

**PLANNING & ZONING COMMISSION**  
**September 24, 2013 – 7:00 P.M.**

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

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

Absent: None

Also Present: Fire Lieutenant Eisenhuth, 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. 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. Sherwood Park – Sherwood Park Homeowners' Association – setback variances and site plan review for split rail fence: Mr. Mazur said anyone wishing to speak about this item should do so during the Comments from the Audience section of the agenda at the beginning of the meeting.
2. 33000 Solon Road – AT&T – site plan for new replacement antennas and equipment: A public hearing is scheduled. Mr. Frankland said the City consultant requested additional information regarding a bent structure on one of the antennas and has not yet received the information. He clarified that Sprint is requesting the replacement antennas.

Mr. Mazur said the public hearing will be held and it will remain open until the next meeting. It is anticipated the applicant will provide the requested information to the Planning Department for their review prior to the next meeting.

5. 33321 Aurora Road – Earth Fare – Mid America Management – site plan modification for shopping cart corrals: Mr. Mazur informed the applicant the Commission will request the corrals be lagged down.

NEW:

6. 6125 Liberty Road – Maria Molnar – maximum accessory structure area variance: Mr. Mazur said the structure was installed without a permit. Therefore, assuming the variance is approved, the applicant will be assessed a penalty.

9. 29855 Solon Road – Clairmont Solon LLC – minimum landscape screening variance: Mr. Frankland said the City's landscape architect determined the front yard landscaping was not installed according to the approved plan and he believes it is insufficient. Mr. Frankland said the Commission can approve the landscaping as it is or they can refer it to the landscape architect to determine an acceptable plan.

Mr. Mazur suggested the applicant come up with a plan and submits it to the City architect for review and approval. He is not suggesting the applicant remove what has been installed, but add to the landscaping to make it compliant.

10. 6800 Arnold Miller Parkway – L'Oreal USA – site plan for salt storage building: Mr. Mazur said this has been approved for the last two years. He asked that the applicant monitor spillage and runoff to ensure there is no contamination.

Mr. Newberry said the motion should include the allowable dates for the facility as have been stated in past years.

11. 30100 Wedgewood Drive – Lad Vacik Estate/Steve Hendricks – variances, site plan and lot consolidation: Mr. Mazur said a public hearing will be scheduled. Mr. Stolarsky recused himself from consideration of this item.

12. 30500 Bainbridge Road – Nestlé USA - Mr. Mazur said questions about the lighting have been raised and will be addressed during the meeting. Mr. Frankland said if a new plan is submitted and the candle level lighting is at zero, the request can be reviewed as a minor alteration.

Mr. Mazur believes this is a good option. If the lighting variance is denied, the applicant cannot re-apply for six months.

Mr. Frankland briefly reviewed 2 minor applications.

Mr. Mazur said Lieutenant Eisenhuth was asked to give an opinion regarding whether bollards should be installed around the outdoor seating and patio area at Menchies. This prompted Lieutenant Eisenhuth to review other locations with outdoor patios and he found some areas of concern.

Mr. Mazur recommended this information be forwarded to the Safety and Public Properties Committee for their review.

Mr. Mazur said he will request a public hearing be scheduled for Stonecreek Estates for October 15<sup>th</sup> for a plat modification.

Mr. Mazur received a letter from a Sherwood Park resident asking him to recuse himself from Item 1. The prosecutor has reviewed this request and will give his opinion during the meeting.

The caucus ended at 7:20 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:

Mrs. Anne Gullia, 34785 Sherwood Drive, was present and said she objects to the fence proposal from Sherwood Park. She has reviewed the Association's latest submission and is still opposed to it for all of her previously noted reasons. Although she understands that the Commission does not get involved with deed restrictions, she believes they are relevant.

Mrs. Gullia believes her view of the lake will dramatically change and her view of the natural setting will be impaired if the fence is installed. She also believes the fence will impede access to the lake and cause people to walk across her property to get to the lake. Mrs. Gullia believes boundary definition can be achieved with rocks or bushes.

