

**SOLON PLANNING & ZONING COMMISSION
NOVEMBER 14, 2017 – 7:30 P.M.**

The Planning Commission met at City Hall on the above date.

Present: Commission Members Bentley, Mazur and Newberry, Mayor Drucker, Councilman Pelunis, Assistant Law Director/Prosecutor Stolarsky, Planning Director Frankland, Acting Secretary Buller

Absent: None

Also Present: Fire Inspector Eisenhuth, Assistant City Engineer Welch, Councilman Scott, Councilman-elect Zelwin, Councilman-elect Shimits, Buildings Facility Manager Haddon

NOTES OF CAUCUS DISCUSSION:

(Secretary's note: Agenda items not mentioned under Notes of Caucus Discussion are items that were not pertinently discussed during Caucus.)

Chairman Bentley presided.

NEW:

4. 6915 Liberty Road – Chagrin Valley Islamic Center – variance to commence work prior to building permit approval, variance for minimum site plan content, site plan – tree clearing: An unidentified property owner inquired as to the ingress and egress of the proposed center. He was told both emergency and main entrances would be located off Liberty Road.

Mrs. Denise Smith, 6925 Liberty Road, stated the only existing road at this location is a CEI access only road on her property. She stated the front of her property extends further than the map indicates. Mrs. Smith expressed concern that the mitigation of wetlands could affect her property.

Mr. Newberry suggested these discussions be held in a public forum.

Ms. Welch stated design plans have not been submitted for this project.

Mr. Stolarsky stated the issue before the Commission is to consider allowing tree clearing prior to the issuance of a building permit.

Ms. Welch stated if the Commission moves forward with the approval, the Engineering Department would request proof of the payment for mitigation credits.

The caucus ended at 7:28 P.M. and the meeting began at 7:32 P.M.

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE:

Mr. Scott Biros, 6404 Glenallen Avenue, expressed concern that insufficient landscaping by the King Nut addition would expose his property to the building.

Ward 3 Councilman John T. Scott, 36845 Aberdeen Lane, was present along with Ward 3 Councilman-elect Jeremy Zelwin. Councilman Scott objected to the variance request from the Chagrin Valley Islamic Center. He stated the neighboring residents, through their councilman, were not properly notified at the beginning of this project. It was Councilman Scott's opinion the project phases should have been approved in stages. He read from a memo that stated "due to a recent cost estimate and the engineering work required to complete the drawings, there is concern of not meeting the March 2018 tree clearing deadline set by the Army Corp of Engineers which may force termination of the project". Councilman Scott cited several instances in Solon where tree clearings were completed and subsequently the project failed. He stated this is a hindrance to the community and the project should abide by the City's ordinances.

Mrs. Denise Smith, 6925 Liberty Road, stated her property is located directly adjacent to the proposed Chagrin Valley Islamic Center and she had not been apprised of this project. She objected to the project and is concerned that the applicant's finances could be an issue for this project which would make clearing the trees prior to issuance of a building permit unwise. She questioned why building plans and a permit had not been issued. Mrs. Smith stated according to the map, it appeared the entire area of trees up to her property line would be cleared.

Ms. Melissa Pece, 6985 Woodlands Lane, stated her concern over the Islamic Center clearing trees without a building permit. She stated the amount of trees to be cleared was unclear. Ms. Pece felt, if the project failed, her property would be facing an empty lot which could have an impact on her property value.

Mr. Patrick Pece, 6985 Woodlands Lane, expressed his objections to the Islamic Center's request for tree clearing. He stated the 12 foot height variance in addition to the tree clearing would impact his property value. Mr. Pece stated 300 plus members could adversely affect the traffic on Liberty Road. He felt this project's location was unsuitable within residential homes.

Dr. Jude Smith, 6925 Liberty Road, stated his property is next to the proposed Mosque site. As he had stated at a prior meeting, allowing a facility of this size in a residential district was wrong. Dr. Smith stated the administration is obligated to correct the law that allows buildings of this size in a residential district and felt the City should have guided this project to open land of a proper size. He stated he purchased his property because of the privacy provided by the forested area.

APPROVAL OF MINUTES:

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the minutes of the October 24, 2017 meeting as presented.

