

PLANNING & ZONING COMMISSION
August 28, 2012 – 7:00 P.M.

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

Present: Commission Members Bentley, Mazur and Newberry, Councilwoman Richmond, Mayor Drucker, Prosecutor Stolarsky, Planning Director Frankland, Secretary McConoughey

Absent: None

Also Present: Fire Lieutenant Benedict, Assistant City Engineer Welch

The following items remained on the Inactive Agenda:

- A. Willow Street – PP# 956-39-056 – Robert Kucinic – Front yard setback variance

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 Mazur presided.

PENDING:

1. Thornbury Subdivision – Forest City Land Group - dedication plats: Mr. Mazur asked Mr. Stolarsky to send a letter requesting the parties involved to attend the next meeting.
2. Solon Square Shopping Center – PP# 954-03-004 – Mid-America Management Corporation - side yard setback variance and site plan for façade alterations: Mr. Mazur said the applicant requested this item be tabled.
3. 6340 Melbury Avenue – Solon VFW Post 1863 – Jack Tesmer – waiver to allow 4 additional amusement devices: Mr. Stolarsky said he contacted the Attorney General and County Prosecutor's offices to obtain written statements regarding the legal status of the machines in question. He sent copies of his legal assessment to the offices and received a written reply from the Assistant Attorney General who agreed with the assessment. Mr. Stolarsky spoke with a representative from the County Prosecutor's office who agreed with the assessment but would not issue a written statement.

Mr. Mazur said he is not opposed to additional amusement devices but finds it difficult to approve the devices requested considering they have been deemed illegal based on the research conducted.

Mr. Stolarsky said he strongly recommends the Commission not approve the waiver for the 4 devices. He said the enforcement authority for these types of devices could visit the establishment and determine they are not legal and then he would be forced to prosecute the business.

Mr. Mazur said he had hoped the applicant would be present to consider withdrawing the request for the waiver for these particular devices.

Mayor Drucker recommended this item be tabled to provide the applicant the opportunity to withdraw the request for these devices. Since the number of devices is not the issue, this would give the applicant the opportunity to return and request four other devices.

Mr. Mazur requested the Clerk send a letter of explanation to the applicant.

Mayor Drucker requested Mr. Stolarsky call the applicant and explain the Commission's determination.

4. 7130 SOM Center Road – AT&T – Height variance and the co-location of three additional antennas on existing CEI transmission tower: A public hearing is scheduled.

Mr. Mazur asked if the report from the consultant had been received. Mr. Frankland believed it had been received by his office and will be available for the Council at their next meeting.

NEW:

6. 28775 & 28815 Aurora Road – Keithley Instruments – accessory use without a principal use variance (for a sign): Mr. Mazur said the Metroparks have indicated they no longer have an objection to the sign.

7. 6477 SOM Center Road – ECHO Solon, LLC – minimum structure area variances, various accessory use location variances, color variance and site plan modification for bollards and outdoor merchandisers: Mr. Mazur said the Planning Department has identified additional variances. He said some of the requests are not typical and will be discussed during the meeting.

Mr. Newberry said the outdoor display of goods for sale is typically not permitted in the City. Mr. Frankland said it is prohibited under the C-3-A zoning, which does not mean a variance cannot be granted. He believes it is considered an area variance.

8. 6231 SOM Center Road – Cipriani Companies (Marc's) – site plan for building addition and façade alterations: Mr. Mazur asked the applicant to consider adding landscaping to the parking lot.

Mr. Kurt Schmidts, representing Cipriani Companies was present and said there are two building owners within the shopping center. Therefore, they are only able to

make changes to their own parcel which he does not believe addresses the area in question, however, they are receptive to discussion.

Mr. Mazur said the Planning Department identified two additional variances; a color variance for the addition and a material variance.

