

PLANNING & ZONING COMMISSION
June 25, 2013 – 7:15 P.M.

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

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

Absent: Mayor Drucker

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
- B. 6235 Sharondale Drive – Richard Lascale – 4.5' cumulative side yard setback variance, 120 sq ft maximum storage building area variance, number of storage buildings variance to permit 2, 4" storage building height variance
- C. 35730 Bainbridge Road – Dale Barstow – maximum front yard pavement coverage variance and minimum distance between driveways variance
- D. PP# 951-41-011 (located off of Woodall Road) – Wurm Family – Lot split, frontage on unimproved street variances, front yard setback variances, rear yard setback variance, not parallel to street variances and driveway side yard setback variances

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. 7365 Royal Portrush Drive – Kailan Zhang – total amount of accessory pavement variance and an accessory pavement setback variance: Mr. Mazur said the applicant submitted a request to withdraw this application.
- 2. Cannon Road & SOM Center Road – PP#'s 951-39-006, 952-09-001, 952-12-004 – Burton Insurance Agency, Mary Lambert – Lot split and consolidation: Mr. Mazur said the public hearing scheduled for this item has been cancelled at the

request of the applicant and it will be tabled. It is anticipated that a revised plan will be submitted and a public hearing will be scheduled sometime in July.

3. 34500 Dogwood Lane – Frank and Cheryl Radis – 1' minimum swimming pool fence height variance: Mr. Mazur viewed the property and encouraged Mr. and Mrs. Radis to contact the Planning Department to review fence options.

NEW:

4. 32800 Solon Road – Creative Playrooms – Joan Wenk – site plan for bollards and railing: Mr. Mazur said he is concerned about the request for wooden bollards and is uncertain if they will be strong enough to prevent a vehicle from hitting the front of the building. He said the Commission might consider sending this item to the Safety and Public Properties Committee for their review.

6. Sherwood Park – Sherwood Park Homeowners' Association – front yard and side yard setback variances and site plan for split rail fence: Mr. Mazur asked for Mr. Stolarsky's opinion as it relates to the deed restrictions in the neighborhood.

Mr. Stolarsky believes the deed restrictions are private agreements within the neighborhood and not within the City's jurisdiction.

Mr. Mazur is aware that this issue has created controversy within the neighborhood and anyone who would like to express an opinion about the proposed fence should do so during the Comments from the Audience section of the meeting.

Mr. Frankland briefly reviewed two minor alterations.

Mr. Mazur asked Mr. Wenk, who was present representing Item 4, about the timber rail supports that are indicated on the drawing.

Mr. Wenk said there is a grading issue in that area and he has witnessed people sliding in the winter due to this grading. He feels the addition of the wooden guard rail might reduce the chances of a vehicle sliding into the building.

Mr. Frankland said the advantage of referring this item to the Safety and Public Properties Committee is that it will also be reviewed by the Fire Department, the Police Department and the Traffic Engineer.

The caucus ended at 7:25 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:

Mr. Alan Wolk, 34765 Sherwood Drive spoke regarding Item 6. He explained that he and his wife have lived on Sherwood Drive for twenty years and he is a former president of the Homeowners' Association. However, he now finds himself in opposition with the Homeowners' Association plan to install a fence.

Mr. Wolk said he never received notice from the City or the Association regarding the application to install a fence and was told about it by his neighbor. (Clerk's note: it was determined that Mr. Wolk's property is not adjacent to or abutting the parcel where the fence installation is proposed, which is the City's consistent method for the notification process).

Mr. Wolk said the view of the lake is a unique feature of his home and there has been nothing to obscure the view during the twenty years he has lived there. Although there is mention in the application of pine trees once being planted as a boundary line, they have not been there since he has owned his home.

Mr. Wolk said the park and the lake have been owned by the Homeowners' Association since 1957 when a series of restrictions were placed on the property. He is aware that while the City does not enforce the Homeowners' Association restrictions, he asks that the City not be complicit with disregard for the enforcement of the restrictions. Mr. Wolk said at the time he bought the property, the restrictions said that no fence could be installed. He believes that the installation of a fence will impair his view of the lake.

Mr. Wolk questioned the accuracy of the survey presented by the Homeowners' Association and has concerns regarding the fence maintenance based on the measurements proposed for the fence installation. He also feels it would be more difficult for him to access the lake since he would have to go all the way around rather than just crossing the yards as he currently does, especially since he has limited mobility.