Roll Call: Aye: Bentley Mazur, Newberry, Pelunis

Nay: None

Abstain: Mayor Drucker

Motion Carried

NEW:

1. 6130 Kruse Drive – L & Y Properties – Solon, LLC (Mitchell’s Ice Cream)

101-2017 6

- 7 space on-site parking variance
- Maximum number of wall signs variance (to permit 2 additional signs)
- Site plan - additional patio seating and exterior building alteration

Mr. Darrell Young, L & Y Properties, gave a brief history of Mitchell’s Ice Cream. Mr. Young presented the 550 square foot addition design. He stated 200 parking spaces are required with 193 available including land banked parking. He requested a seven space parking variance.

Mr. Young stated the logo would be installed on the north and eastern faces of the east tower. Mr. Bentley inquired about the content of the sign. Mr. Young stated the sign will say “ice cream”.

Motion by Mayor Drucker, seconded by Mr. Mazur to approve a seven space on-site parking variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a maximum number of wall signs variance to allow two additional signs.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Councilman Pelunis to approve the site plan containing additional patio seating and exterior building alterations contingent upon the payment of a sanitary tap-in fee increase, review and approval of the final site plan drawings by the Engineering Department along with a \$200.00 review fee and all applicable permit fees as outlined in the November 6, 2017 Engineering Department memo prior to construction.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

2. 6401 Davis Industrial Parkway – King Nut

103-2017 7

- 40’ building setback from residential zoned use variance
- Loading facility setback from residential zoned use variance
- 29 space parking variance
- 6’ aisle width variance
- 3’ parking lot side yard setback variance

- Landscape buffer variance
- Site plan - building addition

Mr. Terry Noonan, Beacon Marshall Companies, was present representing the applicant. Mr. Mike Smith, King Nut, was also present. Mr. Noonan presented the 19,500 square feet building addition plans that would allow additional processes at the rear of the building. He requested a rear yard setback variance. Mr. Noonan stated an existing 1990's addition is at this setback distance.

Mr. Bentley questioned the location of the residential area. Mr. Noonan presented aerial pictures, pointed out the 50 foot wide Wheeling and Lake Erie property purchased by the City with the residences beyond and indicated the landscape mound with staggered mature plantings across the back lot towards the east.

Mr. Mazur stated he viewed this location and felt the screening was substantial.

Mr. Bentley stated, Mr. Biros, a Glenallen Avenue resident, commented earlier that he can see the building from his property. Several calls and emails from neighbors were received stating the screening was insufficient.

Mr. Mazur questioned if the rear overhead door being installed would be used for production. Mr. Noonan said it would be used for major construction only due to FDA clean space requirements. Mr. Newberry inquired if the door was at grade and not a dock door with a ramp. Mr. Noonan stated that was correct.

Mayor Drucker stated an email from Elizabeth Grimm indicated the last time King Nut requested alterations; the screening design plan was never implemented. Mr. Frankland stated a 2007 proposal was made for alterations in which the Commission felt additional landscaping was warranted, but the project did not proceed.

Mr. Newberry pointed out the two residents expressing concerns are located near the corners of the back line where the screening is a little deficient. He would like to see additional underscoring screening. Mr. Noonan stated they would be willing to supplement the landscaping. Mr. Frankland requested clarification. The Commission concurred the underlying growth would be enhanced and the plan reviewed by the Planning Department.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 40' building setback from residential zoned use variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Mazur to approve a loading facility setback from residential zoned use variance contingent upon the door being used solely for construction and on rare occasions thereafter.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Councilman Pelunis, seconded by Mayor Drucker to approve a 29 space parking variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mr. Mazur, seconded by Mayor Drucker to approve a 6' parking aisle width variance.

Mr. Newberry suggested this drive be used primarily by employees as a one way drive. Councilman Pelunis said that suggestion is not a contingency. Lieutenant Eisenhuth advised the Fire Department approved the 18 foot access drive.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mayor Drucker, seconded by Mr. Mazur to approve a 3' parking lot side yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a landscape buffer variance contingent upon the enhancement of the landscaping and approval of the plan by the Planning Department.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the site plan building addition contingent upon requirements outlined in the November 6, 2017 Engineering Department memo regarding storm water management and tap in fees.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

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| 3. | 7527 SOM Center Road – Olenger & Jennifer Pannell | 104-2017 | 1 |
| | <ul style="list-style-type: none"> ▪ Accessory structure location variance ▪ 8' accessory structure side yard setback variance ▪ 8' accessory structure cumulative side yard setback variance | | |

Mr. Olenger Pannell was present and requested variances for a shed that existed when he purchased the property in 2001. He displayed pictures of the property and explained the location of each structure.

