

**SOLON PLANNING & ZONING COMMISSION
MAY 26, 2020 – 7:15 P.M.**

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

Present*: Commission Members Greenspan, Mazur, Newberry, Councilman Bentley, Mayor Kraus, Assistant Law Director Stolarsky, Planning Director Frankland, Secretary Buller

Absent: None

Also Present*: Inspector Eisenhuth, Director of IT Gibbs, Assistant City Engineer Lyndon, Senior Network/Support Service Analyst Walker

*Due to the COVID-19 health crisis all those present appeared via video connection.

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.)

Councilman Bentley presided.

Due to the COVID-19 health emergency, the general public was not permitted to attend, however, were invited to phone-in to provide comments.

PENDING:

1. 7365 Royal Portrush Drive – Kirit Patel – 5' rear yard setback variance, 9'6" side yard setback variance: Councilman Bentley said the May 13th letter to the applicant notifying them of possible removal from the agenda received no response.

NEW:

2. 32725 Aspen Glen Drive – Gayle Horwitz and Matthew Besser - 25% uniform fence opening variance: Councilman Bentley said Chief Tonelli expressed opposition to a 0% fence opening and requested a 25% fence opening.

Mayor Kraus said the Commission has deviated from 25% openings in the past. He supports this request and does not believe the fence would be a visual deterrent for law enforcement because it only extends partially across the property and is located off the lot line.

Councilman Bentley said the fence is 64' wide and the width of the property is 95.6'. He asked why the fence would not encompass the entire width of the property. Mr. Besser answered because they are sensitive to the needs of law enforcement and a fence across the entire width did not serve their purpose. He said there are existing large trees and a shed on the land. Mr. Besser did not believe the character of the

neighborhood will be impacted by the fence as it should not be visible from the street and does not abut any neighboring properties.

Mr. Mazur asked the color of the fence and Mr. Besser said white. Mr. Mazur said he is not in favor of solid fencing; however, in this instance, he supports the request. He suggested a more neutral fence color that would blend into the surroundings. Mr. Besser said they are flexible on the color and if the City required it, would change the color.

Mr. Bentley asked what practical difficulty led to this request. Mr. Besser said they understood the property abutted Miles Road when they purchased it in February, but they thought once the foliage grew in, the noise would not be an issue. He said they were mistaken because the noise, especially from trucks and motorcycles, is an issue. Mr. Besser said it is almost impossible to have a conversation outdoors on the deck.

3. 5850 Elm Hill Drive – Craig and Stacey Cohen – pool location variance and pool fencing variance: Councilman Bentley said the lot configuration is not conducive to placing the pool in the rear yard. He said a letter was received from the neighbor. Mr. Cohen said once the neighbor understood the pool is temporary, they did not have an issue.

Councilman Bentley said pool fencing is a safety concern and should be required. He suggested clip-on fencing.

Mr. Cohen said the pool will be temporary for the summer months. He said the fence installers only proposed permanent fencing.

Mayor Kraus said the Arthur Road pool will be open around June 16th but the outdoor Community Center pool will be closed for the summer.

Mr. Mazur said the Ohio Revised Code is specific with the fencing requirements because it is a safety issue and a locking gate is essential.

Mr. Frankland said the clip-on style fence with a gate would meet the Code requirements.

Mayor Kraus did not want a temporary three-month pool to become a hardship.

Mr. Newberry disagreed and expressed concern that the attracted nuisance of the pool being exposed in addition to it not being directly visible from the house created a safety concern.

Mr. Greenspan asked if a pool cover would be a consideration. Mr. Cohen asked if a hard cover would resolve the fencing obligation. Mr. Frankland said the pool must have sides that are fenced to 5' high. Mr. Cohen asked if clip-on type fencing has a locking gate and Mr. Frankland said they can have a locking gate.

Councilman Bentley suggested further research be completed, to ensure the pool is safe.

Mr. Frankland suggested the Commission act on the pool location variance this evening.

4. 5570 Harper Road - Chabad Jewish Center of Solon – PP#'s 951-28-003, 951-28-018, 951-28-016 - lot consolidation: Mr. Ronald Kluchin said consolidating the lots creates a triangle of properties and said the existing vacant houses will be demolished.

Mr. Frankland said the properties are located in a single family residential zoning district. He said it should be noted on record when the lots are combined, the two houses on the property can no longer be occupied for residential purposes.

Mr. Lyndon said as part of clarifying the right-of-way along Cannon Road, there is an existing 10' permanent right-of-way easement on this property. He said although it is not reflected on this plat, dedicating that permanent easement has been agreed to by the applicant and will affect future setback requirements. Mr. Kluchin agreed.