10. Briar Hill Lake – Briar Hill Homeowners' Association – Adam Fair – site plan modification for dock railing: Mr. Mazur said he viewed the property and finds the enhancements made thus far very attractive. However, he wished to clarify that Mr. Fair understood all of the enhancements are the responsibility of the homeowners association and he intends to require some contingencies for approval during the meeting.

Mr. Fair questioned the contingencies as he is only seeking approval of the modified style of railing.

Mr. Mazur said the contingencies are in regard to the fence and the pavilion which are the responsibility of the homeowners association and not the City and he noted a new permit will be required.

COUNCIL REFERRAL:

12. Lake Neptune Estates Subdivision – SW Corner of Miles Road and Neptune Drive – Randy Kertesz – PP#'s 951-04-016, 951-05-001, 002, 003, 004 and 005. This item was referred back from Council for review of a revised sanitary sewer plan.

Mrs. Welch said the Engineering Department received the easement language and the sanitary sewer profile this afternoon. She said the easement language has yet to be reviewed by the law director.

Mr. Mazur suggested the September 25th meeting be rescheduled to Monday, September 24th due to the Yom Kippur holiday. This issue will be discussed during the meeting.

Mr. Frankland said he has one minor alteration to present.

The caucus ended at 7:16 P.M. and the meeting convened at 7:30 P.M.

Chairman Mazur presided.

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

APPROVAL OF MINUTES:

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the minutes of the August 14, 2012 meeting.

Roll Call: Aye: Drucker, Mazur, Newberry, Richmond

Nay: None

Abstain: Bentley

Motion Carried

PENDING:

1. Thornbury Subdivision – Forest City Land Group

- Phase 7 – Dedication plat
- Phase 8 – Dedication plat

Mrs. Welch said no new information has been received.

Motion by Mr. Mazur, seconded by Mr. Newberry to request the Clerk send a letter requesting Forest City Land Group and a representative from the Homeowners' Association attend the next meeting to update the Commission.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

2. Solon Square Shopping Center – PP# 954-03-004

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Mid-America Management Corp.

- 15' side yard setback variance
- Site plan – façade alterations

Motion by Mr. Mazur, seconded by Mr. Bentley to table consideration of Item 2.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

3. 6340 Melbury Avenue – Solon VFW Post 1863 – Jack Tesmer - 074-2012 6

8/14 tabled – update from prosecutor

- Waiver to allow 4 additional amusement devices

No one was present on behalf of the applicant.

Mr. Stolarsky said at the last meeting, the Commission requested he contact the Ohio Attorney General's office for an opinion. He forwarded his assessment of the devices in question and asked for their review. Mr. Stolarsky said he received correspondence from the Assistant Attorney General agreeing with his assessment.

Mr. Stolarsky had a conversation with the County Prosecutor's office who strongly agreed with his assessment that the devices are illegal slot machines and could be prosecuted as such, but was reluctant to provide the assessment in writing.

Mr. Mazur said during the Caucus, the Commission discussed the issue and it was determined that although they are not opposed to additional legal amusement devices at the VFW Post, this is a situation where the City prosecutor and State

agencies believe them to be illegal gambling devices. Since the applicant is not present, he recommended the Clerk send a letter explaining the findings and that the Commission will have to deny the request for a waiver. However, they can withdraw the request for the waiver and should attend the next meeting.

Mr. Stolarsky said he will contact the applicant and provide an explanation. However, while speaking with the State agencies, he was informed that the issue is under review and if the law is changed making the devices legal, the applicant can re-apply for the waiver.

Mr. Mazur said the Law Director and the Police Chief agree with Mr. Stolarsky that the devices are illegal.

Motion by Mr. Mazur, seconded by Mayor Drucker to instruct the Clerk to send a letter to the applicant with an explanation of the Commission's findings.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

4. 7130 SOM Center Road – AT&T 079-2012 2
- Height variance
 - Co-location of three additional antennas on existing CEI transmission tower

Mr. Ron Gainar, AT&T, was present and said AT&T is upgrading all of their sites to 4G and this is the reason they wish to install additional antennas to the existing tower.