Mr. Bentley thanked the applicant for pursuing approval.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve an accessory structure location variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mayor Drucker to approve an 8' accessory structure side yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Motion by Mayor Drucker, seconded by Mr. Mazur to approve an 8' accessory structure cumulative side yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

4. 6915 Liberty Road – Chagrin Valley Islamic Center 105-2017 3
- Variance to commence work prior to building permit approval
 - Variance for minimum site plan content
 - Site plan – tree clearing

Dr. Syed Zaidi, Chagrin Valley Islamic Center, along with Mr. Masroor Malik, 7538 Stockwood Drive, were present representing the application. Dr. Zaidi reviewed the approved site plans and stated the wetlands permit expires on March 18th. He stated the construction design, approximately 70 to 80 percent completed, has not been submitted and requested approval to remove trees. Dr. Zaidi stated no extra trees will be removed from their site. He emphasized no trees from other properties will be removed noting that neighbors wanted this site's trees for their own privacy. Dr. Zaidi pointed out the trees that would remain in the 70 foot setback area.

Dr. Zaidi stated they will be following the Army Corp modification recommendations for the wetlands. He reviewed the plans for the wetlands areas and pointed out the location of the tree removal. He stated construction could begin four months after the removal of the trees when the weather and land permits.

Mr. Malik reiterated this was not an additional request to items already approved but rather a request to meet a time line. He stated the members are committed Solon residents and good neighbor relations are important. Mr. Malik strongly feels if the City has allowed similar previous requests, this request should not be penalized. He cited several religious buildings located within Solon's residential areas and stressed the intent is not to destroy a neighborhood. Mr. Malik stated the financials are solid and they do not want to repeat this process. He stated it is taking a few months longer to get the best value for the money. Mr. Malik invited the residents to look at the maps and plans for this project.

Dr. Zaidi stated the neighboring properties will benefit from the three retention ponds they are building which would be advantageous to their property values.

Councilman Pelunis stated he supported this project from the beginning but echoes the concern of bare land if the financial aspect does not go forward. Mr. Malik stated they are Solon residents with the funds to complete a major portion of this project. He argued the risk exists universally at any time with or without a permit. Councilman Pelunis understands the risk. Dr. Zaidi stated the financial risk is very minimal. He stated the project was divided into six phases with phase one monies available.

Dr. Zaidi stated while it is true the CEI easement road is the only available road, once the permit is issued, building the road will be addressed first.

Dr. Zaidi stated if the tree clearing is approved, construction could begin in three to four months. If it is not, reapplication for the wetlands to the Army Corp of Engineers will be required so the project could be delayed.

Mayor Drucker asked what the delay is for the permit. Dr. Zaidi stated a wetland restriction is in place between March 18th and September 30th. She questioned how long tree clearing would take. Dr. Zaidi reviewed the tree cutting process. He stated once the City approves the request, an EPA permit will be requested which takes approximately four to eight weeks, then hiring a contractor. Mayor Drucker stated her trepidation with this request especially since the current and councilman-elect both oppose it. She stated granting this variance would set a bad precedent for future building.

Dr. Zaidi displayed pictures and reviewed the bordering properties' trees. He pointed out a neighboring property containing one row of trees where the center will be, leaving 70 feet of trees. Dr. Zaidi noted if the neighboring properties had 70 feet of trees, which was required of the Center, there would be a curtain of 140 foot of trees. He stated this project included planting new trees with the City's guidance. Dr. Zaidi questioned why they were cautioned and why the City was concerned with this request when adjacent properties did not have the 70 foot tree setbacks.

Mr. Malik assured the Commission they have invested much time and money towards this project and have no intention of backing out.

Mr. Bentley stated this discussion is important and it is essential people have the opportunity to discuss this project. Mr. Bentley stated this project has already been approved by this Commission and City Council. He directed discussion back to the applicant's current request.

Mr. Newberry expressed concern with the plans presented this evening. He stated the demolition plan (C-101) shows a clear cut of all the trees in the north and west triangle of the First Energy easement and all of the trees on the pad area for seven of the phases, less the 70 foot wetlands area at the back. Mr. Newberry does not object to the acceleration of the tree removal and understands the issue with the Army Corp of Engineers, but hopes there is a plan defining where the trees are actually being removed. Mr. Ahmed Ashad, Board Member of Chagrin Valley Islamic Center and Engineer for design plans, explained showing the mass tree removal is more financially reasonable to complete in a single phase.