Mrs. Gullia feels a fence will diminish the value of her home. She said she has spoken with an attorney and a builder who have confirmed this. Mrs. Gullia does not believe all other residents in the neighborhood have been informed of the new plan or the cost to install the fence. She said she is aware of approximately 14 residents in the neighborhood who are also opposed to the fence installation. Mrs. Gullia said when a variance application is received by the City, notifications are sent to the residents located closest to that parcel to inform them of the request. She said those residents are the ones who are opposed to the fence and she asks that the Commission listen to the feedback from those residents and not approve the fence installation.

Mrs. Gullia said the one area where she would concede to the fence installation, for the purpose of safety issues, is in the front, where the pavilion is located. She displayed a photograph of the rear of the property and indicated the lawn area that was freshly mowed and said this is her property. She indicated the area adjacent to the mowed lawn, which was overgrown and said this is common area. Mrs.

Gullia said the boundary line is clear and a fence is not necessary to make that differentiation. In addition, it would save the Association a great deal of money by not installing the fence.

Mr. Alan Wolk, 34765 Sherwood Drive was present. He brought a measuring stick with different measurements marked on it to demonstrate the height of the proposed fence. Mr. Wolk indicated an area on the stick and said the first proposal was for a 4.6' fence. He indicated this measurement on the stick and said this is almost up to his chin. The new proposal is for a 3' high fence with 3.6' stakes. Mr. Wolk read a prepared statement (copy attached) and requested the Commission to use good judgment when ruling on this matter.

Mr. Allen Aungst, 34355 Sherwood Drive, was present and said he has been dealing with erosion problems for some time. He feels if the fence had been installed years ago, it would have avoided much harsh discussion with his neighbor. Mr. Aungst said he was simply trying to correct the erosion problem on his property but his neighbor believed he was on his property. He believes a fence might have created a friendlier atmosphere.

Mrs. Lyn Beck, 34850 Cannon Road, is also a member of the Sherwood Park Association. Although it has been mentioned that if the fence is installed, people will have to walk on private property to get to the Association area, she clarified that with the approval of the variance setback, people will be able to walk alongside of the fence and still be walking on Association property. Mrs. Beck said access onto the Association property will be gained through any of the fence openings.

Mr. Stan Gordon, 34500 Sherwood Drive, was present and is also a member of the Sherwood Park Association. He said he assisted with marking the boundaries for the fence and every consideration was given to the residents who live adjacent to the Association property to ensure they would still have easy access from their homes to the lake and Association grounds. Mr. Gordon said there have been past incidents with members of the Gullia household and he believes the fence will be helpful in creating a boundary between private property and Association property and assist with preventing future problems. He also does not feel Mr. Wolk will have difficulty viewing the lake from his home based on the topography of the property. Mr. Gordon said the Association hired a Solon police officer to maintain order at a recent function due to past issues that have occurred. He believes the Association should not have to do this to ensure order is maintained. Mr. Gordon asked the Commission to carefully consider this item.

Mr. Tony Jones, 39695 Lochmoor Drive, Wayside Builders, was present. He commented on the person who is having a problem with erosion and said a fence will not stop erosion. He said the view in this area is more of a scenic view and he believes the installation of a fence will devalue the Gullia's property. Mr. Jones also believes the fence will obstruct their view to the lake. He said the Metropark is located across the street and there are no fences in the Metropark which creates a scenic view of the property. Mr. Jones believes a fence will destroy the scenery and the main reason the area was developed around the lake.

Mr. Mazur said he received a letter asking him to recuse himself from voting on this issue based on alleged friendships and requested Mr. Stolarsky to address the issue.

Mr. Stolarsky said a letter was sent to Mr. Mazur from Mr. Alan Wolk dated September 6, 2013. Mr. Wolk raised the issue of a conflict based on inaccurate facts. Mr. Wolk incorrectly referred to Mr. Mazur as the President of the Solon Benevolent Fund. Mr. Stolarsky said he reviewed the letter and the alleged facts versus the actual facts and reviewed the law relative to the issues. Mr. Stolarsky does not believe there are any conflicts that would warrant Mr. Mazur to recuse himself from this item.

Mr. Stolarsky said he also reviewed the comments in the letter regarding the validity of the applicant (Sherwood Park Homeowners' Association) to make this application. The City of Solon is very careful when applications are made to make certain they are owners of the property or have the authority to submit an application on behalf of the property owners. Mr. Stolarsky said he reviewed the application and determined there is a prima facie, proof that the applicant in this case is the owner or the party authorized to make this application. He said if there is conflict within the Association, then Mr. Wolk may bring that to another forum but the proper applicant did submit this application.