Mr. Frankland displayed an aerial of the location and a plan for the tower elevation. He said the Code states that an antenna cannot project more than 10' above the height of the tower. Mr. Frankland said 6 antennas which project more than 10' above the height of the tower are already installed and this request would add 3 additional antennas.

A public hearing was scheduled and Mr. Mazur opened the public hearing and asked for comments.

Mr. Edward Gruca, 29450 Cedar Road, Pepper Pike, owns the vacant 10-acre lot immediately to the north of the tower. He said the existing tower is very close to his property line as well as a maintenance building surrounded by a fence which is approximately 30' from his property line.

Mr. Gruca expressed his concern regarding the addition of antennas and feels it will impair the usefulness and value of his property which he purchased in 2002.

Mr. Mazur does not understand how three additional 4' antennas being added to a 108' tower will impair the value of Mr. Gruca's property when there are already six other antennas on the tower.

Mr. Gruca said cell towers located close to property is an impediment to land values and adding to the tower makes it larger. Mr. Gruca's understanding is that property located near cell towers is less valuable and it detracts from the aesthetics of the property. His research indicates that property located near cell towers decreases in value by 10 to 20 percent. Mr. Gruca said it appears that economic benefits are going to AT&T and CEI and he is receiving all of the negative externalities.

Mrs. Lourdes Gruca, 29450 Cedar Road, Pepper Pike, was present and said there is a Sprint tower located near the AT&T tower. If Sprint requires more antennas in the future, then more antennas will be added to the tower. Mrs. Gruca said this concerns her because she believed there was future value in her property. However, the addition of more antennas will continue to decrease the value.

Mr. Mazur said the purpose of co-locating antennas to existing towers is to prevent having to build additional towers.

Mrs. Gruca said if this variance passes, there is nothing to prevent additional requests for more antennas to be added to the towers.

Mr. Mazur said each application is reviewed independently for its appropriateness.

Mr. Gainar said AT&T always attempts to co-locate antennas on existing towers which is also required by the City's Zoning Code. This request does not expand the base of the ground equipment but only adds antennas.

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

Mr. Mazur said approval will be granted with the contingency that the report issued by the City's consultant stating that there is no adverse effect to human beings or signals is forwarded to the Council. This is a typical process required by the City Code. Mr. Mazur feels that the objections that have been raised are insignificant considering the request is for three 4' antennas on a 108' tower that will be all but invisible. The addition of the antennas will not adversely affect the appearance of the tower.

Mr. Newberry agreed with Mr. Mazur. He said the tower was constructed in 2006 and the addition of three more antennas will be barely visible and will not create additional detracting from the Gruca property. Although he understands that the Grucas are concerned about detrimental property values, he feels the Grucas will be able to enhance the property with landscaping or screening when and if they decide to sell the property.

Mr. Mazur said there are other property owners in the area that reside on their property and have not objected to the addition of antennas, yet the Grucas are objecting but do not live on the adjacent property.

Mr. Newberry said the reason a variance is necessary is because the antennas will be located 10' above the top of the existing tower.

Mr. Frankland confirmed Mr. Newberry's statement. He added there are already existing antennas located on the tower 10' above the top but since the number is being increased, a variance is necessary.

Motion by Mr. Mazur, seconded by Councilwoman Richmond to approve the height variance for the three additional antennas to be co-located on the existing CEI transmission tower at 7130 SOM Center Road for AT&T with the contingency that a report from the consultant is forwarded to the Council prior to their next meeting.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the co-location of three additional antennas on an existing CEI transmission tower.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

NEW:

5. 33505 Solon Road – Matt Puflea
▪ 6' sign setback variance

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Mr. Matt Puflea, 104 S. Franklin Street, Chagrin Falls, was present. He displayed a rendering of the proposed sign he would like to install and explained he followed the guidelines given to him by the Planning Department. He indicated the location for the sign is just over 10' over the sidewalk, however, there is a right-of-way that cuts through the property at an angle 6' off of the sidewalk. Mr. Puflea displayed photographs of the front of the building and the sidewalk and noted two red flags in the photograph as the location for the sign. He said it does not interfere with line of sight when driving in or pulling out of the driveway, there is visibility to the corner and it is about the same distance as all of the other signs located in the immediate area.

