

**SOLON PLANNING & ZONING COMMISSION**  
**September 28, 2021 – 7:30 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 Holloway, Secretary Letourneau

Absent: None

Also Present: Fire Inspector Eisenhuth, Assistant City Engineer Lyndon

**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.

Councilman Bentley explained to the applicants the procedures that take place during the meeting when they present their applications. He also explained that if their application includes a memo from the Engineering Department, they will be asked to agree to the requirements of that memo prior to the Commission voting.

**PENDING:**

1. 6590 SOM Center Road – Cathy Lawrence – accessory pavement area variance and side yard setback variance: The Commission discussed how they would proceed if the applicant did not attend the meeting. This will be the fourth meeting that the applicant has not attended and correspondence has been sent requesting her attendance. The consensus of the Commission was to proceed with a vote on the requested variances.

**NEW:**

3. 5930 Liberty Road – Greg Greenspan – 25% uniform aggregate fence opening variance: Councilman Bentley advised Mr. Greenspan will recuse himself from consideration of this item. Mr. Stolarsky said Mr. Greenspan will be acting as an applicant and will leave the dais to present his application.

Councilman Bentley said he typically does not approve this type of fence. He spoke with Chief Tonelli who does not approve of this type of fence and, therefore, he will not vote to approve this item.

Mr. Stolarsky said a letter from a neighbor was received, who asked to speak after the applicant presented. However, the Commission determined the neighbor would

be able to speak during the Comments from the Audience section of the agenda at the beginning of the meeting or at a second opportunity, at the end of the meeting.

4. 5950 Glasgow Lane – Paul and Divya Sequeira – front yard setback variance: Councilman Bentley told the applicant there is a lengthy Engineering Department memo associated with this application as there have been problems in the past with soil erosion in that area. Mr. Newberry asked Mr. Lyndon to share the 100-year flood plan information for the area with Mr. Sequeira. Mr. Sequeira was present and said he already had the information. Mr. Stolarsky told Mr. Sequeira that he will request his understanding of the contents of the Engineering Department memo during the meeting as it related to the past issues with soil erosion and the risks involved with developing that area. Mr. Sequeira said he is aware of the risks involved.

At this time during the Caucus, two other residents arrived and Councilman Bentley explained again that there are two times during the meeting when a person who is not a party to the application is allowed to speak about an item; one time is at the beginning of the meeting to discuss an agenda item a person is not a party to and the second time is at the end of the meeting when a person can discuss anything of concern. Councilman Bentley said it is anticipated that if someone is attending the meeting to discuss a concern with a particular variance, discussion would take place at the beginning of the meeting, before the item has been presented and voted on by the Commission. Councilman Bentley said he will gesture to the audience during this portion of the agenda to remind anyone who wishes to speak.

5. 35912 Solon Road – Mark Silverberg – number of accessory structures variance and an accessory structure area variance: Councilman Bentley clarified that the two structures that appear on the aerial are located on the same pad and are connected.

Councilman Bentley said Items 6, 7 and 8 are all for proposed homes to be built on Flanders Drive. The lots are odd shaped and will require a front setback variance in order to develop them.

The caucus ended at 7:18 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 from the audience.

#### MINUTES:

Motion by Mr. Mazur, seconded by Mr. Newberry to approve the minutes of the September 14, 2021 meeting as presented.

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

Motion Carried

PENDING:

1. 6590 SOM Center Road - Cathy Lawrence  
PCPC-2021-00163 - Ward 7
  - 1,530 sq ft accessory pavement area variance
  - 5' side yard setback variance

The applicant was not present. Councilman Bentley advised the applicant was requested to attend a meeting several times with no response. Councilman Bentley advised the Commission's options to table the application or proceed with a vote with the information available. Mr. Stolarsky advised the item can also be placed on the Inactive Agenda.

Mr. Mazur preferred to proceed with a vote. Mr. Greenspan concurred.

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a 1,530 sq ft accessory pavement area variance.

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

Motion by Mr. Newberry, seconded by Mr. Greenspan to approve a 5' side yard setback variance.

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

Mr. Stolarsky explained the applicant will receive a letter from the Clerk which will explain their right to appeal the Commission's decision.

2. 36200 Pettibone Road - Richard A. Ledinsky (Annex Bar & Grille)  
PCPC-2021-00184 - Ward 1
  - 10' parking setback from building variance
  - 33.5' side yard setback variance

The applicant requested this item be tabled.

Motion by Mr. Newberry, seconded by Mr. Greenspan to table consideration of Item 2.

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

NEW:

3. 5930 Liberty Road - Greg Greenspan  
PC-2021-00186 - Ward 4
  - 25% uniform aggregate fence opening variance

Mr. Greg Greenspan recused himself from consideration of this item.

Mr. Greenspan explained his request to install a fence with no openings along the property line for privacy purposes. He spoke with a neighbor regarding existing large trees along the property line and it was determined Mr. Greenspan will place several fence sections to avoid damaging the existing trees instead of one continuous fence. Mr. Greenspan said this will still allow the safety forces to access fence openings if necessary.