APPROVAL OF MINUTES:

Motion by Mr. Bentley, seconded by Mr. Newberry to approve the minutes of the September 10, 2013 meeting.

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

Nay: None

Motion Carried

PENDING:

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

Mr. Joe Dittoe, President, Sherwood Park Homeowners' Association was present. He addressed some of the previous comments that were made. The deed restrictions do not say that fences are not permitted, but are permitted with the approval of the Board. Mr. Dittoe said, in addition, everyone in the subdivision knows about the fence request. He explained a letter or an email was sent to all residents approximately two weeks ago. In addition, a copy of the deed restrictions and the Association rules was offered to anyone who wanted them. In fact, some of the homeowners who have objected to the fence also have fences in their yard. Mr. Dittoe said a comment was made that 14 people are objecting to the fence,

however, the Association has heard from only 4 people who object. He said the cost of the fence has also been discussed.

Mr. Dittoe said the fence will be installed along the west and southern edges of property to define the property line. Although a survey of the property was completed approximately 10 years ago, most of the stakes were covered with overgrown vegetation. Mr. Dittoe said a new survey was recently completed to verify the property lines. He explained the total length of the border on the property is approximately 828' and the fence will be 339.' Mr. Dittoe said the fence will run alongside approximately 46% of the Gullia property line. He said they asked Mrs. Gullia for her input as to where the openings in the fence should be located.

Mr. Dittoe said a split rail fence was proposed since it would be the least likely to block anything. He said the fence will be a guideline for determining Association property and private property to anyone attending an event at the pavilion. Mr. Dittoe said there will be adequate room to walk on the Association property once the fence is installed and there will be no need to walk on private property to access the pavilion and lake area. He said the Board members of the Association voted 9 to 0 to install the fence and the comments regarding the need for a quorum do not apply to this decision. Mr. Dittoe said much time and money has been spent to improve the lake area and the fence will complete the process.

Mr. Dittoe said the Association has made every attempt to be cordial and considerate to the neighbors adjacent to the pavilion area. The fence topic has been discussed on and off for many years by the Board and many of the residents have indicated their interest in having a fence installed to assist with determining Association property and private property.

Mr. Mazur asked Mr. Dittoe to display the map of the property and indicate where the fence is proposed as well as the fence openings.

Mr. Dittoe displayed a rendering indicating the line representing the fence and said the open space is designated by the green line, a 10 ½' foot section of fence is designated by the red line and he indicated where the openings in the fence would be located. In response to Mr. Mazur's question, Mr. Dittoe indicated where the approximate location of the Gullia's home would be on the rendering and where the numerous openings in the fence will be located.

Councilwoman Richmond said she and Mr. Bentley went out to view the area. At that time, a taller fence was proposed and she used Mr. Wolk's measurement stick and dug it into the ground in the approximate area where the fence will be located. Councilwoman Richmond said she went onto the deck and based on the topography of the property, she could barely even see the top of the stick while standing on the deck. She feels now that the fence height has been reduced, it will hardly be visible at all from Mr. Wolk's deck.

Councilwoman Richmond said when determining the outcome of a variance request, the Duncan vs. Middlefield standard must be applied. She questioned Mr. Dittoe in regard to the hardship. As she understands the request, the fence will serve as a divider between the Association property and private property as there have been issues in the past where guests or members have unknowingly trespassed onto private property. She asked if this is the hardship the Association is trying to remedy with the fence.

Mr. Dittoe said the fence will help delineate the boundary between the Association property and private property. At a recent function, the Gullia's called the police numerous times because people were on their property.

Mr. Dittoe said some members suggested board-on-board fencing or chain-link fencing rather than the split rail fence. However, it was determined that a split rail fence is a rational and less expensive solution.

Councilwoman Richmond asked Mr. Dittoe if the split rail fence is intended to help members and guests understand where the property line is to prevent trespassing and any future issues.

Mr. Dittoe said this is the outcome they are hoping for.

Mr. Bentley said when he and Councilwoman Richmond viewed the property, they spent time at the Wolks' home and the Gullias' home. He was told the current demarcation line is basically overgrown roots and is considered a safety hazard. Mr. Bentley feels it is necessary to distinguish between Association property and private party. He feels the fence is a good solution and will also assist with the safety issues associated with the root problems.

