

SOLON PLANNING & ZONING COMMISSION
February 15, 2022 – 7:30 P.M.

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

Present: Commission Members Greenspan, Newberry, Sutton, Councilman Bentley, Mayor Kraus, Assistant Law Director Stolarsky, Director of Planning Holloway, Assistant Clerk of Council Hager

Absent: None

Also Present: Councilman Zelwin, 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. Agenda topics may not have been discussed in order; however, they have been placed in order for the convenience of this record.)

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 and before a permit is issued.

PENDING:

1. 6426 Woodbury Drive – Justin and Annamaria Lenz – 25% aggregate fence opening variance: Councilman Bentley said the applicants are returning to Planning Commission with a revised plan which includes three sides of the fence with aggregate fence opening and only one side of the proposed fence as solid. Councilman Bentley said he will not support this variance due to the police preference to have aggregate fence opening all the way around for safety, but other members of the commission indicated that they considered this as an acceptable compromise.

2. 39350 Bainbridge Road – 39350 Bainbridge Road, LLC – Lot Split: Councilman Bentley said there is a caveat that if the lot split is approved there will be a resulting zoning code violation due to multiple secondary structures present on one proposed lot with no primary structure remaining on the lot, and considered if this should be addressed with a contingency.

Assistant Law Director Stolarsky said that there would not be a zoning code violation unless and until the lot split is filed and recorded. Since no variance request was submitted to the commission, the surrounding property owners were

not notified of such a variance, and so the variance should not be addressed at this meeting. He advised the lot split could be handled separately with the record clearly indicating that once the lot split is filed, the applicant would need to address the violation by requesting a variance or tearing down the structures. Mr. Jordan Berns was present on behalf of the applicant, and indicated understanding.

Councilman Bentley noted an additional issue related to an easement. Mr. Stolarky said that this had been discussed administratively with the Engineering Department resulting in a revised memo, where the original memo made a cross access easement mandatory, and at this point, this could not be legally imposed on the applicant and is now only a recommendation.

Councilman Newberry asked how access would be granted to the Ohio Department of Natural Resources (ODNR) to inspect the dam on the property without an easement, considering the existing access to the dam is the driveway which would no longer be on the same lot as the dam. Mr. Stolarky indicated that this would continue to be the responsibility of the property owner.

Councilman Newberry asked to see agreement from ODNR that they accept the proposed lot split, and are able to continue to maintain the Operation, Maintenance and Inspection (OMI) Manual and Emergency Action Plan (EAP) agreements on file for the dam after such a lot split, since the dam is a Class 1 dam with danger of loss of life downstream. Mr. Berns indicated that there is potential for access along Bainbridge Road, and that secondary access is identified in the Emergency Action Plan, but that ODNR had not been notified of the requested lot split. It was discussed whether notification is required, since recording of the lot split itself would not result in any change in ownership.

Nearby property owners were in attendance, and indicated that they wanted to better understand this agenda item. Councilman Bentley explained that the public hearing would be an opportunity to ask any questions or provide any comments to the record related to this agenda item.

Mr. Berns indicated support of a contingency for items 1 and 2 of the revised Engineering Department memo.

NEW:

3. 29375 West Woodall Road – Joseph Spidalieri – front yard setback variance: Mr. Spidalieri explained that he had noted existing houses down the street on either side of his property that had even greater setback variances than his request.
4. 33342 Warwickshire Lane – Robert Flauto – accessory structure area variance: It was noted that the shed is already built.
6. 33725 Station Street – Shibley Properties, LLC – 25% aggregate fence opening variance: Ms. Quinisha Singleton was present and explained that in the plan, only one side of the fence is solid. Councilman Bentley indicated he would not

support such a variance in order to support the police request, but other members of the commission indicated that the partial visibility appeared sufficient.

The caucus ended at 7:24 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. Greenspan, seconded by Ms. Sutton to approve the minutes of the January 25, 2022 meeting as presented.

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

Motion Carried

PENDING:

1. 6426 Woodbury Drive - Justin and Annamaria Lenz
PCPC-2021-00223 - Ward 6
 - 25% aggregate fence opening variance

Councilman Bentley explained the request to install a privacy fence with no openings for visibility. He noted the Police Chief does not support fences with no openings, therefore, Councilman Bentley will not support the application.

Mr. Justin Lenz was present. Mr. Lenz said he initially requested the fence have no openings to separate his small dog and the neighbor's small dogs. The privacy fence was requested to prevent the small dogs from getting through the openings in the fence. After meetings with the Planning Department, Mr. Lenz agreed to a solid fence between the two properties and the remaining sections of the fence will have the required aggregate opening.