The caucus ended at 7:35 P.M. and the meeting began at 7:36 P.M.

CHANGES TO THE AGENDA:

Councilman Bentley said there were no changes to the agenda.

COMMENTS FROM THE AUDIENCE REGARDING AGENDA ITEMS:

There were no phone-in comments.

MINUTES:

Motion by Mr. Newberry, seconded by Mayor Kraus to approve the minutes of the May 12, 2020 meeting as presented.

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

Motion Carried

PENDING:

- | | | | |
|----|---|----------|---|
| 1. | 7365 Royal Portrush Drive – Kirit Patel | 005-2020 | 1 |
| | <ul style="list-style-type: none"> ▪ 5' rear yard setback variance ▪ 9' 6" side yard setback variance | | |

Councilman Bentley said this item did not meet the Homeowners Association specifications; therefore, the Commission will not consider it.

Motion by Mr. Mazur, seconded by Mr. Greenspan to remove this item from the agenda.

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

Motion Carried

NEW:

- | | | | |
|----|---|----------|---|
| 2. | 32725 Aspen Glen Drive – Gayle Horwitz and Matthew Besser | 018-2020 | 4 |
|----|---|----------|---|

- 25% uniform fence opening variance

Mr. Matthew Besser was present via video connection. Mr. Besser said they recently moved into this property that abuts Miles Road and the back yard is very noisy with truck and motorcycle traffic. He said installing a vinyl fence across 2/3 of the rear property line would greatly enhance their ability to enjoy their back deck and would not impair the interest of law enforcement or their neighbors. Mr. Besser said the fence would be set back approximately 40 to 50 feet off the rear property line which would not make it easily visible from the street.

Exhibit C, an aerial drawing of the property, was displayed. Councilman Bentley reviewed the drawing's details.

Councilman Bentley said Police Chief Tonelli objected to the 0% fence opening. Councilman Bentley said a previous 0% fence opening was approved by the Commission at the Solon Preschool. Mr. Newberry said that fence enclosed the preschool playground.

Mr. Newberry said he understands Chief Tonelli's concern; however, the partial fence allows ample room on either side for law enforcement to view. He said vehicle noise increases in that location because the vehicles are accelerating to climb the Miles Road hill as they travel towards SOM Center Road. Mr. Newberry indicated the retaining walls on Exhibit C that were installed by the City because of the significant change in grade at that location.

Mayor Kraus concurred with Mr. Newberry.

Mr. Mazur suggested a fence color that would blend into the environment.

Mr. Greenspan expressed no concerns for this request.

Councilman Bentley agrees with the safety forces and will uphold Police Chief Tonelli's request for a 0% fence opening.

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a 25% uniform fence opening variance.

Roll Call: Aye: Greenspan, Kraus, Mazur, Newberry
Nay: Bentley

Motion Carried

3. 5850 Elm Hill Drive – Craig and Stacey Cohen 019-2020 5
 - Pool location variance
 - Pool fencing variance

Craig and Stacey Cohen were present via video connection. Mr. Cohen said they are requesting to install a pool for the summer months on their side lot without a fence.

The aerial map of the property was displayed. Councilman Bentley said it appears it would be impossible to place the pool in any other location on the property. He said a

letter was received from a neighbor who requested screening in that area. Mr. Cohen said after telling the neighbor the pool would be temporary they have no concerns.

Mr. Mazur asked when the pool would be removed and Mr. Cohen said when summer was over. Mr. Mazur suggested stipulating the pool be removed by November 1st. Mr. Cohen agreed.

Mr. Greenspan said he does not have an issue with the location of the pool since the community pools are closed.

Councilman Bentley said he feels strongly that a temporary pool requires a temporary fence because it is a safety issue. He recommended the Cohens research fencing.

Mr. Cohen suggested the ladder be removed each night. Mr. Newberry said the Solon Code and the Ohio Revised Code require fencing for safety reasons and added the location of the pool is not readily visible from the residence. He suggested a clip-on type fence or a hardcover. Mr. Newberry asked the pool's depth and Mrs. Cohen said the pool is 4' deep but will be filled to a depth of 3'. Mr. Newberry said if the pool is 42" high, an additional 1.5' of fencing above the top of the pool would be necessary to meet the Code requirements.

Mr. Greenspan favors a fence and asked if a permit was required for the pool and Mr. Frankland said yes.

