

**SOLON PLANNING & ZONING COMMISSION
APRIL 9, 2019 – 7:17 P.M.**

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

Present: Commission Members Bentley, Mazur, Newberry, Councilman Pelunis, Mayor Kraus, Assistant Law Director/Prosecutor Stolarsky, Planning Director Frankland, Secretary McConoughey

Absent: None

Also Present: Councilmen Kitora and Magill, Inspector Eisenhuth, Assistant City Engineer Lyndon, Assistant Clerk of Council Buller

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.

PENDING:

1. Lot 10 Liberty Road – PP# 955-01-003 – Christopher and Theresa Vacik – Front yard setback variance: Mr. Lyndon said it was discussed with the Greenspans (potential purchasers of the property) that a variance would not be required if the house was placed closer to Liberty Road and shifted to the north. He said a more specific footprint of the house could be helpful to decide placement.

Mr. Greenspan said, as a result of the discussions, it was realized the house could be placed at a 185' setback; however, to build the structure away from the stream they prefer the 225' setback. He said a house plan can be presented this evening.

Councilman Pelunis said any revised plans for the Commission and general public's consideration and review should have been provided prior to this evening.

Mr. Bentley advised the original submission could be considered this evening, however any revised plan should be tabled for review. Councilman Pelunis said that was acceptable but the plan should be formally submitted and reviewed by the Engineering and Planning Departments. Councilman Kitora, Mr. Mazur and Mr. Bentley agreed.

Mr. and Mrs. Greenspan said efforts to ease the neighbors' concerns have been extended. Mr. Greenspan preferred to move forward with the 225' setback this evening because that would avoid future issues with the stream and create a barrier with the neighbors.

Mr. Lyndon said the Army Corp of Engineer's stance on streams or wetlands is to avoid mitigation by designing and building around any stream or wetland. If it is not possible to minimize it, then full mitigation.

Mr. Stolarsky said it is his understanding the applicant prefers to present the original proposal this evening.

NEW:

4. 32333 Aurora Road – Bhavin Shah – United Stones International – Sign material variance: Mr. Frankland said this item could have been presented as a minor alteration, except the Code requires the base of the sign should match the materials used on the building and the proposed material does not match.

Mr. Mazur noted a letter in opposition was on file.

The caucus ended at 7:32 P.M. and the meeting began at 7:33 P.M.

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE:

Ms. Carol Caruso, 37192 O'Neil Drive, said their property is surrounded by woodlands and borders Lot 10 Liberty Road. Ms. Caruso objected to any structure being built on the lot because it would be in close proximity to her backyard, adversely affect the culture of the neighborhood and could unfavorably affect the stream. She believes the letter from the Army Corp of Engineers was generic and that they did not view the site. Ms. Caruso said this request would devalue her property and neighboring properties. She requested that the Commission use caution in their deliberations. Ms. Caruso thanked the Commission for this consideration.

Mr. Mark Sniderman, 37172 O'Neil Drive, said his property borders Lot 10 Liberty Road. Mr. Sniderman said the request is not in conformance with the Liberty Road properties. He said allowing the variance would create a structure basically in his backyard which would infringe on his privacy and enjoyment. Mr. Sniderman understands the applicant does not currently own the lot; however, he and his neighbors do own their lots and approval of this variance would negatively affect their property values. Mr. Sniderman requested a formal objective survey be completed on the wetlands. He is concerned that water would end up on his property if a structure and driveway were situated in this area. Mr. Sniderman thanked the Commission for the opportunity to express his views and urged them to vote no on this request.

Mr. John Patram, Engineer, 37182 O'Neil Drive, said he took the liberty of conducting a survey at Lot 10 Liberty Road and questioned the Army Corp of Engineers' portrayal of the stream's beginning. Mr. Patram displayed pictures of the property and explained how he arrived at a 347 linear foot setback which would impede the driveway and cause a minimum of 35 trees to be removed. He added that would eliminate the natural divider between the properties. He said conformance with the neighboring property should be required. Mr. Patram believed fencing, which is permitted on this parcel, would have a negative impact on his property and added this request is a direct disadvantage to existing property owners. He thanked the Commission for their time and urged them to vote with good conscience.

Ms. Lynn Sniderman, 37172 O'Neil Drive, said the request would alter the quality of life at their home. She referenced a letter from the Greenspans that stated their presence would not be noticed and respectfully believed a concrete driveway, lights and a treeless lot would be noticed. Ms. Sniderman thanked the Commission for considering the residents' opinions.