Mr. Mazur toured the area as well and said he had difficulty distinguishing the property lines. He believes the Association has been more than fair to the adjacent neighbors especially by reducing the height of the fence. Mr. Mazur said the Association has also done a great job with improving the facility with the new pavilion and restroom. He has received answers to his two main questions regarding the location, which will be located 3' off of the property line and there will be adequate openings left in the fence for access.

Mr. Newberry asked Mr. Dittoe about the source of the map document he is displaying.

Mr. Dittoe said it was created by the contractor who will be installing the fence and it was plotted using exact measurements of the property lines once the property was surveyed. He said each fence section is 10 ½', so it was measured 50' off of the property line by the fence contractor and was plotted exactly where the fence would be installed.

Mr. Newberry believes Mr. Dittoe misunderstood him. He said the source of this document looks as though it might have, at one time, been a subdivision plat or a

plat of survey. He is disappointed that the entire survey was not shared with the Commission.

Mr. Dittoe said he believes a copy of the survey was put in the packets.

Mr. Newberry said he has no copy of the survey in his packet and only has the cut section. He asked about the outline of the lake and asked if it was surveyed or was it taken from the aerial photographs.

Mrs. Lyn Beck, 34850 Cannon Road, was present and said the outline of the lake was transposed from the survey completed in 2000, the lake was not on the recently completed survey.

Mr. Newberry suggested that the outline of the lake shown on the plat may be inaccurate. He said there are a number of photographs that were attached with the application and he asked the applicant to show him the locations on the map represented by the photographs.

Mr. Mazur said if the fence is located 3' off of the property line, the location of the lake on the rendition is irrelevant.

Mr. Stan Gordon, member of the Board, said the lot plan which was established in 1957 distinguishes all of the lots on the street. Following that lot plan, the Gullia property is a part of it and the lot has not been moved. Mr. Gordon said considering this information, dealing with the Gullia property, 3' north of that there is no way the lake comes into play because erosion could change the lake every day. He sees no reason for Mr. Newberry's question since they dealt with the lot plan from 1957 and they deal with it every day on every house lot in the neighborhood.

Mr. Newberry said Mr. Dittoe has said there is room between the fence and the lake to walk and questioned if this is known based on the map with the superimposed lake on it that has been shown.

Mr. Dittoe said this is known because they know exactly where the survey lines are located. He confirmed there is plenty of room for a fence to be installed. He believes the narrowest space will be approximately 12' to 13' and the fence line will not be in the middle of the lake.

Mr. Newberry again questioned the accuracy of the map.

Mr. Dittoe confirmed there is plenty of room for the fence. If necessary, he can take measurements from the edge of the water.

Mr. Newberry said he does not doubt there is room to walk between the lake and the fence. However, he is saying the map that has been displayed may not be as accurate as Mr. Dittoe is portraying.



Mr. Newberry asked to see the photographs of the property that have the image of the fence added to them.

Mrs. Beck displayed the rendering with the image of the lake and explained that the narrow area Mr. Newberry referred to has no fence plotted at that location.

In response to Mr. Mazur's question, Mr. Newberry said he would like to view the photographs with the fence image and hear an explanation as to how the photographs relate to the map.

Mrs. Beck displayed a series of photographs with the image of the proposed fence and indicated on the rendering with the image of the lake, the approximate location of each photograph. She said there will be a large opening in the fence in the back of the property for the three homes that are located there.

Mr. Dittoe explained there is not much foot traffic in the back of the property because access would be gained by walking through private property. Therefore, he feels only the 3 homeowners who live back there might use that opening.

Mrs. Beck said it is also a difficult walk since it is heavily wooded with lots of underbrush.

Mr. Newberry thanked Mrs. Beck and Mr. Dittoe for explaining the photographs to him. He said he was confused by the pictures and the explanation has helped.

Mayor Drucker recused herself from consideration of this item.

Motion by Mr. Bentley, seconded by Mr. Mazur to approve a 50' front yard setback variance.

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

Motion by Mr. Mazur, seconded by Councilwoman Richmond to approve a 47' side yard setback variance.

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

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve a 47' rear yard setback variance.

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

Motion by Mr. Newberry, seconded by Mr. Bentley to recommend approval of the site plan for the split rail fence.