Mr. Newberry questioned why the trees are being cut from the entrance line to the north property line where a significant amount of wetlands remains as well as along the perimeter of the properties. Dr. Zaidi was told by Susan Baker, Army Corp of Engineers, disturbing wetlands should be done all at once so it does not disturb other wetlands. He noted it will be more cost effective as well. In addition, Dr. Zaidi stated the less desirable trees would be replaced with better trees and it would make the center visible. Mr. Newberry pointed out the trees located in the northwest corner are necessary for the preservation of the wetlands and removing them would be in violation of the permit. Mr. Newberry suggested an additional 20-30 foot buffer between the neighbors along the property line since it is an unused area and would

afford the neighboring properties more screening. Mr. Ashad stated the intent to buffer the neighbors exists but these trees are considered poor. A landscape mound or landscaping approved by the City architect would be installed. Mr. Newberry said his concern regarding the wetlands in the northwest corner remains.

Mr. Mazur recalled this plan was originally presented as multi phased with seven to ten years to complete. He expressed dismay with the request to strip the land of trees when the project may or may not be completed within the foreseeable future. Mr. Mazur stated the project should be approved according to the plans.

Mr. Malik respectfully stated the plan has been approved and is not a new plan. Mr. Mazur did not recall clear cutting the property was in the original plan. Mr. Newberry disagreed considering the applicant is requesting new variances.

Councilman Pelunis suggested the applicant meet with Planning Director Frankland to identify the trees to be cut and which trees would remain and return to the Planning meeting on November 28th for further discussion. Mr. Frankland stated they will meet. Councilman Pelunis stated rather than facing rejection, the applicant and Planning Director could discuss further. Mr. Malik suggested a contingency that they receive the Planning Department's approval. Councilman Pelunis was uncomfortable placing such a contingency. After private discussion, Mr. Malik stated they would like to meet with the Planning Department but would like direction as to what the Commission is requiring. Councilman Pelunis stated the Commission requests clarification of the issues along with a new drawing showing what will be removed. Mr. Frankland stated submissions should be received by November 21st.

Mr. Ashad stated they could leave the 20 feet setback on the north and south side in the new plan and inquired what other items need clarification. Mr. Newberry stated a new plan including the landscape plan or mounding where trees might be removed. Mr. Newberry remains concerned with the northwest wetland corner. Mr. Ashad stated that corner could remain as-is.

Motion by Mayor Drucker, seconded by Mr. Mazur to table consideration of Item 4.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

Mr. Newberry encouraged the Woodlands residents to review this plan. He noted the two residents that spoke earlier are not located close to the project. The residents that were notified were adjacent or abutting property owners to the applicant's property, which included one resident on Woodlands Lane. He advised with the exception of the Smiths who abut the property and were notified, the other property owners in attendance were not notified because they are not abutting or adjacent property to the applicant's property.

5. 5333 SOM Center Road – (Halle Rex – owner)

044-2017 4

Luke and Sarah Bobey

- 18.75' front yard setback variance
- Not parallel to street variance

Mrs. Sarah Bobey, 38754 Melgrave Lane, Avon, Ohio, was present representing Ms. Halle Rex, owner of 5333 SOM Center Road. Mrs. Bobey explained she would like to purchase the vacant property from Ms. Rex to build a home. She said she submitted easements for the property's utilities. She has obtained a signed agreement from Ms. Rex and anticipates signed agreements for the abutting Meisel property. She believes the Engineering Department has received all easements. She displayed the plan and explained two utility easements are on Ms. Rex's property for gas, water, electric and sewer. She explained the easement on the Meisel property crosses the Meisel's driveway. She said they will connect to the public sewer along the west side of the Meisel property where she will connect to an easement from Schneider.

Councilman Pelunis asked if a pump station is necessary. Mrs. Bobey said yes.

Mr. Newberry asked Mrs. Bobey to clarify how one easement will connect to the other two easements. Mrs. Bobey pieced the three drawings together for clarification.

Mrs. Bobey said the closing date is scheduled for November 28th and has been extended nine times; therefore, there will be no more extensions. She explained Ms. Rex needs to sell the property by the end of the month for financial reasons and the purchase contract will address Ms. Rex's financial issues.

Mrs. Bobey is concerned she will purchase the property but be unable to situate the house to her preference on the property.

Mr. Bentley asked if the Engineering Department received the necessary documentation.

