

SOLON PLANNING & ZONING COMMISSION
September 29, 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 Letourneau

Absent: None

Also Present*: Support Service Analyst Walker, Assistant City Engineer Lyndon, Inspector Eisenhuth

*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.

NEW:

1. 39660 Patterson Lane – PP#'s 955-20-022 & 955-20-052 - Thornbury Homeowners Association - lot split/consolidation: A public hearing is scheduled. Councilman Bentley explained a Thornbury Subdivision walking path was located on private property. An earlier lot split/consolidation application was approved, however, was not correct by several feet. This lot split/consolidation application corrects the property line so the walking path is located on Thornbury property.

2. 38140 Windy Hill Lane – Christopher M. Whinney - side yard setback and accessory structure area variance: Mr. Whinney was present. Councilman Bentley asked if Mr. Whinney spoke with his neighbor, Mr. McNamara regarding concerns with the setback variance request. Mr. Whinney said he has not spoken with the neighbor. He explained there was miscommunication with the Building Department regarding setback requirements. He said he placed a gravel base to maximize drainage, however, the shed is smaller than the gravel area. He believes setbacks were considered based on the gravel area.

Councilman Bentley said explanation of the application will be discussed during the meeting.

Mr. Frankland explained the gravel area is considered part of the foundation and was included in the calculation when determining setbacks.

Mr. Newberry suggested the applicant speak to the neighbor prior to the Council meeting.

3. 33200 Miles Road – Joseph and Anthony Vitali - front yard setback variance: Councilman Bentley advised this item will be tabled based on submission of a new site plan.

4. 5530 SOM Center Road – Marie R. and Jeffrey A. McCausland - number of accessory structures variance (to permit two) and fence height variance: Mrs. McCausland explained their request is to add a run to their chicken coop. She said an existing shed will cause the need for the variance.

Councilman Bentley said the existing chicken coop will need approval as well. Mrs. McCausland said the coop is movable and small, however, adding a run will make the structure permanent.

Councilman Bentley said comments were received from neighbors and the ward councilman.

5. 6050 Kruse Drive & 33095 Bainbridge Road – OMNI SLF Solon, LLC & OMNI Bainbridge Road LLC – various variances and site plan: Councilman Bentley said the number of variances necessary is not uncommon for a project of this size.

6. 33270 Outley Park Drive – Catherine Bican - accessory pavement front yard setback variance: Mrs. Catherine Bican was present and explained the request is to change a horseshoe driveway to a straighter driveway, however, a fire hydrant obstructs the ability to have a completely straight driveway.

COUNCIL REFERRAL:

7. Proposed amendment to Section 1288.04(3)(d) entitled “Non-Commercial Opinion Signs” of the Zoning Code: Councilman Bentley there is no new information from the Law Department, therefore, this item will be tabled.

The caucus ended at 7:27 P.M. and the meeting began at 7:30 P.M.

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE REGARDING AGENDA ITEMS:

There were no comments regarding agenda items.

MINUTES:

Motion by Mr. Mazur, seconded by Mr. Newberry to approve the minutes of the September 15, 2020 meeting as presented.

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

Motion Carried

NEW:

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| 1. | 39660 Patterson Lane – PP#'s 955-20-022 & 955-20-052 -
Thornbury Homeowners Association | 048-2020 | 3 |
| | ▪ Lot split/consolidation | | |

A public hearing was scheduled.

Councilman Bentley opened the public hearing and asked for comments.

Mr. Rob Benjamin, 38270 McDowell Drive, President of the Thornbury Homeowners Association was present. Mr. Benjamin explained a part of the subdivision walking path was on a homeowner's property. Mr. Benjamin advised after approval of the initial lot split/consolidation request, the contractor built part of a ramp over the property line and the property owner requested the property line again be corrected. Therefore, the request is to exchange property to ensure the path is on Thornbury's property.

There were no comments from the public, therefore, the public hearing was closed.

Motion by Mayor Kraus, seconded by Mr. Newberry to approve the lot split/consolidation for PP#'s 955-20-022 & 955-20-052.