Mrs. Anne Gullia, 34785 Sherwood Drive, was present. She displayed photographs of her yard indicating the current view of the lake and the pathway to access the lake from her yard. Mrs. Gullia displayed the same photographs with the addition of a split fence demonstrating how the view from her home will change if the fence is installed. Mrs. Gullia strongly opposes the fence installation.

Mr. Wolk said letters have been submitted from other members of the community who also oppose the fence but were not able to attend the meeting. He believes the installation of the fence will negatively alter the appearance and setting of the area.

APPROVAL OF MINUTES:

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve the minutes of the June 11, 2013 meeting.

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

Motion Carried

PENDING:

1. 7365 Royal Portrush Drive – Kailan Zhang – 5/28 tabled - 038-2013
 6/11 tabled – request to withdraw received from applicant
 - 286 sq ft total amount of accessory pavement variance
 - 15' accessory pavement setback variance

Mr. Mazur said the applicant has requested this item be withdrawn.

Motion by Mr. Mazur, seconded by Mr. Bentley to accept the applicant's request to withdraw Item 1 from the agenda.

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

Motion Carried

2. Cannon Road & SOM Center Road – PP#'s 951-39-006, 041-2013
 952-09-001, 952-12-004 - Burton Insurance Agency, Inc./Mary Lambert
 (public hearing previously scheduled was cancelled at applicant's request)
 - Lot split/consolidation

Mr. Mazur said the public hearing was cancelled and might be rescheduled in July.

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

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

Motion Carried

3. 34500 Dogwood Lane – Frank and Cheryl Radis 042-2013
 - 1' minimum swimming pool fence height variance

Mr. Mazur said he viewed the property and Mr. & Mrs. Radis are reviewing alternatives.

Motion by Mr. Mazur, seconded by Mr. Newberry to table consideration of Item 3.

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

Motion Carried

NEW:

4. 32800 Solon Road – Creative Playrooms – Joan Wenk 046-2013
 - Site plan for bollards and railing

Mr. Lou Wenk was present representing the applicant. He said in 2007, a vehicle hit the building and a 6" curb was installed between the parking lot and the building

in an effort to prevent this from occurring again. However, in 2012, a vehicle jumped the curb, hitting the building but not as severely as the previous incident.

Mr. Wenk said the hope is to find an aesthetically appropriate manner to slow drivers down and prevent them from hitting the building.

Mr. Mazur asked if other alternatives had been considered; such as, in ground planters.

Mr. Wenk said boulders were considered but there was concern about a vehicle hitting the boulder and pushing the boulder into the building. He said the speed limit in the parking lot is 5 mph.

Mr. Mazur said there are also two significant speed bumps in the parking lot.

Mr. Wenk said the speed bumps were added in 2007 as another deterrent to driving too fast in the parking lot. Mr. Wenk said planters were never considered as an alternative to bollards.

Mr. Newberry said although he has no objection to wooden bollards, he is concerned if there is sufficient material, as shown on the plan, to keep the bollards anchored to the ground if they were hit by a vehicle. He is uncertain about this plan providing the security necessary for this location and feels it needs to be reviewed by an engineer.

Mr. Mazur would like more information about the strength of the proposed bollards and would like to refer this item to the Safety and Public Properties Committee for their review.

Motion by Mr. Mazur, seconded by Councilwoman Richmond to table consideration of Item 4.

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

Motion Carried

5. 34250 Country View Lane – Derrick Hoffman 047-2013
▪ 8' front yard setback variance

Mr. Stolarsky noted one member of the Commission is not in attendance and advised that a tie vote would mean the request is not approved. The applicants might, therefore, wish to table the item until there is a full Commission.

Mr. Derrick Hoffman was present and said the proposal is for the installation of ramps on the front and rear of the newest home for Ultimate Senior Living, an adult care facility. He said he was unaware there was a variance associated with the project as he hired a company to install the ramp and assumed all the necessary permits had been completed.

In response to Mr. Mazur's question, Mr. Hoffman said there was an existing deck in the rear of the property and a ramp has been installed for access.

Mr. Hoffman said posts were installed in the front of the property for a ramp, however, they were removed when it was determined that the necessary permits were never applied for by the company he hired to install the ramp.