Mr. Sean O'Brien, 37152 O'Neil Drive, questioned why a surveyor's plan was not submitted for consideration, how requests are reviewed and information is verified. Mr. O'Brien wondered if Lot 10 Liberty Road could even support the proposed side entry garage.

Ms. Cathleen Lawlor, 5950 Liberty Road, enjoys her wooded back yard and its wildlife. She said the plans for Lot 10 Liberty Road would be in direct sight of her property which would impact her enjoyment and her property values. Mrs. Lawlor said she has experienced significant water issues in their home and is concerned a structure placed near the stream will compound the situation. She thanked the Commission and encouraged them to reject the variance.

Ms. Carolyn Wenneman, 5925 Liberty Road, said she is directly across the street from Lot 10 Liberty Road. Ms. Wenneman is concerned an impediment to the stream would unfavorably impact her property and the neighboring properties. She said once the structure is built, there are no guarantees that future changes to the site would adhere to the Army Corp of Engineers' requirements. Ms. Wenneman thanked the Commission.

Mr. Bradley Sniderman, son of Lynn and Mark Sniderman, was present in support of his parents' concerns and those of their neighbors regarding Lot 10 Liberty Road. Mr. Sniderman questioned whether any structure would be appropriate on this plot of land. He said the setback request is out of character for the neighboring properties and would substantially disrupt the neighborhood. He thanked the Commission for considering their concerns and urged them to deny this request.

MINUTES:

Motion by Mr. Mazur, seconded by Mr. Newberry to approve the March 26, 2019 minutes as presented.

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

Nay: None

Abstain: Kraus

Motion Carried

PENDING:

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|----|--|----------|---|
| 1. | Lot 10 Liberty Road - PP# 955-01-003 – Christopher and Theresa Vacik | 024-2019 | 4 |
| | ▪ Front yard setback variance | | |

Mr. Greg and Mrs. Anna Greenspan, 6210 Lochmoor Court, were present representing the applicant. Mr. Greenspan said this was an unfortunate way to meet potential neighbors. He said the variance would enable them to build a house and retain as

much of the wooded lot as possible by routing the driveway through the existing trees. Mr. Greenspan said their concerns for the stream mirrored the previous comments and to avoid future problems they did not want to mitigate the stream. He said a lot study indicating a stream but no wetlands was previously conducted by Chagrin Valley Engineers.

Mr. Stolarsky said the current application is to build a structure at 220' which results in a 153' setback variance.

Mr. Greenspan said to maintain privacy, they are willing to plant a green barrier between the lots.

Mr. Bentley described the plan, the setbacks and the location of the stream for the viewing public.

Councilman Pelunis inquired if the structure could be situated to avoid the variance at the setback in the north corner and away from the stream with an approximately 30' driveway. Mr. Greenspan said that was possible; however, by moving the structure north, it would be positioned closer to the adjacent neighboring lots.

Councilman Pelunis suggested building a smaller structure at that location. Mr. Greenspan said a smaller structure was not their intent. Councilman Pelunis stated a practical difficulty has not been proven because a smaller house could be built on this lot without a variance.

Mr. Bentley defined a practical difficulty to the audience as a reason to not adhere to the code.

Mr. Greenspan said the practical difficulty exists because at the 70' setback the required structure square feet minimum of 1,500 would cause the 20' perimeter building area around the structure to encroach on the stream.

Councilman Pelunis inquired about their option to buy this property. Mr. Greenspan said they do not currently own the property; however, they are under contract based upon buildability.

Mr. Newberry said practical difficulty, in the eyes of the court, is in the eyes of the beholder. He believed the applicant could ask for a variance based on a practical difficulty as they perceive it; however, it is up to the Commission to decide if it is appropriate.

Mr. Newberry noted this parcel could have been impacted by the development of O'Neil Landing as the Liberty Road parcels are rectangular in shape. He appreciates the neighbors' concerns; however, as the property owner, the request is within the applicant's rights.

Councilman Pelunis said adherence to the code is required. He cited Duncan v. Middlefield, Ohio Supreme Court, which lists practical difficulty factors. Mr. Greenspan said, after review of that case, he believes their practical difficulty is valid.

Mayor Kraus believes this request could substantially alter the character of the neighborhood and negatively affect the adjoining property owners.

Mr. Greenspan is of the opinion the natural barrier between the properties would alleviate that.

Mayor Kraus referred to the Springside property as an example of a neighborhood negatively impacted by a development.