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

Motion Carried

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| 2. | 38140 Windy Hill Lane – Christopher M. Whinney | 049-2020 | 3 |
| | ▪ 9' 6" side yard setback variance | | |
| | ▪ 121 sq ft accessory structure area variance | | |

Mr. Christopher Whinney was present and explained the request to build a shed in the rear yard for storage. Mr. Whinney said the information received from the Building Department for requirements for placement of a shed were misunderstood. Mr. Whinney had a landscaper lay gravel for the base for proper drainage and noted the ground is very wet in that location. He received further communication from the Building Department regarding the Code requirements, resulting in the need for variances. He said the gravel base is 17' x 17' and the shed is 10' x 14'.

Mr. Whinney said he has not communicated with his neighbor, but will do so if the Commission requests it.

Mr. Whinney said he would have complied with the correct dimensions and believes consistency is necessary when providing requirements.

Mr. Frankland explained there was some confusion with the Code requirements. He said the confusion would have been resolved when the permit was issued, however,

it appears there was an opportunity to begin work earlier and the gravel was placed too close to the property line.

It was clarified that only the gravel was installed early and that the shed had not been constructed before a permit was issued.

Mr. Newberry did not object to the request, however, he requested the applicant contact his neighbor to discuss their concerns with the variance request before the Council meeting.

Councilman Bentley explained a letter was received from the neighbor and he agreed Mr. Whinney should contact the neighbor.

Mr. Mazur asked if the shed could be relocated. Mr. Whinney said the shed could be relocated, however, asked if the gravel is part of the dimensions of the structure. He said part of the gravel area was placed to alleviate drainage issues.

Mr. Frankland advised the gravel is considered part of the foundation in the Code. He said if the gravel and shed are moved to comply with the Code, the applicant may only need a maximum size variance.

Mr. Stolarsky asked for clarification from the Commission whether the applicant is being requested to speak with the neighbor or if the applicant is required to speak with the neighbor as part of approval.

Mr. Newberry believes speaking with the neighbor is important and it is necessary that the City knows the neighbor is in agreement before the Council meeting.

Mr. Mazur does not support the variance if the shed could be relocated to comply with the Code.

Mr. Greenspan questioned the side yard setback requirement. Mr. Frankland said it is the requirement in the Code for this zoning district.

Councilman Bentley questioned how the applicant can comply with the Code. Mr. Frankland said the gravel and shed location would need to be relocated 20' feet from the property line.

Mr. Patrick McNamara, 38160 Windy Hill Drive, joined the meeting.

Councilman Bentley asked how many feet of gravel would need to be moved to comply. Mr. Whinney said five to seven feet would need to be removed. Councilman Bentley asked if the shed would fit on the remaining footprint and Mr. Whinney said yes. Councilman Bentley said variances would not be necessary.

Mr. Whinney found the solution to move gravel is reasonable. He is concerned removing part of the gravel will affect drainage and items that will be stored in the shed.

Mr. Stolarsky suggested the application be tabled to allow the City time to assess the drainage issues and the applicant and neighbor to meet with the Planning Department.

Mr. Greenspan asked if the gravel could be covered with dirt to create a dry well to address drainage. Mr. Lyndon explained soil conditions are probably not suitable and advised that the land be built up and graded. He said the Engineering Department memo indicated they will check final grading, however, the applicant can contact the Engineering Department for suggestions. Applying dirt over the gravel could cause the gravel to impede drainage.

It was discussed tabling the application would benefit the applicant.

Motion by Mr. Newberry, seconded by Mr. Greenspan to table consideration of Item 2 to allow the applicant, neighbor, Planning Department and Engineering Department to meet.

Councilman Bentley asked Mr. McNamara if he agrees with the Commission's actions. Mr. McNamara agreed and invited Mr. Whinney to discuss the shed further.

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

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| 3. | 33200 Miles Road – Joseph and Anthony Vitali | 050-2020 | 4 |
| | ▪ 50' front yard setback variance | | |

Councilman Bentley advised a new site plan was received that will need to be reviewed.