Mr. Mazur said Mr. Hoffman has previously submitted applications to the Commission and is aware of the permit process. He said a penalty will be assessed for construction without a permit.

In response to Mr. Newberry's question, Mr. Hoffman said upon entrance to the home using the rear entry ramp, the entire home is accessible. However, the ramp to the front entrance was proposed in an effort to make the home more accessible and secure for handicapped adults.

Mr. Newberry agreed with Mr. Mazur that Mr. Hoffman has previously submitted an application and is well aware of the permit process. He expressed his displeasure that the applicant started a project without the necessary permits.

Mr. Hoffman said he did not purposely start the project with disregard to the City requirements. He travels frequently and has many other adult care homes to oversee and, therefore, hired a company who he believed would know what the requirements were and apply for the necessary permits. Mr. Hoffman trusted the company which is registered in the City. He said it was not his intent to offend the Commission. His only intent is to create a secure environment for the residents of the home.

Councilwoman Richmond asked how many residents will live in the home.

Mr. Hoffman said there will be 5 residents.

Councilwoman Richmond asked if one ramp would meet the needs of the residents.

Mr. Hoffman said he never thought of the ramp in those terms. The deck off the rear of the house was previously accessed by stairs. In order to accommodate the handicapped residents, a ramp was built.

Mr. Bentley also expressed his concerns regarding the necessity of two ramps.

Mr. Hoffman said although he would prefer to have the approval for two ramps, the ramp off the deck in the rear will meet the needs of the residents providing he receives the City's approval.

Mr. Mazur said no variance is necessary for the ramp off of the deck in the rear. However, since Mr. Hoffman is uncertain if the front ramp is essential for the residents, he suggested Mr. Hoffman table or withdraw the request at this time. If

it is determined there is necessity for a ramp in the front once the residents move into the home, Mr. Hoffman can return to the Commission.

Mr. Mazur said Mr. Hoffman's other senior care homes in Solon only have one ramp.

Mr. Hoffman said although this home is a ranch-style home, it is raised and accessed by stairs in the front and the back, unlike the other homes. However, he will withdraw his request for the front ramp.

Motion by Mr. Newberry, seconded by Mr. Bentley to accept the applicant's withdrawal of Item 5.

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

Nay: None

Motion Carried

6. Sherwood Park – Sherwood Park Homeowners' Association 048-2013
- 50' front yard setback variance
 - 47' side yard setback variance
 - Site plan for split rail fence

Mr. Joe Dittoe, President, Sherwood Park Homeowners' Association was present. Mr. Dan Kalk, 34690 Cannon Road, a member of the Association and a licensed attorney, was also present to act as legal advisor to the Board President.

Mr. Dittoe said the nine Board members voted unanimously to install the split rail fence. However, he is aware that some residents have concerns about the fence and he will address those concerns. Mr. Dittoe explained that the southern edge of the Association property is approximately 540' and there is no delineation between it and the Gullia's property. Therefore, the proposal is to install a split rail fence along approximately 300' of the property which will not be located within the wooded areas. Mr. Dittoe said there would be a gap in the fencing to allow the Gullia's access to the Association property.

Mr. Dittoe displayed a photograph of the area where the fence would be installed and does not believe it will impair the view or create accessibility issues. He said upgrades have been made to the property over the last few years with the addition of a new pavilion and portable lavatory facility and it is believed the fence will also enhance the property as well as delineate the properties.

Mr. Dittoe referred to comments previously made regarding the deed restriction requirements and said the addition of the fence does not violate the deed restrictions.

Mr. Kalk said although the refiled deed lists fences as a restricted item, it also stipulates that with the approval of the Board of Trustees, fences can be permitted.

Mr. Stolarsky said it is not a function of the Planning Commission to make any interpretations, rulings or enforcement of any deed restrictions as it relates to the Homeowners' Association.

Councilwoman Richmond asked why it is so important to have a fence installed at this time if there has not been one delineating the property for many years. She also asked if there were any other fences installed to delineate the Association property from a resident's property.

Mr. Dittoe said there are no other fences installed to delineate the Association property from a resident's property because the rear of the property is adjacent to an open field and there have been no issues involving people wandering onto that property. It is an area that is very seldom used. Mr. Dittoe said the subject of the fence has been discussed many times in the past and now that the new pavilion is generating more events, the issue of a fence has come up again. He said the fence will assist with identifying the Association property and the Gullia's property.