Mr. Greenspan said even when building to code there are no guarantees of a negative effect of flooding nearby properties. He said because this is the last piece of property in this area, it is not likely a building on this lot would create a huge impact on the neighboring houses.

Mr. Mazur said credence is given to neighbors who voice their opinion and he believes the neighbors on O'Neil Drive have significant concerns about this project. Mr. Mazur said the setback is out of character with the neighborhood and does not support this request.

Mr. Bentley read a portion of the Army Corp of Engineers' letter that stated "it appears there is a potential to utilize the area north of the existing stream". He said although it appears a structure could be placed at the northern area, it is not fair to say what size house an applicant can build on their lot.

Mr. Bentley advised the applicant of their option to table the item and perhaps revise the plan. Mr. Greenspan said he understands and inquired what the procedure is if the variance fails.

Mr. Stolarsky explained the right to appeal to City Council.

Mr. Newberry said a substantially changed plan could be submitted as a new application.

Mr. Greenspan displayed a potential site plan and indicated the forward most location where a structure could be placed; however, he had concerns it would interfere with the stream at that location.

Mr. Stolarsky said the choices are to vote on a 220' location or entertain a request to table. Mr. Greenspan preferred to proceed with the submitted plan.

Mr. Frankland clarified the request is for a 220' building setback requiring a 153' setback variance.

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the front yard setback variance as submitted.

Roll Call: Aye: Newberry

Nay: Bentley, Kraus, Mazur, Pelunis

Motion Failed

Mr. Stolarsky instructed the Clerk to mail the applicant Notice of Appeal Rights information.

NEW:

2. 6011 Richmond Road – Matthew B. and Megan B. Consolo 028-2019 5
- 10' side yard setback variance
 - 8'-2" cumulative side yard setback variance

Ms. Tammy Graff, 6689 Breckenridge Drive, North Olmsted, was present representing the applicant. Mr. Matthew Consolo, Applicant, was also present.

Ms. Graff said the existing garage does not fit two full-size cars. She displayed plans to add a two-car garage connected with a mudroom to the existing garage. Ms. Graff said neighbors have submitted letters of approval for this addition.

Mr. Newberry asked about the topography of the lot. Ms. Graff said the lot drops off slightly and constructing the garage at an angle would make backing the vehicles challenging.

Mr. Mazur noted receipt of the neighbor's letter of approval.

Motion by Mr. Mazur, seconded by Mayor Kraus to approve the 10' side yard setback variance.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the 8'-2" cumulative side yard setback variance.

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

Motion Carried

3. 5401 Naiman Parkway – Raintree Holding LLC 029-2019 5
- Site plan – building and parking lot modifications

Mr. Peter Shokalook, 19105 Quail Hollow Drive, Strongsville, was present representing the applicant currently located at 5351 Naiman Parkway. Mr. Shokalook said the applicant is relocating to 5401 Naiman Parkway and is requesting relief from this landlocked site by blocking off three north facing dock doors to create eight parking spaces along with adding two handicap and one parking spaces on the western side. He explained this configuration could satisfy the parking requirements, allow a dock for supply trucks and an area for independent crews to gather supplies. Mr. Shokalook said approximately five employees will park at this location.

Motion by Mr. Mazur, seconded by Mayor Kraus to recommend approval of the site plan.

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

Motion Carried

4. 32333 Aurora Road – Bhavin Shah – United Stones International 030-2019 6
 ▪ Sign material variance

Mr. Earl DiMalanta, FastSigns, 5221-A Northfield Road, Bedford Heights, was present representing the applicant. Mr. DiMalanta displayed pictures of a previously approved painted aluminum sign cabinet and pictures of the proposed faux brick base cabinet. He presented a faux brick sample that closely matched the exterior brick of the building. Mr. DiMalanta said in addition to being cost effective, the brick-look enhances the base of the cabinet.

Mr. Bentley said a letter objecting to the variance on the basis of existing zoning regulations was received from Granex Industries, Inc.

The Commission agreed the faux brick sign cabinet was a better choice.

Mr. Newberry inquired if the faux brick sample represented the closest color match to the existing building. Mr. DiMalanta said it does.

Motion by Mr. Newberry, seconded by Councilman Pelunis to approve the sign material variance.

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

Motion Carried

5. 6680 Parkland Blvd. – 6680 Parkland Solon, LLC 031-2019 7
 ▪ 2.15' rear yard parking setback variance
 ▪ Site plan for parking lot expansion

The applicant was not present.

Motion by Mr. Mazur, seconded by Mr. Newberry to table consideration of Item 5.