Motion by Mr. Greenspan, seconded by Mayor Kraus to table consideration of Item 3.

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

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| 4. | 5530 SOM Center Road – Marie R. and Jeffrey A. McCausland | 051-2020 | 4 |
| | ▪ Number of accessory structures variance (to permit two) | | |
| | ▪ 2' fence height variance | | |

Mr. Jeffrey and Mrs. Marie McCausland were present. Mrs. McCausland explained the request for a chicken coop/run. She said the coop is existing and the run will be attached to the coop to keep their chickens contained. She said there is an existing shed on the property as well. She noted she has not met with the neighbor who objected.

Exhibit D was displayed. It was discussed attaching the run to the movable coop will make the coop permanent. Councilman Bentley questioned if the run attached to the coop is considered another structure. Mr. Frankland said the shed is a structure and the coop/run will be an additional accessory structure. He noted a

fence is necessary to contain chickens as per the Code. Mrs. McCausland said this is the reason why they are requesting the run.

Councilman Bentley said the ward councilman advised him that comments from other concerned neighbors were received. Councilman Bentley said he takes the comments of neighbors into consideration.

Mr. Newberry said one neighbor was concerned about the chickens roaming freely onto their property. He said the approval of this application will solve that issue and noted that other neighbors support the project.

Mr. Mazur said one neighbor indicated the coop can be seen from their living room window and asked if it can be moved. Mr. and Mrs. McCausland advised plantings could be added. Mr. Mazur agreed with additional landscaping. He questioned the need for the 8' height of the coop/run. Mr. McCausland explained there will be a slope so branches will not collect on top. Mr. Mazur asked what material will be used for the slope. Mr. McCausland said a wood material will be used and Mrs. McCausland said it will appear similar to a baseball dug-out. The applicants agreed to install more landscaping.

Mr. Greenspan supports the application.

Mr. Newberry commended the applicants for improving the property.

Motion by Mr. Newberry, seconded by Mr. Mazur to approve the number of accessory structures variance (to permit two) contingent upon installation of landscaping for screening to be installed in spring of 2021.

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

Motion Failed

Motion by Mr. Newberry, seconded by Mr. Mazur to approve a 2' fence height variance.

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

Motion Carried

Mr. McCausland agreed to remove the existing shed. Mr. Frankland said one accessory structure complies with the Code, therefore, only the fence height variance will be necessary.

Mr. Stolarsky advised the shed will need to be removed in a reasonable period of time to be compliant with the Code.

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| 5. | 6050 Kruse Drive & 33095 Bainbridge Road – OMNI SLF
Solon, LLC & OMNI Bainbridge Road LLC | 052-2020 | 6 |
| | <ul style="list-style-type: none">▪ 42' side yard setback variance▪ 15' height variance▪ 1.5 number of stories variance▪ 20' front yard setback variance▪ 75' side yard setback variance (parking enclosure)▪ 50' parking area side yard setback variance | | |

- 178 total parking space variance
- 1.2 percent green space variance
- 60' side yard setback variance (33095 Bainbridge Road)
- 5' parking area side yard setback variance (33095 Bainbridge Road)
- Parking area location variance (33095 Bainbridge Road)
- Site plan

Mr. Gary Biales, OMNI Senior Living, was present and said the Vitalia building opened September 1st and is 58% occupied and the memory care building opens next week and is 20% occupied. Mr. Biales explained OMNI would like to expand the complex with an additional building. He said more covered parking is desired, therefore, the expansion request will include increased covered parking. The new building is proposed to have 30 units and will be larger than the existing building. Mr. Biales said the many requested variances are similar to the previous building's approved variances.

Exhibit B was displayed. Mr. Biales explained the proposal is to add a four story building and attach it to the existing building with access for safety vehicles. Amenities would be located on top of the garage. He indicated the area where cross access will be needed.