Mayor Drucker commended Mr. Puflea on the appearance of the property since he refurbished it and feels the location for the sign is appropriate. She spoke with the Engineering Department who checked the location of the sign to ensure it would not obstruct the view of any of the neighbors' line of sight when they are entering and exiting their driveways.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve a 6' sign setback variance for 33505 Solon Road.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

6. 28775 & 28815 Aurora Road – Keithley Instruments
▪ Accessory use without a principal use variance (for a sign)

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Mr. Bob Potocnik, Facilities Manager, Keithley Instruments, was present. He displayed a plan indicating the two parcels owned by Keithley Instruments. He

indicated one of the parcels and explained the facility is located at 28775 Aurora Road and is adjacent to the Metroparks. Mr. Potocnik indicated the other parcel located at 28815 Aurora Road that was purchased in 1996. He said a 50,000 sq. ft. structure in disrepair was located on the parcel which was recently demolished and the property became a recreation park for employees.

Mr. Potocnik said although the building was demolished, the company sign remained. The proposal is to remove the existing sign and use the existing monument to install a new Keithley Instruments sign over it. He said the new sign would be easier to see than the existing sign which is located closer to the Metroparks. He displayed a rendering of how the sign would look after installation.

Mr. Mazur said the Metroparks requested further information regarding the sign and after review of the information, they have no further concerns.

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the accessory use without a principal use variance (for a sign).

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

7. 6477 SOM Center Road – ECHO Solon, LLC 084-2012 6
- 1,180 sq ft minimum structure area variance - propane cage
 - 1,187 sq ft minimum structure area variance – Redbox movie kiosk
 - Various accessory use location variances
 - Color variance
 - Site plan modification (bollards & outdoor merchandisers)

Revised and updated list of variances for Echo:

- A. Minimum Structure Size Variances (Section 1278.03, Item B-5. - Minimum 1,200 square feet structure size required):**
1. RedBox Vending Machine;
 2. Blue Rhino Propane Vending Cage;
 3. Ice Vending Machine.
- B. Outdoor Display of Merchandize Variances (Section 1278.04 - Outdoor Display Prohibited):**
1. Single Three Tier Merchandiser in Front of the Get-Go Building;
 2. Three (3) Bulk Merchandisers Located Under the Gas Pump Canopy.
- C. Accessory Structure/Equipment Location Variances (Section 1278.02, Item B-1 - Location within an enclosed building required):**
1. Tire Air Pump Station;
 2. CO2 Tank.
- D. Structure Color Variances**
1. Bollards
 2. Redbox Vending Machine
 3. Ice Vending Machine

Ms. Dina Snider, Strada Architecture, was present representing the applicant.

Mr. Mazur listed the variances.

Ms. Snider explained the Redbox will be located outside of the proposed GetGo building to the right of the front doors for ease of access to customers. She noted the standard Redbox color cannot be changed by Echo or Giant Eagle.

The Blue Rhino Propane Cage is a lockable enclosure that is white outside with tanks sitting on shelves inside and will be located at the front left corner of the building.

The vending ice machine will be located at the front right corner of the building. It will be white with two doors with the word "ice" on it.

The single three tier merchandiser location was indicated on the plan by Ms. Snider. It is a charcoal black color and the dimensions are 8' x 39". It is for the sale of seasonal merchandise such as pumpkins, mums, etc.

Three bulk merchandisers located at the gas pumps will be placed in between the fuel pumps. Ms. Snider said they will contain specifics such as salt or windshield wiper fluid that can be locked if needed. The roll down door color is gray and the enclosure will be blue.