Mr. Mazur said it is the applicant's responsibility to follow the Code requirements and ascertain a solution.

Councilman Bentley said the Commission could vote on the pool location variance and place contingencies on the pool fencing variance to avoid delays.

Mayor Kraus said the applicant could work with the Planning Director for a fencing solution.

Mr. Stolarsky said the appropriate fencing would not need a variance. He advised against a hardcover contingency because of safety requirements.

Mr. Mazur said compliance with the Code will eliminate the need for Commission approval.

Mr. Stolarsky recommended the applicant consider withdrawing the pool fence variance request and work with the Planning Department to determine the proper fencing requirements.

Motion by Mr. Newberry, seconded by Mayor Kraus to approve the pool location variance contingent the pool is dismantled by November 1, 2020.

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

Nay: None

Motion Carried

Mr. Cohen asked to withdraw the pool fencing variance.

Motion by Mr. Mazur, seconded by Mr. Newberry to accept the withdrawal by the applicant of the pool fencing variance.

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

Motion Carried

4. 5570 Harper Road - Chabad Jewish Center of Solon – 020-2020 5
PP#'s 951-28-003, 951-28-018, 951-28-016
▪ Lot consolidation

A public hearing was scheduled.

Councilman Bentley opened the public hearing and asked for phone-in comments.

Mr. Ronald Kluchin, Architect, 23215 Commerce Park, Beachwood, Ohio was present representing the applicant via video connection. Exhibit E, an aerial of the properties, was displayed and Mr. Kluchin indicated the properties are surrounded by U.S. Route 422 on the west and south sides, Cannon Road on the north and Harper Road on the east. He said the two properties included in the consolidation total 1.1 acres and each contains a house. Mr. Kluchin said the two vacant houses will be demolished to allow for a future expansion once the consolidation is approved.

Mr. Lyndon said an existing 10' right-of-way easement for roadway sidewalk exists and indicated its location on Exhibit E. He asked for the dedication of the easement land as official public right-of-way as a contingency. Mr. Kluchin agreed.

Councilman Bentley said he understands the two houses on this lot are not being used, but the property is located in the R-1 zoning district, which allows one house per lot.

There were no phone-in calls for comments.

Councilman Bentley closed the Public Hearing.

Motion by Mr. Newberry, seconded by Mr. Mazur to recommend approval of the lot consolidation of PP#'s 951-28-003, 951-28-018, 951-28-016 contingent upon compliance with the Engineering Department's request for existing 10' right-of-way easement dedication as agreed to by applicant and that the property will not contain more than one occupied residence.

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

Motion Carried

COUNCIL REFERRAL:

5. From Hawthorne Golf Estates, LLC requesting the rezoning of 015-2020 5
PP# 953-02-001 and a portion of PP# 951-17-012 consisting
of approximately thirty-two (32) acres of land adjacent to Hawthorne
Valley Country Club from R-1-D (Single Family Residential) Zoning
District to R-3-A (Multi-Family Residential Senior Citizen-1) Zoning

District or potentially to a new "R-2-A" (One and Two-Family Senior Citizen Residential) Zoning District

A public hearing was scheduled.

Councilman Bentley said the public hearing remains open from the May 12th meeting and asked for phone-in comments from the call line.

Mr. Gibbs said Mr. Paul Reed had been on hold for the public hearing and was disconnected. He asked if Mr. Reed was viewing to call back.

Mr. Stolarsky requested the following exhibits to be entered into the record: Exhibit R – email with attachments dated May 22, 2020 from Mr. John Moore, Exhibit S – email response from Mr. Newberry dated May 22, 2020 and Exhibit T – email response from Mr. Mazur dated May 22, 2020.

Mr. Larry Apple, Hawthorne Golf Estates, LLC, 25250 Rockside Road, Bedford Heights, Ohio was present representing the applicant. Exhibit F, an area plan, was displayed. Mr. Apple summarized the project by saying 105 single family houses for persons age 50 and over are proposed, along with a conservation easement of 150 acres of perpetual greenspace that would go into effect upon the successful rezoning of the properties.

Mr. Newberry said the rezoning for the development for placement on the November, 2020 ballot is the issue before the Commission. He said the details of the site plan will follow in the development agreement. Mr. Apple agreed.

Councilman Bentley said a public hearing will also be held by Council on this matter.