Exhibit G was displayed indicating Vitalia and OMNI property lines. He explained underground detention will replace a retention pond to allow parking for the extra units. He explained 195 parking spaces are proposed for residents, visitors and staff for the entire site, including the OMNI property. The building architecture will be similar to the existing building but will include rounded corners. He believes the location is desirable.

Councilman Bentley said he looks forward to the new building and supports the application.

Mr. Stolarsky questioned if the OMNI property and the Vitalia property will be combined. Mr. Biales explained the properties have separate loans. Mr. Stolarsky questioned if a property line crosses through the parking garage structure. Mr. Biales said yes and indicated it on the drawing. Mr. Stolarsky questioned if a cross access agreement will be implemented and Mr. Biales said yes. Mr. Stolarsky asked the Commission to add a cross access agreement as a contingency to approval.

Mr. Mazur asked that the 42' side yard setback be identified on the plan. Mr. Frankland indicated the location is north of the building.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 42' side yard setback variance.

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

Motion Carried

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a 15' height variance.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mayor Kraus to approve a 1.5 number of stories variance.

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

Motion by Mr. Greenspan, seconded by Mr. Mazur to approve a 20' front yard setback variance.

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

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 75' side yard setback variance (parking enclosure).

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

Motion by Mayor Kraus, seconded by Mr. Newberry to approve a 50' parking area side yard setback variance.

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

Motion by Mr. Newberry, seconded by Mr. Greenspan to approve a 178 total parking space variance.

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

Motion by Mr. Mazur, seconded by Mayor Kraus to approve a 1.2 percent green space variance.

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

Motion by Mr. Newberry, seconded by Mr. Greenspan to approve a 60' side yard setback variance (33095 Bainbridge Road).

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

Motion by Mr. Greenspan, seconded by Mr. Mazur to approve a 5' parking area side yard setback variance (33095 Bainbridge Road).

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

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a parking area location variance (33095 Bainbridge Road).

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

Motion by Mr. Mazur, seconded by Mr. Greenspan to approve the site plan contingent upon a cross access agreement, requirements outlined in the October 23, 2020 memo from the Engineering Department and the October 22, 2020 memo from the Fire Department.

Mr. Biales questioned if a traffic study is necessary as required in the Engineering Department memo and noted it was not a requirement with the first building's application.

Mr. Newberry believes the traffic study cannot be adjudicated by the Commission and is an issue between the Administration and the applicant.

Mayor Kraus said he will address the traffic study before the application is presented to the Council. Mr. Lyndon said the traffic study will be addressed as in the past, which was after review of the trip generation by the Traffic Engineer. Mr. Biales agreed and said he submitted the trip generation with the application. Mr. Lyndon said it was forwarded to the Traffic Engineer for review. He will contact Mr. Biales after the Traffic Engineer's review and his comments are received.

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

Motion Carried

6. 33270 Outley Park Drive – Catherine Bican 053-2020 7
 ▪ 15' accessory pavement front yard setback variance

Ms. Catherine Bican was present and explained the request to convert an existing, deteriorated horseshoe driveway to a straighter driveway. She said the horseshoe design is close to an electrical box and was struck by her son's vehicle. She explained a fire hydrant obstructs the path for a completely straight driveway plan. The proposal is to widen the driveway to enter straight into the garage.

Mr. Newberry questioned the layout of the new design. Ms. Bican said the loop will be removed and replaced with a straighter driveway.

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a 15' accessory pavement front yard setback variance.

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

Motion Carried

COUNCIL REFERRAL:

7. Proposed amendment to Section 1288.04(3)(d) entitled "Non-Commercial Opinion Signs" of the Zoning Code

This item was referred to the Law Department for further research. No new information was received.

Motion by Mr. Newberry, seconded by Mr. Mazur to table consideration of Item 7.

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. Newberry wished the Jewish Community a happy New Year.

Mayor Kraus wished the Jewish Community a happy New Year and wished the Cleveland Browns good luck.

Motion by Mr. Mazur, seconded by Mr. Newberry to adjourn the meeting at 8:55 P.M.

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

Motion Carried

Chairman

Secretary