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

2. 33000 Solon Road – AT&T (tower owner)/Sprint (replacement antennas) 064-2013
- Site plan for new replacement antennas and equipment

Mr. Mazur said it was clarified by Mr. Frankland during the caucus that the applicant is Sprint.

Mr. Frankland displayed an aerial view and said the application involves an existing tower located at the police station. He said the proposal is to replace 6 existing antennas with 3 new antennas. He displayed a plan indicating the tower and said a question was raised by the City's reviewer regarding a structural issue. The City structural engineer has not yet received the information required for a proper review. Mr. Frankland recommended the public hearing remain open until the next meeting.

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

There were no comments, however, Mr. Mazur said the public hearing will remain open.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to table consideration of Item 2.

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

Motion Carried

3. 33311-33631 Aurora Road – Solon Square LLC – 065-2013  
PP#'s 954-03-004, 954-03-016 and 954-03-017
- Re-submittal of lot consolidation (correction to plat)

Mr. George Zilich, Chief Financial Officer, Mid America Management, was present. He believes this is mainly a technical correction and asked if there were any questions.

Mr. Ken Kuehm, Surveyor, Bock & Clark Corporation, 537 Cleveland Massillon Road, Akron, was present. He displayed a plan of the Solon Square Shopping Center and explained there are three tax parcels included in the consolidation and he indicated their locations. Mr. Kuehm said a correction was made to the deed for the property line that runs along the rear of the property.

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

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

Mr. Newberry said this is a housekeeping issue and he thanked the applicant for correcting an issue that has been incorrect for many years.

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the lot consolidation with the plat correction for PP#'s 954-03-004, 954-03-016 and 954-03-017.

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

Nay: None

Motion Carried

4. 31250 Cannon Road – Chung Seong 067-2013  
▪ Accessory structure location variance

Motion by Mr. Mazur, seconded by Mayor Drucker to accept the applicant's withdrawal of Item 4.

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

Nay: None

Motion Carried

5. 33321 Aurora Road – Earth Fare – Mid America Management 069-2013  
▪ Site plan modification for shopping cart corrals

Mr. Matt Majeed, MCG Architecture, was present. He displayed a plan indicating the parking lot of the Earth Fare and the location of two cart corrals that have already been installed. Mr. Majeed also displayed photographs of the cart corrals.

At Mr. Mazur's request, Mr. Majeed confirmed the corrals will be lagged down.

Mr. Newberry said typically it is his practice to not grant in favor of a variance that is requested after the fact, however, since he believes this to be a safety issue, he will vote in favor of it.

Motion by Mr. Bentley, seconded by Councilwoman Richmond to recommend approval of the site plan modification for shopping cart corrals for Earth Fare at 33321 Aurora Road.

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

Nay: None

Motion Carried

NEW:

6. 6125 Liberty Road – Maria Molnar 071-2013  
▪ 172 sq ft maximum accessory structure area variance

Ms. Molnar was present and displayed an aerial view of her property indicating the location where the pavilion has been erected. She displayed another photograph of her back yard prior to the pavilion being erected and indicated the landscaping that surrounds the back yard. Ms. Molnar said none of her neighbors are able to see the pavilion from their yards.

Ms. Molnar displayed another photograph of her back yard and the newly constructed open-air pavilion. She explained the pavilion was built to accommodate her family of 15 during the summer when it is very hot in the sun and she decided to build a rooftop over her patio.

Ms. Molnar is now aware that she was supposed to apply for a permit, however, was unaware of this before she had the pavilion built. She has been made aware that the Code allows 168 sq ft and the structure is greater than that which is why she is requesting a variance.

Mr. Mazur said assuming the request is approved, the Building Department will likely impose a penalty for constructing the pavilion without the necessary permit.

In response to Mr. Mazur's question, Ms. Molnar said her husband was the contractor for the project.

Mr. Mazur noted a letter from one of the neighbors was received and they have no objection to the variance.

Mr. Newberry asked to view the aerial photo again and said Ms. Molnar has answered some of his questions. She said a raised planter was recently removed and the circular object Mr. Newberry is referring to is a fire pit.

Mr. Newberry indicated it is not his practice to support variance requests for forgiveness over permission.