Mr. Mazur asked Mr. Newberry to explain his investigation into Mr. Moore's letter. Exhibit F was displayed and Mr. Newberry indicated the forest green colored area on the plan was where the conservation easement was planned and is land owned by Hawthorne Valley Country Club. He indicated a white trapezoid area just below the green areas along Richmond Road containing a vacant lot owned by a family since 1963 who are not affiliated or associated with Hawthorne Valley Country Club. Mr. Newberry said the neighbors immediately to the south of this property received a letter from a Florida realtor offering the Moores right of first refusal to buy that parcel from the current owners, even though the current owners have not yet put it on the market. Mr. Newberry said the letter stated the property would be offered to the general public with the possibility of becoming multi-family housing, which is incorrect. He believed the real estate firm purchases distressed properties, such as this, in the hopes of coercing the neighbors into purchasing it and expressed his displeasure at this type of tactic. Mr. Mazur said Mr. Newberry was referring to PP# 951-17-010.

Councilman Bentley encouraged Mr. Moore to phone-in with any questions.

There were no phone-in comments.

Exhibit Q was displayed. Mr. Apple said project information is available and will remain available throughout the process at www.hawthornegolfestates.com or by calling 440-373-7740.

Mr. John Moore, 5755 Richmond Road, phoned-in his comments. Mr. Moore thanked Mr. Newberry for researching the letter he received and said he was under the assumption the land was owned by Hawthorne Valley Country Club.

Ms. Uhl, 6165 Richmond Road, phoned-in her comments. Ms. Uhl asked if the proposed houses are single family or attached units and Mr. Apple said the proposal is for 105 single family detached houses.

Ms. Uhl said there is a lake located in the housing area and asked if there are plans to develop it for recreational use by the residents. Mr. Apple said the topography makes developing the lake impractical but it will be reviewed by the landscape architect.

Mr. Newberry said as the rezoning code is written it allows for single family or two family within this zoning district. Mr. Frankland said that is correct, which is why a development agreement is being recommended at the Council level.

Mr. Theodore Melencheck, 27800 Aurora Road, phoned-in his comments. Mr. Melencheck said he is in favor of this rezoning; however, he believes the greenspace should be defined with approved and forbidden uses. He cited Cain Park and Blossom Music Center as examples of greenspace.

Mr. Frankland said the only concept being entertained at the moment is preserving the land as greenspace and not developing it residentially. He said the scope of uses on the property will be determined through the development agreement process that Council will vote on. He believes a possible intention is to develop passive trails. Mr. Melencheck feels the uses need to be clearly stated versus passively worded because, for example, Cain Park is classified as a park. Mr. Frankland said the development agreement will be very detailed in its explanation of range of uses for the property.

Mr. Melencheck asked if the development agreement will be solidified prior to the rezoning vote and Mr. Frankland said the recommendation to Council is to have a binding development agreement prior to the ballot.

Mayor Kraus said if the land is subsequently purchased, the development agreement will follow the land. Mr. Stolarsky agreed any future buyer of the land would be bound by the development agreement.

Councilman Bentley said questions and comments can be heard at the public hearings that will be scheduled by Council.

Mr. Stolarsky said the development agreement will be available on the City website for review prior to the ballot once it is finalized and agreed to by Council.

Mr. Greenspan asked who will own the greenspace. Mr. Frankland said that will be determined in the development agreement prior to a Council vote.

Councilman Bentley closed the public hearing.

Motion by Mr. Newberry, seconded by Mr. Mazur to recommend the rezoning request to Council for placement on the November, 2020 ballot.

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

Motion Carried

COMMENTS FROM THE AUDIENCE:

There were no phone-in comments.

COMMENTS FROM THE COMMISSION:

Mr. Mazur congratulated the graduating Class of 2020.

Mr. Newberry welcomed his daughter and her family to Solon.

Councilman Bentley thanked Mr. Gibbs for streamlining the Zoom meetings and the city services departments for quickly attending to residents' concerns.

Mayor Kraus welcomed Matthew Besser and Gayle Horwitz to Solon.

Mayor Kraus said the comments regarding Hawthorne Golf Estates, LLC reflect a better acceptance of this proposed plan versus the previous plan.

Mayor Kraus commended the safety forces for their efforts during the past months. He said approximately 9,000 calls to the senior residents have been conducted.

Mayor Kraus said plans are being made to open the Arthur Road pool, the outdoor Community Center pool will remain closed for the summer. The Center for the Arts and the Community Center are planning safe and limited programming for the youngsters.

Mayor Kraus said the top priority continues to be to keep everyone safe.

Motion by Mr. Newberry, seconded by Mr. Greenspan to adjourn the meeting at 8:46 P.M.

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

Motion Carried

Chairman

Secretary