Mayor Kraus and Ms. Sutton support the revised site plan.

Mr. Newberry indicated his support. He explained the orientation of the site plan.

Motion by Ms. Sutton, seconded by Mayor Kraus to approve a 25% aggregate fence opening variance contingent upon compliance with requirements in the January 6, 2022 Engineering Department memo.

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

Motion Carried

Mr. Newberry said the Engineering Department memo associated with this item explains if the utility easement is fenced in and future work is necessary on the easement, the fence will be removed.

2. 39350 Bainbridge Road - PP# 955-18-043 - 39350 Bainbridge Road, LLC
PCPC-2022-00229 - Ward 3
 - Lot split

A public hearing was scheduled. Councilman Bentley opened the public hearing and asked for comments.

Ms. Barbara Shane, 39425 Cortina Circle, received notification of the proposed lot split. Ms. Shane asked why the lot split is being requested, why it needs City approval, is there a plan for the properties after the lot is split, where will the egress road lead if the 20-acre portion of the property is developed, how will sewers and drainage be addressed and have the Army Corp of Engineers and other governmental agencies been involved with the development plan.

Mr. Jon Shane, 39425 Cortina Circle, advised that the property receives a lower tax rate as it is viewed as a farm, however, it does not operate as a farm. He questioned if redevelopment will cause re-examination of the real estate taxes as it is not a farm. He strongly objects to the tax rate for the property and believes it should be re-adjusted accordingly.

Mr. Pete Constantino, 39340 Cortina Circle, questioned whose name the 20-acre portion of the property will be in, if the property is being transferred for value, if so, what is the amount and will someone be living in the existing house.

Ms. Joann Kelley, 6605 Limberlost Court, explained when she bought her home, she provided an easement for water and sewer lines in exchange for greenspace area. She said if the property is developed, she questioned how it will affect her easement in regard to a new development. She is concerned potential development involving wetlands, which she said are also considered greenspace, could allow development of properties less than one acre with City approval. She questioned how many houses can be built on the property and is concerned about cluster housing. She questioned if a new development would use new or existing sewer and water lines that were established for Thornbury Subdivision and if they used existing, would it be legal.

Mr. David Magen, 6574 Hyllwynd Circle, believes the property is wetlands. He questioned if the zoning has remained the same since the time the current owner purchased the property. He questioned why it would be changed. He is concerned additional housing would increase traffic and negatively affect his neighborhood.

Christie Kelley, 6512 Dorset Lane, questioned if the property is developed, could it have multiple entrances. She questioned if a residential area can be converted into a roadway. She asked if the property is developed, is there a required buffer and what would they be allowed to build abutting her property.

Mr. Robert Yagersz, Polaris Engineering, and Mr. Jordan Berns, attorney, were present representing the applicant. Mr. Yagersz displayed the plat and explained the request to split the approximately 100-acre parcel into two parcels; one parcel at approximately 82 acres and one parcel at approximately 20 acres containing the existing home.

Mr. Berns reiterated details of the lot split. He explained the lot split is requested to transfer ownership of the home separate from the remaining property. He advised there is neither a development plan at this time nor is there a proposal to subdivide the property. Mr. Berns said there will not be a change as a result of this in regard to sewers or drainage and there is not a plan to build new houses at this time. He explained the intent to separate the property to allow the existing house to be owned separate from the balance of the property which will include the lake. Mr. Berns said the lot split will create two conforming lots and meets subdivision ordinances without variances, with the City's permission.

Mr. Yagersz indicated the details of the lot split on the plan. He noted all of the existing drive will remain on the property with the existing home for access to Bainbridge Road.

Councilman Zelwin was present and said his perspective of the request is a conforming lot split. Councilman Zelwin's concern was maintenance of the dam. He spoke to Mr. Stolarsky and the Planning Commission regarding the dam and the Engineering Department memo indicates the dam is to be maintained with the Ohio Department of Natural Resources (ODNR). He said there will be no driveway for the property to the west to access the dam. His preference is an access easement between the two parcels to access the dam until a curb cut or driveway is installed on Bainbridge Road. Councilman Zelwin said the dam is a major piece of infrastructure and should be accessible if necessary. He said it is an allowable lot split and the property owner cannot be held to a different standard than other property owners requesting lot splits. However, he said other properties do not have a major piece of infrastructure located on their property.

Mr. Berns said as discussed in Caucus, the ODNR has jurisdiction with respect to the dam. He assured that their intention is to fully comply with all requirements of ODNR in regard to ownership, maintenance and emergency planning of the dam.