Ms. Snider said she did not realize the tire air pump station was on the agenda, therefore, it is not on the plan. However, she indicated the location of the free-standing, no cost air pump.

The CO2 tank will be located in the back right corner, inside an enclosure made of a durable trex material and the color will match the brick on the face of the building. She displayed a picture of the tank and said it will be placed outside for easy servicing.

Bollards were indicated along the front face of the building. A zero curb condition will be used to avoid tripping hazards, therefore, bollards are proposed to serve as a buffer.

Mr. Mazur asked about a proposed Rubbermaid storage shed. Ms. Snider displayed a picture of the shed showing a light beige/gray color to be located between the trash enclosure and building. The enclosure will store readily accessible material to absorb spilled gas at the fuel pumps and will remain unlocked.

Mr. Mazur is pleased with the progress of Echo Development and Giant Eagle. However, he is dismayed regarding the many ancillary items displayed at the front of the gas station. He agreed with the propane gas storage, the CO2 tank, the air pump station and Rubbermaid shed but he believes the remainder of requests should be reconsidered to be placed inside the store.

Mayor Drucker questioned if the Redbox and ice machines will be located in the Giant Eagle store. If so, she disagrees with duplicating the items at both locations. Ms. Snider was unsure.

With the exception of the propane tanks, air pump station and CO2 tanks, Councilwoman Richmond said the other requested items are not what she envisioned.

Mr. Newberry agreed and said because Redbox only makes a red box, it is not a reason to grant a color variance. He does not find it necessary for the Redbox to be placed outside on the building's sidewalk, especially since it is very likely the Giant Eagle will have a Redbox inside. He noted the other requests will require maintenance, which could be overlooked. He agreed the propane cage should be outside, however, the material for gas absorption could be placed in the trash enclosure if it was enlarged. He is opposed to the merchandisers between the gas pumps. He said outdoor goods for sale are not permitted by the Code.

Mr. Bentley understood that Giant Eagle believes these items are necessary, however, he believes the propane and ice machine could be located on the side of the building, out of site. He does not support the outdoor displays.

Ms. Snider said the placement of the items could be revised.

Mr. Bentley said he is not opposed to the Redbox for use 24 hours a day.

Mr. Mazur said the other gas stations in the area do not have outdoor merchandising. He recommended Ms. Snider discuss the Commission's displeasure of the initial proposal with GetGo.

Ms. Snider asked if only the items the Commission has issues with could be tabled to allow approval of the items the Commission agrees with.

Mr. Mazur also requested that the bollards be a color other than red. Ms. Snider said a black bollard could be used with reflective tape.

Mr. Mazur questioned if certain items could be moved on if the Commission desires.

Mr. Stolarsky suggested all items be held if there is no particular urgency.

Ms. Snider advised it is easier to locate and core the bollards before anything is poured.

Mr. Newberry said the other items are transportable.

Mr. Mazur indicated the bollards, the tire pump station and CO2 tank could proceed.

The Commission members agreed.

Motion by Mr. Mazur, seconded by Mayor Drucker to approve the placement of the bollards to be painted with an earth tone color to be determined at a future date in compliance with city regulations.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Mr. Mazur, seconded by Councilwoman Richmond to approve the accessory structure/equipment location variance for the tire air pump station.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the accessory structure/equipment location variance for the CO2 tank that will be enclosed in the same color brick as on the site plan.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Bentley to table the remaining items.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

8. 6231 SOM Center Road – Cipriani Companies (Marc's)

085-2012

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Revised plan received 8/24/12

- Building material variance (added 8-28-12)
- Building color variance (added 8-28-12)
- Site plan – building addition and façade alterations

