protecting the general welfare and health of the citizens. Courts have given wide latitude to municipalities to emphasize their police power for those reasons. However, after reviewing the statute in place there is an exception to our current rule stating you cannot have farm animals on parcels of land less than three acres. That law does not apply to anything near a residential district under ORC 929. Mr. Medwid preferred to look into this further because prohibiting farm animals in the future could take away someone's livelihood once their existing animals pass away if farm animals are not allowed in the city. An agricultural district under a county taxing district is the current exemption of the law so Mr. Medwid would like to look into the details of the requirements for the county because it is a taxing district for the county. The city doesn't have any agricultural districts, just an exception allowing farming over 5 acres of land, but if that law is changed he wants to make sure the county doesn't supersede it with their agricultural district which generates taxes.

The next item on the agenda was the proposal of changes to the following Zoning Codes:

- 521.08 Littering and Deposit of Garbage, Rubbish, Junk, etc.
- 521.11 Accumulation of Junk
- 937.07 Plan Review
- 1119.03 Street and Utility Improvements
- 1145.07 Driveways
- 1145.15 Zero Lot Line Business
- 1145.15 Zero Lot Line Residence
- 1145.28 Site Plan Review
- 1145.29 Storm Water Management Requirements
- 1146.09 Permit Procedure and Fees
- 1151.07 Variances

Commission members discussed specific codes for clarification:

#### 1145.07 Driveways

- Mr. Motely asked how these changes would affect existing driveways. Mr. Herrold said the new legislation would only require a driveway permit fee for a new driveway while an existing driveway with no change in the right-of-way would not require a permit. An existing driveway with changes to the right-of-way area would require a permit but no fee, currently there is a fee.
- Mr. Motely referenced: "all driveways shall be concrete or paved asphalt as specified above from curb to building." He asked if this would apply to existing gravel driveways since this isn't specific to new driveways. Mr. Medwid preferred this change goes into effect based upon the passage date of the legislation rather than state "all new driveways" because "new" would have to be defined.
- Mrs. Knight asked how this would affect an existing shared gravel driveway if it was split into two separate drives, similar to what happened recently on Park Avenue West. Mr. Medwid said they would have to follow the code in effect based on the date of passage. Mr. Herrold added a variance could be requested based on their circumstances which was what the property owner did on Park Avenue West.

- When Mr. Rufener asked if this addresses commercial drives, Mr. Herrold said commercial drives are addressed in another section of the code.

#### 1145.11 Fences and Walls

- Mr. Wilson said there is not a current setback requirement or a specified common fence line between two properties. Mr. Herrold said the 3' setback requirement was removed because Council did not want 6' between fences because it could become a maintenance issue and it wouldn't allow neighbors to share a common fence.
- Copies of fence regulations from Macedonia, Lexington and Beachwood were distributed.
- Mr. Wilson's concern was when neighbors agree to share a lot line fence, then one sells their property, how would the agreement be binding with the next property owner? Mr. Medwid said it would become a civil matter between land owners so he recommended recording the agreement with the deed. Ms. Wiles suggested when a fence permit is issued to a property owner, they are encouraged not to place the fence on the lot line. Property owners need to be considerate of where they place their fence to avoid going onto neighboring property to perform maintenance, mowing or painting because the neighbor may not approve.
- Mr. Herrold suggested if there was not a common agreement between current neighbors the fence would need to be set 3' from the property line.
- Some communities allow higher fences in the back yard than the side yard and lower yet in the front. Ontario does not allow a fence past the front building line.
- Mr. Medwid suggested establishing an effective date on the fence ordinance similar to the driveway code so existing fences are not affected.
- Ms. Wiles suggested taking more time to review this section on fences and continue the discussion at the next meeting.

At 5:46 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 Mr. Motley.

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Susan Wiles, Chair

Date