Ms. Welch said the Engineering Department has the easements documents submitted by Mrs. Bobey. Mr. Frankland said they have not been approved. He said if the Commission approves the application, he recommended contingencies be added that all easements are to be approved by the Engineering and Law Departments and the easements be signed and recorded prior to the issuance of permits.

Mrs. Bobey anticipated the documents will be signed this week.

Councilman Pelunis asked if renderings for the private pump station were approved. Ms. Welch said they have not been received yet. She said the Engineering Department's memo from April stated the applicant is responsible for the sanitary sewer and pump station and they would accept the responsibility.

Councilman Pelunis is concerned with the 18.75 foot front yard setback variance and asked if it could change. Mrs. Bobey said yes, depending on the location of the pump station.

Councilman Pelunis said he is concerned with granting a front yard setback variance when it is unclear where the house will be located. Mrs. Bobey said plans for the house were previously submitted, however, she is unsure where the pump station will be located. Councilman Pelunis said the exact amount of front yard setback variance is unclear; therefore, he does not support it. However, he will support the not parallel to the street variance.

Mr. Newberry said the setback variance is from the easement and asked if the pump station will be in the northeast corner. Mrs. Bobey was not sure considering the excavator told her they could go through the creek on the property, requiring Army Corp of Engineers approval or they could go up the existing drive. She said once the property is purchased, Payne and Payne will address it.

Mr. Newberry said the pump station will not be an above ground structure. Mrs. Bobey agreed. Mr. Newberry said only the power source and the emergency light will be above ground and noted it is not something the commission would review for a front yard setback. Councilman Pelunis said a radius around it would need to be included. Mr. Newberry disagreed and said it is a utility and the commission would not normally grant a variance for a pump station that was placed too close to the street unless a house is above it. Councilman Pelunis said the 18.75 foot setback variance is for the house and may change.

Mr. Bentley commended the applicant for her efforts.

Mr. Mazur said the setback variance could be modified later if necessary.

Mr. Newberry explained the plan showed a 50 foot building line which is the reason for the setback as the requirement of the houses in the area is 68.75 feet and is the reason for the 18.75 foot setback variance. The plan shows the house 55 feet from the street which is less than the 18.75 foot variance but still within the limits.

Motion by Mayor Drucker, seconded by Mr. Mazur to approve an 18.75' front yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry
Nay: Pelunis

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a not parallel to street variance contingent upon approval of all easements by the Engineering and Law Departments and the easements be signed and recorded prior to the issuance of permits and that the property owner accepts responsibility for the pump station.

Mrs. Bobey indicated she accepts responsibility for the pump station.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. Key Bank Data Center – 28850 Aurora Road

Mr. Frankland displayed the plan and explained the property abuts the Metroparks. He explained the request to install an eight foot tall chain link fence for added security of the doors and openings in the area. He said if the Commission approves, the Fire Department will need to review for sufficient space to enter the fenced area. Mr. Frankland said the Metroparks may have also have comments.

The Commission determined no further review was necessary.

COMMENTS FROM THE COMMISSION:

Mayor Drucker thanked those who attended the Veterans' Day Memorial Service. She recognized the VFW Post 1863, Amvets Post 11, the Act II singers and the employees for their efforts in making the event possible. She thanked State Senator Matt Dolan for his attendance and support.

Mr. Mazur and Mr. Newberry congratulated the newly elected officials and wished everyone Happy Thanksgiving.

Mr. Bentley wished everyone Happy Thanksgiving.

COMMENTS FROM THE AUDIENCE:

Mr. Ken Borowy, 6895 Liberty Road, resides next to the proposed Islamic Center. He said when Spicebush Lane was constructed; there was a culvert on the west side of Liberty Road. He said there is no culvert now and all of the water coming down Spicebush Lane flows onto his property causing his yard to be very wet. He indicated the proposed Islamic Center now wants to remove trees and add pavement that will only aggravate his water problem. Although the applicants said the trees were poor, Mr. Borowy said they are mostly oak trees which he believes is a strong tree. Although he understands detention basins will be installed, he believes they will not provide relief to his yard. He said there is a detention basin on the other side of the easement that fills with water but does not rectify his water problems. In regard to new trees to be installed by the Islamic Center, he believes they will not survive and replacements will not be planted. He said this has happened in other parts of the City where trees are removed and cleared land remains.

Motion by Mr. Mazur, seconded by Mayor Drucker to adjourn the meeting at 9:17 P.M.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

Chairman

Acting Secretary