Mr. Mazur said the City has a right to make the applicant remove the structure. He said the City does not condone these actions and he would not recommend others build without permits.

Motion by Mr. Bentley, seconded by Councilwoman Richmond to approve a 172 sq ft maximum accessory structure area variance for 6125 Liberty Road.

Mr. Mazur said if violations continue from the Contractor, the City has the right to revoke his registration so he will no longer be able to conduct business in Solon. Mr. Mazur said this is a very serious matter.

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

Motion Carried

7. 7002 Fox Hill Drive – Melissa Blackledge 072-2013  
▪ 3' minimum cumulative side yard setback

Ms. Blackledge was present and displayed a plan indicating the location of her home. The proposal is to add a deck onto her home, however, due to the shape of her property, a variance is necessary.

Mayor Drucker said the irregular shape of the lot presents a practical difficulty for the applicant and she feels the variance is justified.

In response to Mr. Bentley's question, Ms. Blackledge indicated a line on the plan and said it is the property line and is not the neighbor's house. Ms. Blackledge said

the section of her neighbor's home that is closest to that property line is their living room and dining room and there are no windows on that side of the home.

Mr. Frankland said the side yard setback is being met but the cumulative side yard setback is not being met.

Motion by Mayor Drucker, seconded by Mr. Newberry to approve a 3' minimum cumulative side yard setback for 7002 Fox Hill Drive.

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

Nay: None

Motion Carried

8. 31550 Cheswick Place – Harriet Rathje 073-2013
- 5' minimum rear yard setback variance

Mrs. Harriet Rathje was present and said she and her husband have lived at this location for 19 years. She said when they moved in, there was a deck built on a concrete slab in the back of the house. Mrs. Rathje said she would now like to add a 3-season room over the concrete slab and remove the deck which has deteriorated over the years. Mrs. Rathje displayed the plans for the 3-season room that were prepared by her contractor.

Mr. Newberry asked if the deteriorating foundation will be repaired prior to construction of the 3-season room and Mrs. Rathje said it would. Mrs. Rathje said the 3-season room will have the same footprint as the current foundation.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve a 5' minimum rear yard setback variance for 31550 Cheswick Place.

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

Nay: None

Motion Carried

9. 29855 Solon Road – Clairmont Solon LLC 074-2013
- 10% minimum landscape screening variance

Mr. Bryan Gray and Mr. Matt Bendula, CUI Services, were present representing the applicant. Mr. Gray explained that once the landscaper started to install the landscaping, he was having difficulty with the installation and felt the original plan was too cluttered and left no room for growth. The landscaper made the decision to condense some of the vegetation. Mr. Gray said the type of vegetation and the quantity are the same as the original plan but installed in a different arrangement. He said they are willing to add to the landscaping but would like to avoid having to remove the current installation.

Mr. Mazur said during the Caucus, it was discussed that the applicants could submit a revised plan with the addition of some items for review by the City landscape architect. If approved by the City landscape architect, Mr. Frankland can review it as a minor alteration at the next meeting. Mr. Mazur said the item will be tabled.

Mayor Drucker said the applicants can then withdraw their request for a variance, as it will be unnecessary.

Mr. Gray apologized and said their landscaper believed he was making the landscape installation better. Mr. Gray said they understand the need for appropriate screening.

Motion by Mr. Mazur, seconded by Mayor Drucker to table consideration of Item 9 with the requirement that the applicant will submit a new plan to the Planning Department for review by the City landscape architect prior to the next meeting.

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

Nay: None

Motion Carried

10. 6800 Arnold Miller Parkway – L’Oreal USA

075-2013

- Site plan (re-approval) of salt storage building

Mr. Bryan Gray and Mr. Matt Bendula, CUI Services, were present representing the applicant. Mr. Gray displayed a rendering of the proposed structure and said a vinyl waterproof cover is installed over the top of the structure and prevents the elements from getting into the salt. Mr. Gray said, as in the past, to keep the moisture out and the salt contained, expandable foam filler is used around the base and to seal all of the cracks. In addition, a “pig blanket” is used to surround any drainage containers when the salt is loaded and unloaded.

Mr. Newberry asked Fire Lieutenant Eisenhuth and Mrs. Welch if there were any issues or problems with the installation last year.

Fire Lieutenant Eisenhuth and Mrs. Welch said there were no issues with the salt storage installation last year.