Mr. Kurt Schmidts, ADA Architects, was present representing the applicant. He said the applicant is proposing an internal expansion into the adjacent space of approximately 8,200 sq. ft. to the Marc's building. An addition of 4,366 sq. ft. is also proposed. Mr. Schmidts indicated the location of the expansion and the addition in the rear of the building. He said the remaining existing retail space on the end cap of the building is 8,600 square feet. The addition in the rear is proposed to be constructed of white concrete blocks. Mr. Schmidts indicated the portion of the center which is controlled by the applicant. He noted there is a buffer between the proposed addition and the residential area in the rear of the property. Mr. Schmidts advised the addition has zero traffic impact and was approved by safety forces. The loading dock and transformer will remain in their locations. He said a compactor along the side of the building will be slightly moved. An exterior renovation to the front of the building is proposed using thin brick material and accent masonry along the base will be installed to blend with the Sears store to achieve a common color theme. The plan incorporates the 8,600 square foot end cap as well. He noted the plans were approved by the city architect.

At Mr. Mazur's request, Mr. Schmidts displayed a sample of the proposed brick and neutral efface. The variances are to use block at the rear of the center to match what is existing and the CMU (concrete masonry unit) will also match what currently exists.

Mr. Mazur questioned if windows will be in the front of the store and Mr. Schmidts said there will still be windows in the vestibule and windows to the right.

Mr. Mazur commented that the proposed renovation is a major improvement. He said if the plan is approved, a contingency will be added for submittal of a parking plan as additional parking is proposed in the rear, so the Planning Department may review before the September 4th Council meeting.

Mr. Schmidts explained the Code parking requirement is a one per 200 for the center and their initial submission met that requirement. However, as the project expanded, it was determined that since there are two building owners there is also a requirement that each parcel must stand alone at one per 200 which is an agreement between the two building owners. Therefore, 16 additional spaces were added primarily for employee parking, to achieve the one per 200 for the stand alone site. A plan will be forwarded to the Planning Department.

Mr. Mazur initially requested the developer and owner to enhance the green space. However, the area Mr. Mazur was concerned with is not owned by the applicant. In caucus, Mr. Mazur asked Mr. Schmidts to meet with the landscape architect and Planning Director to determine if the green space can be enhanced in the parking area controlled by the applicant. Although it is a difficult site, he said there may be vegetation that can withstand weather and salt to enhance the area that is economically feasible.

Mr. Schmidts agreed to meet with the city architect and Planning Director.

Mr. Bentley believes the renovation will improve the appearance of the shopping center and noted he supports the plan.

In answer to Mr. Mazur's question, Mr. Schmidts said the timeframe for the project is as soon as possible.

Mr. Newberry said the Pet Supplies Plus store space that Marc's will occupy will not be vacated until November.

Mr. Schmidts said there are timing issues, however, the exterior can be renovated and the addition can be built in the meantime.

Mr. Newberry appreciates the applicant's efforts to improve the façade of the building. He preferred the renovation continue in the rear, but he understands it may not be realistic.

Mr. Mazur commended the property owners for keeping the rear of the building maintained.

Mr. Schmidts clarified that the green space involves seven islands in front of Marc's. He said they were formally landscaped and are very small. He said they do not like to plant anything more than 8 feet in width because of salt used in the winter. Any greenery planted in the spaces was difficult to keep alive, therefore, it was removed

and gravel was added. They will attempt to improve the existing trees in the islands. He looks forward to working with the city architect and Mr. Frankland to determine if there is any greenery that will be sustainable.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve the building material variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the building color variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the site plan for building addition and façade alterations.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

9. 7337 Bellerive Drive – Ashwani Adya 086-2012 1
- 2'-5" height variance (deck)
 - 3'-9" rear yard setback variance

Mr. Joe Nader, 6720 Andre Lane, was present representing the applicant. Mr. Frankland explained the proposed location of the deck and indicated the topography causes the need for variance. He added that the deck is proposed at more than 15' from permanently preserved land or open space.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve the 2' 5" height variance for a deck.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the 3' 9" rear yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