Mr. Stolarsky advised the application will require three affirmative votes for approval.

The plan was displayed and Councilman Bentley indicated the location of the fence and asked the length. Mr. Greenspan said 28 feet.

Councilman Bentley received the opinion of the Police Chief who indicated he does not support a solid fence. Therefore, Councilman Bentley will not support the variance.

Mr. Mazur advised he will support the fence variance as the fence is not enclosing the property and there will be gaps in the fence where existing trees stand.

Mayor Kraus agreed with Mr. Mazur considering it is a small section of fence and the safety forces can view the yard.

Mr. Newberry asked Mr. Greenspan if he agrees to adhere to the conditions outlined in the Engineering Department memo. Mr. Greenspan agreed.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 25% uniform aggregate fence opening variance contingent upon requirements in the September 22, 2021 memo from the Engineering Department.

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

Motion Carried

A neighbor (later identified as Mr. Patram) was present in the audience and inquired about his opportunity to respond to the variance. Councilman Bentley advised he announced at Caucus and at the beginning of the meeting the appropriate times when comments regarding agenda items are heard.

Mr. Stolarsky explained the next time to speak will be during "Comments from the Audience" later in the meeting. In addition, comments may be directed to City Council on October 4<sup>th</sup>.

4. 5950 Glasgow Lane - Paul and Divy Sequeira  
PC-2021-00187 - Ward 3
  - 30' front yard setback variance

Mr. Paul Sequeira, 6610 Cummings Court, was present and explained his request to build a home on a sloped lot. He explained because of the sloped lot, they request a 130' setback rather than the required 105' setback to build.

Councilman Bentley explained the extensive conditions outlined in the Engineering Department memo are required to be met.

Mr. Mazur said he will support the variance if the applicant understands he is responsible for his own property. Mr. Sequeira said he understands.

Mr. Stolarsky asked Mr. Sequeira if he is aware of unstable soil conditions and if he understands the requirements of the Engineering Department memo. Mr. Sequeira said yes, he understands.

Mr. Newberry believes the proposed location of the house is appropriate.

Motion by Mr. Newberry, seconded by Mr. Greenspan to approve a 30' front yard setback variance contingent upon requirements in the September 22, 2021 memo from the Engineering Department.

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

Motion Carried

5. 35912 Solon Road - Mark Silverberg

PC-2021-00188 - Ward 4

- Number of accessory structures variance (to permit 1 additional)
- 36 sq ft accessory structure area variance

Mr. Jason Mraz, 35912 Solon Road, was present representing the applicant. Mr. Mraz explained the request to build an additional structure to protect chickens on the property from predators.

Councilman Bentley questioned if the coop is against the house. Mr. Mraz displayed a picture of the proposed chicken coop. Councilman Bentley explained the coops are considered one structure in the Zoning Code as there is one concrete pad. Mr. Mraz said although there is fencing, a predator attacked two chickens.

Mr. Mazur asked Mr. Mraz his plans for the existing coop. Mr. Mraz said they will keep the existing coop and explained some chickens will be moved for more space to avoid free-roaming in the yard.

Motion by Mr. Mazur, seconded by Mr. Greenspan to approve a number of accessory structures variance (to permit 1 additional).

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

Motion Carried

Motion by Mr. Greenspan, seconded by Mr. Newberry to approve a 36 sq ft accessory structure area variance.

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

Motion Carried

6. Flanders Drive - PP# 955-35-097 - Ronald Carbone  
PC-2021-00189 - Ward 3
  - 50' front yard setback variance

Councilman Bentley explained the properties for Items 6, 7, and 8 are irregular shaped lots requiring front setback variances.

Mr. Michael Khmelnitsky, Build Cle, was present representing the applicant. Mr. Khmelnitsky explained the lots are 151 feet deep and the Code requires 100 feet. He advised after building a house on the lot, a 100 foot front yard setback and the required rear yard setback will not allow much space for the back yard. Therefore, a 50' front yard setback is requested.

Councilman Bentley questioned the location of the lots and Mr. Khmelnitsky confirmed they are the second, third and fourth lots on Flanders Drive after the corner house on Aurora Road. He said the seller decided to retain the first lot on Flanders Drive.

Mr. Mazur asked the size of the proposed homes. Mr. Khmelnitsky said the homes will be approximately 3,100 to 3,200 square feet.

Councilman Bentley asked if Mr. Khmelnitsky agrees to the requirements of the Engineering Department memos in regard to the three parcels. Mr. Khmelnitsky agreed.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 50' front yard setback variance for PP# 955-35-097 contingent upon compliance with requirements of the September 22, 2021 Engineering Department memo.

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

Motion Carried

7. Flanders Drive - PP# 955-35-096 - Ronald Carbone  
PC-2021-00190 - Ward 3
  - 50' front yard setback variance

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 50' front yard setback variance for PP# 955-35-096 contingent upon compliance with requirements of the September 22, 2021 Engineering Department memo.