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the site plan for a salt storage building for L’Oreal USA contingent upon compliance with all regulations in regard to parking lot maintenance for the period of November, 2013 through April, 2014.

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

Nay: None

Motion Carried

11. 30100 Wedgewood Drive – Lad Vacik Estate/Steve Hendricks

076-2013

- Variance to not combine non-conforming lots of record (Vacik)
- .29 acre minimum lot area variance
- Lot consolidation - 5315 Harper Road & 951-38-034 (Hendricks)
- Site plan for plat modification

Motion by Mr. Mazur, seconded by Mayor Drucker to schedule a public hearing for the lot consolidation for October 15, 2013.

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

Nay: None

Motion Carried

12. 30500 Bainbridge Road – Nestlé USA 077-2013
- Variance to not install curbing
  - 12.5' minimum street access drive setback variance (west)
  - 12.5' minimum street access drive setback variance (east)
  - 1.0 foot candle level lighting variance

Mr. Aaron Nelsen, Nestlé USA and Mr. Raymond Conley, CW Courtney, the civil engineer for the project were present. Mr. Nelsen displayed a plan and indicated where they are requesting to not install curbing. He explained the property is very flat and they need a slope to keep the water away from the building. In addition, they are proposing to widen the entrance aprons to alleviate issues with cars dropping off of the curb.

Mr. Nelsen said they plan to return with another more updated photometric plan and will withdraw the current request for a lighting variance.

Motion by Mr. Mazur, seconded by Mayor Drucker to accept the applicant's withdrawal of the 1.0 foot candle level lighting variance.

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

Motion Carried

Mrs. Welch said the Engineering Department has viewed the site as it relates to storm water management and it does have slope limitations.

Motion by Mayor Drucker, seconded by Mr. Bentley to approve a variance to not install curbing for 30500 Bainbridge Road.

Mr. Newberry asked if this plan was previously reviewed by the Commission and Mr. Conley said it was.

Mr. Frankland explain the proposed change is to not install curbing along the building edge for drainage purposes.

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

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Bentley to approve a 12.5' minimum street access drive setback variance for the west side.

In response to Mr. Newberry's inquiry, Mr. Conley said this information was on the original plan submission as an option and it has been determined that the change would be appropriate.

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

Motion Carried

Motion by Mr. Bentley, seconded by Mr. Newberry to approve a 12.5' minimum street access drive setback variance on the east side.

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

Motion Carried

13. 6540 Arbordale Drive – Phuong Ngo 078-2013
- 2' minimum side yard setback variance
  - 4' minimum cumulative side yard setback variance

Ms. Phuong Ngo was present. Mr. Frankland displayed an aerial view of her property indicating the narrow side yards in the area. He said the proposal is to add a sidewalk extending from the driveway, around the side yard and accessing the patio. Mr. Frankland displayed a plan indicating the areas where the variances are necessary.

Motion by Mr. Bentley, seconded by Mr. Mazur to approve a 2' minimum side yard setback variance.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mayor Drucker to approve a 4' minimum cumulative side yard setback variance.

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

Motion Carried

14. 5828 Liberty Road – Vladimir Dvorkin 079-2013
- 8.5' minimum accessory pavement setback variance

Mr. Vladimir Dvorkin was present and displayed a rendering of his driveway. He explained that his son has recently started driving and an additional car has been added to the household. Mr. Dvorkin said since City ordinance states that vehicles cannot remain parked on the street past a certain time, his son parks his car in the driveway. Mr. Dvorkin said he and his wife are both employed in the health care industry and are frequently paged at different hours of the night. This results in re-arranging vehicles in order for them to get to work.

Mr. Dvorkin indicated on the plan where a parking pad is proposed on the side of the garage behind an elevated planter. The pad will not be highly visible since it will be screened by the planter.

In response to Mr. Newberry's question, Mr. Dvorkin said no trees will be removed to install the pad.

Motion by Mr. Newberry, seconded by Mr. Bentley to approve an 8.5' minimum accessory pavement setback variance.

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

Motion Carried



CORRESPONDENCE: From Lieutenant Eisenhuth

Fire Lieutenant Eisenhuth reviewed the outdoor patio seating for Menchies as requested by the Commission. This prompted him to look at other outdoor patios in the City and he found issues that he believes should be addressed.