10. Briar Hill Lake – Briar Hill Homeowners' Association – Adam Fair 087-2012 6
- Site plan modification (for dock railing)

Mr. Adam Fair, 5846 Briarhill Drive, and Mr. Larry Powers, 5887 Briarhill Drive were present. Mr. Fair said in June, the association received approval to build a pavilion on the property which was completed. He advised the original design called for a picket or a spindle railing with a built-in bench around the perimeter. Mr. Boshane advised them that the Code requires a railing to be 42" high and with a built in bench, a 60' railing would be necessary. Mr. Fair said that design would appear to be a cage. After further review, the proposed design is a railing with a metal mesh

which has a natural look and is relatively maintenance free. Mr. Fair displayed a picture of the proposed railing.

Mr. Mazur said during the caucus it was discussed that the cost of the dock, pavilion and fence around the dock is not part of the 40-year assessment and that these costs are the responsibility of the homeowners Association. Mr. Fair confirmed that was correct.

Mr. Mazur said Mr. Fair will also need to pull a revised building permit. Although Mr. Fair said a permit was already pulled, Mr. Mazur said a revised building permit is necessary because the plan was revised from what was originally proposed.

Mr. Frankland said the Building Department should at least verify that the permit is acceptable.

Mr. Fair said the plan was submitted to Mr. Boshane about a month ago and Mr. Boshane advised him that it had to be reviewed by the Planning Commission, however, he would follow up with Mr. Boshane the next day.

Mr. Mazur again reiterated that the maintenance of the dock, pavilion, fence and lights around the dock are not to be included in the 40 year assessment and are the responsibility of the homeowners association, at which time Mr. Powers said the responsibilities of the homeowners association are included in the contract.

Motion by Mr. Bentley, seconded Mr. Mazur to approve the site plan modification for dock railing and maintenance and upkeep is the responsibility of the Briar Hill Homeowners Association.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

COUNCIL REFERRAL:

11. Ordinance No. 2012-150 imposing a temporary moratorium on development of parcels 954-29-027, 028, 029, 030, 031 and 032 – Input received from the Master Plan Committee.

A public hearing was scheduled.

Mr. Mazur explained the Master Plan Committee recommended the property be rezoned from the C-3-A District back to the O-1 District for potential placement on the May, 2013 ballot.

Mr. Mazur opened the public hearing and asked for comments.

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

Motion by Mr. Newberry, seconded by Mr. Mazur to recommend to the Council that the property be rezoned from C-3-A District to the O-1 District.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond
Nay: None

Motion Carried

12. Lake Neptune Estates Subdivision - SW Corner of Miles Road and Neptune Drive – Randy Kertesz - PP#'s 951-04-016, 951-05-001, 002, 003, 004 and 005 – PC recommends approval contingent upon compliance with Engineering Department requirements, documentation of approved sanitary sewer easement to be indicated on the preliminary plat and applicant's agreement that deed restrictions requiring homeowner association membership and responsibility for maintenance issues will be included on each property deed – 7/10 referred to Council - 7/16 Council tabled – (Council public hearing scheduled for 9/4/12) 8/20 Council referred back to Planning Commission for review of revised sanitary sewer plan 017-2012 5

Mr. Randy Kertesz and Mr. Dan Neff, Neff and Associates, were present.

Mr. Kertesz explained the change in the plan for the sanitary sewer easement from working with Mr. Cangemi of Miles Farm Market to Mr. and Mrs. Paskell who live adjacent to the development. Mr. Kertesz explained the location of the manhole and angle and easement location. Although the easement has not been executed, Mr. Kertesz said the Paskells have agreed in principal and forwarded the paperwork to their attorney for review. The engineer is also reviewing the language.

Mr. Kertesz said a row of staggered 8' to 10' pine trees will be installed to screen the back yard and screen the detention pond. He said they are before the Commission because the easement and sanitary sewer were modified.