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

Motion Carried

8. Flanders Drive - PP# 955-35-095 - Ronald Carbone  
PC-2021-00191 - Ward 3
  - 50' front yard setback variance

Motion by Mr. Greenspan, seconded by Councilman Bentley to approve a 50' front yard setback variance for PP# 955-35-095 contingent upon compliance with requirements of the September 22, 2021 Engineering Department memo.

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

Motion Carried

COUNCIL REFERRAL:

9. Proposed amendment to Section 1288.04 (3)(d), which is now 1287.04 (3)(d) under the new Zoning Code numbering system, entitled "Non-Commercial Opinion Signs" of the Zoning Code

A public hearing was scheduled.

Councilman Bentley advised the amendments prepared by outside legal counsel were discussed at length and he believes it is ready for referral to the Council.

Councilman Bentley opened the public hearing and asked for comments. There were no comments from the audience, and Councilman Bentley closed the public hearing.

Mr. Newberry said in his years on the Planning Commission, this is the third time the sign ordinance will be amended to comply with latest decisions of the courts. He believes the ordinance is close to a total freedom of speech attitude for the City and supports the amendments.

Motion by Mr. Newberry, seconded by Mr. Mazur to refer the Planning Commission's recommendation of proposed amendments to Section 1287.04 (3)(d) of the Zoning Code to the Council.

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

Motion Carried

10. From Planning Director Holloway regarding a proposed amendment to Section 1290.02 of the Zoning Code, "Site Plan Review of Non-residential and Multi-family Residential Structures and Uses of Property", to change the number of copies necessary for the application packets

Councilman Bentley explained the proposed amendment will reduce the number of copies of site plans submitted by applicants from 21 to 14. Councilman Bentley said a public hearing was not necessary, however, the Council will determine if a public hearing will be necessary at a future Council meeting.

Mr. Newberry supports the amendments due to the increase in electronic communication. He explained the seven paper copies that are no longer necessary are now electronically distributed.

Motion by Mr. Mazur, seconded by Mr. Newberry to refer the Planning Commission's recommendation of proposed amendments to Section 1290.02 of the Zoning Code to the Council.

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

Motion Carried

Mayor Kraus left the meeting at 8:08 P.M.

COMMENTS FROM THE AUDIENCE:

Mr. John Patram, 37182 O'Neil Drive, was present to speak regarding Item 3. Mr. Patram questioned if his comments will be considered by the Council as the application was approved by the Planning Commission.

Mr. Stolarsky advised Mr. Patram of his options to voice his concerns this evening and at the Council meeting. To clarify, Mr. Stolarsky said there is no appeal process as the Planning Commission recommended approval of the variance to the Council who will vote on the variance. He advised Mr. Patram that he may comment before the Council's vote.

Mr. Patram questioned why he was not able to speak when the agenda item was heard as he recalled was done in the past. Mr. Stolarsky advised the appropriate times to comment.

Mr. Patram believes the process for public comments should be made clear and finds it unfair he cannot express his opposition to the variance. Councilman Bentley invited Mr. Patram to discuss his concerns.

Mr. Patram indicated he does not oppose the fence installation, however, prefers a color other than white, he would prefer the fence run along his entire property line for complete privacy rather than half the property line and that the fence be installed to avoid interfering with existing trees or tree roots. Mr. Patram expressed his dismay with existing "no trespassing" signs on the applicant's property that he said face his yard and asked that they be removed when the fence is installed. Mr. Patram requested that proper maintenance of the fence be incorporated into the final decision. Mr. Patram explained the applicant's house has been in the building stage for two and a half years and expressed his disappointment that he has lost the privacy of his back yard he once enjoyed. Mr. Patram believes the project has also devalued his property.

Mr. Richard Green, 5940 Liberty Road, was present. Mr. Green said he is a new resident to the neighborhood and said although he received a notification letter, his property is located on the opposite side of the proposed fence. He asked if Mr. Greenspan proposes a fence on the opposite side of the yard and welcomed Mr. Greenspan to discuss it in less formal circumstances. Mr. Greenspan welcomed the discussion.

Mr. Green questioned if a large dead tree on Mr. Greenspan's property will be removed. Mr. Greenspan advised the tree company will be returning.

COMMENTS FROM THE COMMISSION:

Lieutenant Eisenhuth announced the Fire Department Open House will take place on Wednesday, October 6<sup>th</sup> from 6:00 P.M. to 8:30 P.M. at Fire Station 2 on SOM Center Road.



Mr. Stolarsky clarified an applicant's right to appeal a decision is 14 days from receipt of the letter, not 30 days that he said previously.

Mr. Greenspan is pleased the sign ordinance amendments are proceeding.

Mr. Greenspan encouraged residents to speak to their neighbors with any concerns.

Mr. Mazur commented that Councilman Bentley's announcement of comments from the audience regarding agenda items was clearly stated.

Councilman Bentley encouraged residents to attend the Fire Department Open House to meet the staff and learn about the Fire Department.

Motion by Mr. Mazur, seconded by Mr. Newberry to adjourn the meeting at 8:34 P.M.

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

Nay: None

Motion Carried

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Chairman

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Secretary