Councilman Zelwin questioned if the ODNR will be notified the lot is being split. Mr. Berns said if it is required, they will certainly do so. In response to Councilman Zelwin's question, Mr. Berns advised they will do what is necessary with respect to notifying ODNR.

Mr. Stolarsky said if it seems there is any point of contention, the City Law Department will make the notification.

Mr. Jim Haeck, 6580 Hyllwynd Circle, questioned the purpose of the lot split.

Mr. Constantino would like to know who the property owners will be after the lot is split, if there is a dollar amount being paid back to the entity and who will live in the house.

Mr. Berns responded Israel Harris, owner of the entity, currently lives in the house and plans to continue to live there separate from the balance of the property.

Ms. Shane said she cannot see the logic behind the lot split, unless there is an intention to do something with one of the split parcels. She said there is a concern for development other than one-acre homes. She asked that they be truthful about the 20 acres.

Councilman Zelwin said although it is a lot split request, he asked Mr. Holloway to explain the re-zoning process for the property.

Mr. Holloway said the lot is currently zoned R-1-D, which is single-family residential requiring one single-family dwelling per lot, places of worship, governmental uses, public and private golf courses with exceptions, and any substantially similar use. He explained any zoning change would require public hearing, review by the Planning Commission and Council, and would be required to be on an election ballot.

Mr. Dave Granitto, 6560 Dorset Lane, is disappointed to have to speak about the property based on past events. He believes certain people in the City misled the residents in the past about the process. He asked that each Council member comment about this new request and explain what the Master Plan means to each of them.

Ms. Joann Kelly advised a parcel on Dorset Lane is also owned by the same owner requesting the lot split. She said this leads her to question what will happen in the future and noted two accesses are necessary for a development for safety. She said the property on Dorset Lane could potentially become a roadway offering the owner of the 20 acres a second access to the property. She questioned whose name the 20 acres will go into as she is concerned with possible new development.

Cathy Granitto, 6560 Dorset Lane, questioned if the dam requires an easement from the 20-acre property and what happens if the 20-acre property is sold to another entity.

Mr. Magen questioned if a property owner is responsible to maintain the integrity of the dam.

Mr. Lyndon explained the dam is a Class 2 regulated dam by ODNR and the Ohio Revised Code requires the property owner to maintain the dam, have an emergency action plan and provide funds and access to ODNR. He believes the lot split will have language indicating with any transfer of ownership, the property owner is required to contact ODNR.

Mr. Magen asked if the dam is private maintenance. Mr. Lyndon said correct.

As a new resident to Solon, Ms. Christie Kelley asked for confirmation that the current property owner will continue to live in the home after the property is split.

Mr. Ross Goodman, 6579 Hyllwynd Circle, asked how the process will proceed from this point forward in regard to the lot split.

Mr. Newberry explained the Commission may vote to recommend approval or disapproval to the Council. Upon disapproval, the applicant may appeal to the Council. The property will become two separate lots if the lot split is approved by the Council.

Ms. Shane urged the Commission to table the application to allow the residents to receive more information.

Councilman Bentley said a lot split is before the Commission and there is no other development plan proposed. He explained the history of the property in which a zoning change was before the voters which failed at the ballot. He noted if a zoning change is again requested, it will again have to go to the ballot, however, the Commission cannot predict if that will happen. Councilman Bentley said Mr. Berns indicated they have no plans to do anything with the two lots. He said that is how he will base his opinion for the lot split and, therefore, will support the lot split.

Mr. Greenspan advised as long as it is within the requirements of the Code, a private property owner may split a lot as they please. They will need to return to the Commission to further subdivide the lots. He indicated his support for the lot split and noted Thornbury Subdivision was also once a wooded lot that may have been opposed by others.

Ms. Sutton said the lot split is before the Commission and is what the Commission will consider.

Mayor Kraus agreed and supports the lot split. He does not believe the property can be adequately developed due to wetlands. He would like to see a public usage of the lake by the community.

Mr. Newberry agreed as well. He said Mr. Berns indicated to him he will follow-up on Mr. Newberry's concerns. He said the lot split request does not include variances. Mr. Newberry understands the history of the property as he served on the Commission at that time and did not support that proposal.

In response to Councilman Zelwin's request, Mr. Newberry said in Caucus, issues with the dam maintenance and operation were discussed. He said Mr. Berns said he will research the Code to ensure the owner is compliant with current requirements of the ODNR with regards to the dam. He said the property owner is obligated to conform to regulations; which includes notification of ownership. He said there was no further agreement and access to the dam was discussed.