Mr. Mazur asked if anything has changed and Mr. Kertesz replied nothing as far as the interior development other than showing this as a landscape easement so that the association rather than the homeowner would be required to maintain the pine trees.

Mayor Drucker asked if sewer work will be done on the Paskell's property to help alleviate her concerns regarding drainage on the easement.

Mr. Kertesz visited the Paskells' back yard and based on his experience, he believes the major source of the water stems from a swale. He said because the swale will be cut off, a great source of their water issues will be eliminated. However, he said they cannot address the water coming from the North Park Estates. He suggested to the Paskells that after construction, the swale could be lowered if water is still an issue. He said he will again walk the property to consider options to provide protection.

Mayor Drucker said aside from the easement, a few meetings ago, there was discussion regarding approving the preliminary plat without final approval from the EPA. She noted once the city creates a lot by approving a preliminary, the lot becomes buildable. She asked Mr. Stolarsky what happens if the EPA later says there is an issue with wetlands on a couple of lots resulting in the need for variances causing one of the new homes to be built near an existing home. Mr.

Stolarsky said once approved by the city, the lots are buildable lots. If the EPA or Army Corp of Engineers later determines a house cannot be built on an approved lot, the city would have to grant a variance based on the practical difficulty or worse case, determine the lot unbuildable.

Mr. Kertesz said he has received preliminary approval from the Ohio EPA and has made the mitigation bank deposit for re-creation of wetlands. The Army Corp of Engineers has walked the area with his consultant. He referred to the drawing and said a certain amount of wetlands are allowed to be removed and they are still below the minimum amount.

Mr. Neff said they are still below the half acre to allow for an individual permit. The total request is .26 acres and the permits are coming through now. Mr. Neff said they are requesting preliminary approval subject to final engineering and platting. He said they will need to return for final approvals.

Mayor Drucker asked if this is the only lot to mitigate. Mr. Kertesz said this is the only lot that mitigating affects and they are below the minimum.

Mr. Kertesz said the deposits have been accepted and the contracts are fine to mitigate the wetlands. The Army Corp of Engineers is slow in issuing the permit and have another three weeks to do so. He said he expects the permit shortly.

Mr. Newberry indicated the advantage of having a preliminary plat and final plat and dedication plat is that they cannot apply for their mitigation and other environmental permits necessary until they have some indication that the city will approve the subdivision. He said the final plat cannot be approved until all of the environmental issues are addressed. Mr. Newberry said in the past, re-plats have been numerous.

Mr. Mazur said the Engineering Department received the easement language today. Mr. Kertesz acknowledged the Engineering Department has received it and said the law department will need to review it also.

Mr. Mazur said the Council will hold a public hearing on September 4th, therefore, it would be incumbent upon Mr. Kertesz to have the agreement with the neighbors completed expeditiously. Mr. Kertesz agreed.

Motion by Mr. Mazur, seconded by Mr. Bentley to recommend approval of the revised sanitation revisions for Lake Neptune Estates Subdivision.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. PNC Bank, 33400 Aurora Road: The applicant is requesting to eliminate the teller window in the rear of the building and replace the window with brick, relocate the ATM machine and install remote viewers on the drive thru banking stations. Mr. Frankland displayed two choices for the remote viewers.

The Commission members agreed no further review of this item was necessary.

Motion by Mr. Mazur, seconded by Councilwoman Richmond to reschedule the Planning Commission meeting of September 25th to Monday, September 24th.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

COMMENTS FROM THE COMMISSION:

Mayor Drucker advised that City Hall will be closed Monday, September 3rd for Labor Day. She wished everyone a happy, safe holiday weekend.

Councilwoman Richmond wished everyone a happy holiday weekend.

Mr. Newberry and Mr. Bentley asked motorists to slow down as school is in session.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mr. Mazur, seconded by Mayor Drucker to adjourn the meeting at 9:00 P.M.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond

Nay: None

Motion Carried

Chairman

Secretary