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

Motion Carried

Mr. Mazur instructed the Clerk to notify the applicant to appear at the April 23, 2019 meeting.

6. 35070 Pettibone Road – Rich Hricik 032-2019 1
 ▪ 11.6' side yard setback variance
 ▪ Driveway material variance

Mr. Kim Kusa, Auburn Home Builders, Inc., 13069 Westchester Trail, Chesterland, was present representing the applicant. Mr. Rich Hricik, Applicant, was also present. Mr. Kusa said the applicant was granted a variance in November to demolish an existing garage and rebuild a three-car garage and is now requesting additional footage to modernize the garage's functions.

Motion by Mr. Mazur, seconded by Mayor Kraus to approve the 11.6' side yard setback variance.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the driveway material variance.

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

Motion Carried

MINOR ALTERATIONS FROM PLANNING DEPARTMENT

1. 29300 Cannon Road – Nestlé Product Technology Center

Mr. Frankland displayed an aerial of the property and said a liquid nitrogen tank that is 28' high by 9.5' in diameter will be installed on a 12'x12' concrete pad at the back corner of the property.

Mr. Bentley inquired if the tank will be enclosed. Mr. Frankland said the tank will not be easily visible from a street and the Fire and Building Departments will review it for safety purposes when permits are issued.

The Commission agreed no further review of the item was necessary.

2. 33290 Bainbridge Road – Premier Vein Center

Mr. Frankland displayed an aerial of the property. Mr. Frankland said this is a new business that will be remodeling the existing building along with relocating the main entrance to the back of the building.

The Commission agreed no further review of the item was necessary.

3. North Park Estates

Mr. Frankland displayed a picture of the existing entrance sign grandfathered within the right-of-way and a picture of the new proposed entrance sign that will use less square footage but is slightly longer.

He said the Engineering Department requested the Homeowner's Association record a right-of-way easement for the sign.

The Commission agreed no further review of the item was necessary.

4. 6675 Parkland Boulevard – former DeMag building

Mr. Frankland displayed an aerial of the property. He indicated plans to add a garage door to the building and a driveway through the building with an exit to the existing circulation pattern. This would allow equipment to be delivered inside the building.

Mr. Frankland noted the plan requires review by the Fire, Engineering and Building Departments and if the Commission is in favor of this renovation the project will be pursued.

Mr. Bentley said he is in favor of the remodel that will enable greater production.

The Commission agreed no further review of the item was necessary.

COMMENTS FROM THE AUDIENCE

Mr. Sniderman thanked the Commission and City Departments for allowing the residents due consideration.

Mr. O'Brien reiterated his previous question regarding how decisions are made when submissions are not professionally generated.

Mr. Lyndon said applicants are required to acquire a determination from the Army Corp of Engineers. He said a 2014 Army Corp of Engineers' submittal for Lot 10 Liberty Road is on record and was provided to the applicant.

Mr. Newberry added if the variance were to be approved, an engineered site plan would have been a required contingency.

Mr. Patram disputed his measurements of the Lot 10 Liberty Road property versus the Army Corp of Engineers and offered to accompany an Army Corp representative to measure the property.

Mr. Stolarsky cautioned Mr. Patram against intruding on private property.

Mr. Lyndon explained the Army Corp of Engineers' process.

COMMENTS FROM THE COMMISSION

Mr. Newberry encouraged everyone to see the performance of "Beauty and the Beast" Thursday through Sunday at Solon High School.

Councilman Pelunis said the Board of Elections recently sent polling location change postcards to residents of Wards 2, 3 and 7. He will be discussing his objections to this change at the Council meeting. Councilman Pelunis said the Mayor and he will be meeting with the Board of Elections to encourage a reconsideration of these location changes.

Councilman Kotora expressed pride at his constituents for the refreshing manner in which they voiced their concerns. He said, "While they are number four on the ward map, they are really number one in my heart and mind." Councilman Kotora thanked the Commission.

Mr. Bentley said it was uplifting to listen to citizens voice their opinions this evening.

Mayor Kraus referenced an introductory letter from Mr. Greenspan to potential neighbors and believed meeting with neighbors face-to-face could generate more favorable results over a letter in the mailbox.

Mayor Kraus said preliminary work for the potential mixed-use rezoning of the Liberty Ford site is continuing.

Motion by Mr. Mazur, seconded by Mr. Newberry to adjourn the meeting at 8:59 P.M.

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

Nay: None

Motion Carried

Secretary

Chairman