Mr. Stolarsky recommended any motion include compliance with the Engineering Department memo of February 9, 2022. He said the memo pertains to cross access, which is only a recommendation from the Engineering Department and is not a requirement. He suggested amending the recommendation to notify the ODNR and that the Law Department is willing to make the notification when the lot split is filed.

Motion by Mr. Newberry, seconded by Mr. Greenspan to recommend approval of a lot split for PP# 955-18-043 located at 39350 Bainbridge Road contingent upon compliance with items 1 and 2 required in the February 9, 2022 Engineering Department memo and that the City Law Department will notify the Ohio Department of Natural Resources when the lot split is filed.

Mr. Yagersz and Mr. Berns agreed to the contingency.

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

Motion Carried

NEW:

3. 29375 West Woodall Road - Joseph Spidalieri
PCPC-2022-00232 - Ward 5
 - 20' front yard setback variance

Mr. Spidalieri was present. He displayed the site plan and explained the request for re-approval of a front yard setback variance for an attached garage to increase space. He displayed a drawing indicating other properties with various setbacks and a drawing of the proposed addition.

Mr. Newberry asked Mr. Spidalieri if he understands the requirements of the Engineering Department memo. Mr. Spidalieri said yes.

Motion by Mayor Kraus, seconded by Mr. Newberry to recommend approval of a 20' front yard setback variance contingent upon compliance with requirements in the February 9, 2022 Engineering Department memo.

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

Motion Carried

4. 33342 Warwickshire Lane - Robert Flauto
PCPC-2022-00233 - Ward 7
 - 42 sq ft accessory structure area variance

Mr. Bob Flauto was present and explained his request for a variance for a shed. He explained the shed is 144 square feet, however, the roof line extends beyond the requirement of the Code, therefore, a variance is necessary. He displayed a picture indicating the color of the shed.

Councilman Bentley questioned if the shed was built before a permit was issued and Mr. Flauto said he applied for a permit, but revised the plan based on the shed he

chose. Councilman Bentley advised a penalty will be applied. In response to Mr. Flauto's question, the Commission advised him to contact the department director for the amount of the fee.

Mr. Newberry explained it is not his practice not to support variances that are applied for after a project is completed.

Motion by Ms. Sutton, seconded by Mr. Greenspan to recommend approval of a 42 sq ft accessory structure area variance.

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

Motion Carried

5. 5917 Briardale Lane - Michael & Jane Boland
PCPC-2022-00234 - Ward 6
 - Accessory structure location variance

Mr. Dennis Totarella, Brittain Energy Solutions, was present representing the applicant. He explained the request to install a generator in the side yard. He advised placing the generator in the required rear yard would reduce efficiency of the unit and increase the cost to operate it. He displayed a picture of the generator and the proposed location indicating 24 inches from the side of the house and 25 feet from the property line.

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

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

Motion Carried

6. 33725 Station Street - Shibley Properties, LLC
PCPC-2022-00235 - Ward 6
 - 25% aggregate fence opening variance

Councilman Bentley explained a section of privacy fence was installed next to the parking lot with two open sides.

Ms. Quinisha Singleton, Higher Achievement Center, was present representing the applicant. Ms. Singleton displayed a plan and explained the installed fence has two sides of chain-link fence and one side of vinyl fence with no openings.

Councilman Bentley said the Police Department does not support fencing with no visibility, therefore, Councilman Bentley will not support the variance.

Mayor Kraus said the fence serves the interest of public safety and provides visibility with the chain-link fence. Ms. Sutton and Mr. Greenspan agreed.

Motion by Ms. Sutton, seconded by Mr. Newberry to approve a 25% aggregate fence opening variance

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

Motion Carried

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

COMMENTS FROM THE COMMISSION:

Councilman Bentley welcomed Mrs. Hager to the meeting.

Motion by Mr. Greenspan, seconded by Ms. Sutton to reschedule the Tuesday, April 12, 2022 Planning Commission meeting to Monday, April 11, 2022.

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

Councilman Bentley said only one application was received for the next meeting.

Motion by Mr. Newberry, seconded by Mayor Kraus to cancel the March 1, 2022 Planning Commission meeting.

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

Councilman Bentley expressed appreciation to the residents who commented on the Bainbridge Road lot split request. He explained the Commission cannot predict the future and had to consider the information before them. He advised if there is a future plan, it would need to follow the City's process.

Mayor Kraus invited the Commission to attend the special Council meeting scheduled for Thursday, February 17th at 7:00 P.M., to discuss the Solon-Chagrin Falls Trail with the Cleveland Metroparks and to allow the public to provide comments.

Motion by Mr. Newberry, seconded by Ms. Sutton to adjourn the meeting at 8:48 P.M.

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

Chairman

Secretary