In response to Councilwoman Richmond's question, Mr. Dittoe said he is aware of past complaints of people walking on the Gullia's property.

Mr. Kalk said, in addition, there have been issues with the storage of items since the property line was unclear.

Mrs. Lyn Beck, 34850 Cannon Road, was present and said she grew up in the neighborhood and lived there as a child. She said there were pine trees serving as a natural barrier for delineation purposes between the Gullia's property and the Association's property. Mrs. Beck said over the years, the pine trees have died or grown so tall they no longer offer any type of screening and now the Association is attempting to re-establish the natural boundary lines.

Mr. Mazur referred to the application which indicates there will be two openings in the fence, one near the Gullia's side yard and one near their rear yard. He feels this is important and is concerned about the Gullia's access being cut off to the lake. Mr. Mazur is also concerned that the fence should be installed at least 3' off of the property line so it can be maintained on both sides without affecting the Gullia's property. He also requested clarification that it will be a two rail split fence as stated because the rendering indicated a three rail split fence.

Mr. Dittoe said the fence will be a classic two rail split wooden fence.

Mr. Bentley asked if installing a line of trees had been considered.

Mr. Dittoe said the installation of trees was considered, however, the landscaper said there is a great deal of shade in that area and it might be difficult for the trees to survive.

Mrs. Beck said a row of trees would impede the Gullia's view more than the split rail fence.

Mr. Bentley said if it was his home, he would prefer to look at a row of trees rather than a fence. He said Mrs. Gullia and Mr. Wolk did not mention any concerns with

people wandering into their yard and he feels if that was an issue, they might be more receptive to the fence installation.

In response to Mr. Newberry's question, Mr. Kalk said the fence will not extend to the very rear of the property so there will be no issues with maintenance in that area. Mr. Newberry said he is familiar with the property from working with the Boy Scouts years ago where they assisted with cleaning the area every year. Mr. Newberry does not recall there being contention in the neighborhood during that time and recalls the Gullia's being appreciative of the Boy Scouts cleaning the area. Mr. Newberry asked if installing the fence 100' from the right-of-way rather than 50' had been considered.

Mr. Dittoe said installing the fence 100' from the right-of-way would defeat the whole purpose of the fence. The purpose is to prevent people from wandering into the Gullia's yard when attending a function at the pavilion where most attendees would congregate.

Mr. Mazur said he viewed the site and compared it to the site plan received and feels the 50' setback is appropriate based upon the location of the pavilion.

Councilwoman Richmond does not see any practical difficulty or the purpose for the fence. She suggested tabling the item and waiting until there is a full Commission to review the item.

Mr. Mazur reminded the applicants that a tie vote will result in failure of the motion.

Mr. Dittoe said the objections noted seem to be regarding an obscured lake view and access for the Gullias and the Wolks. He feels they have shown the Commission that will clearly not happen and he does not understand the reluctance shown by some of the members.

Mr. Mazur agreed with Mr. Dittoe and feels the variances requested are reasonable and will eliminate future crossover problems onto private property. He feels the split rail fence is the least obtrusive method to delineate the properties and he would support the variances.

Motion by Mr. Newberry, seconded by Mr. Bentley to table consideration of Item 6.

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

Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 6100 SOM Center Road – Bob Evans

Mr. Frankland displayed the previously approved sign for Bob Evans and a picture of the proposed new sign. He said the proposed sign would be reduced in height with a smaller brick base and since it is being modified, he determined it should be viewed as a minor alteration.

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

2. 6845 SOM Center Road – Parkside Elementary

Mr. Frankland displayed an aerial view of the property indicating a 16' x 24' screening wall that is parallel to SOM Center Road on the back edge of the building. However, as there is nothing there to screen, the proposal is to reduce the wall to 5.3' x 20'.

Mr. Frankland referred to the aerial view where the applicant proposes replacing various utility ladders which only reach the roof edge with ladders that project above the roof.

The Commission members agreed no further review of these items was necessary.

COMMENTS FROM THE COMMISSION:

Mr. Mazur said the Solon Benevolent Association is once again selling raffle tickets for this year's Solon Home Days celebration taking place July 25th through July 28th.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mr. Newberry, seconded by Mr. Bentley to adjourn the meeting at 8:30 P.M.

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

Nay: None

Motion Carried

Chairman

Secretary