Fire Lieutenant Eisenhuth said he has seen accidents where vehicles hit a building after the driver mistakenly accelerated rather than braked or an impaired driver lost control. He is especially concerned about some outdoor seating that is located right off the parking lots on sidewalks with no bollards or any form of protection to patrons.

Mr. Mazur feels this item should be reviewed by the Safety and Public Properties Committee. He said the lower height bollards that were approved for the GetGo might be considered for the locations that Fire Lieutenant Eisenhuth is concerned about.

Motion by Mr. Mazur, seconded by Mr. Newberry to refer the information from Fire Lieutenant Eisenhuth regarding outdoor seating safety to the Safety and Public Properties Committee for their review.

Mr. Newberry said although he thinks seasonal outside dining is a wonderful addition to dining options, he also has some concerns. He is especially concerned with the approach of a travelling vehicle near a sidewalk and pedestrian clearance when walking by outside tables. Mr. Newberry said this issue must be carefully reviewed because the addition of some bollards could also limit the amount of room for pedestrians to walk by.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mayor Drucker to schedule a public hearing for Stonecreek Estates, Cannon Road for a plat modification and lot split/consolidation for PP#'s 951-37-006, 951-37-007, 951-37-008, 951-37,017 and 951-37-018 on October 15, 2013.

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

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 6865 Cochran Road – Kennemetal

Mr. Frankland displayed an aerial view of the property indicating the side of the building where the proposal is to add a smoking shelter for employees. He displayed a photograph and said the shelter is actually a carport-type structure.

Mr. Frankland said a plan was submitted to the Fire Department with bollards surrounding the shelter for protection, which has been approved by Fire Lieutenant

Eisenhuth. Mr. Frankland said the shelter will be anchored so that it cannot move and it will be an earth tone color.

Mr. Mazur asked if bollards would be located on three sides of the shelter.

Mr. Frankland said the shelter will have bollards on the parking lot sides, however, the proposal is to be able to drive into the shelter to be able to salt it in the winter.

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

2. 33790 Bainbridge Road – Solon Park Place

Mr. Frankland displayed a rendering of the building indicating where the addition of a front door is proposed.

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

COMMENTS FROM THE COMMISSION:

Mayor Drucker announced that the City of Solon is the proud recipient of the American Planning Association's Ohio Chapter Outstanding Community Planning Award for the City's Master Plan. She congratulated Mr. Frankland for his leadership and the dedicated Master Plan Committee who were essential to this outcome. Mayor Drucker said this was the City's first update in 35 years and was adopted in 2010. She said the award is given annually to an Ohio community for excellence in continued effort in utilizing the principles of planning in the planning process.

In turn, Commission members congratulated Mr. Frankland for the Planning award he and the Planning Department have been honored with.

Mr. Frankland thanked everyone for their kind words and said the City is being awarded for the overall planning process which includes the implementation of the Master Plan. Mr. Frankland said this was achieved with the assistance and cooperation from many people.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mr. Newberry, seconded by Mayor Drucker to adjourn the meeting at 9:12 P.M.

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

Motion Carried

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Chairman

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Secretary

Provided at 9/24/13  
PC meeting

TO: The City of Solon Planning Commission  
Re: 48-2013 Statement of Alan M. Wolk

When the Gullias bought their home 22 years ago no boundary impeded their view or their access to the park and the lake. The proponents say a fence is beautiful and attractive and, primarily, will delineate the boundary line, but it simply seeks to create a barrier from imaginary trespassers.

The City should not support actions that are more akin to spite meaning: First a 4.6 high fence 300' long, now a 3'+ high covering 339.2' creating an 828' partial perimeter, most of which has nothing to do with trespassers. The only possible trespass is upon the Gullia property and they oppose any fence.

If everyone was granted a right to mark a boundary line with a fence, Solon's ordinances would mean nothing!

The proponent's assertions do not establish any necessity or justify a hardship to worthy of variances reducing a 50' requirement to 3;

Most opponents live where they are most affected. Most proponents live either on the opposite side of the lake at least a football field away and much more than that to our home, which is less than 60 yards from shore.

While we disagree the opinion that the City of Solon is not concerned with deed restrictions, it is a matter of record that our Deed Restrictions "run with the land" and belong to each homeowner; they are mandates included and accepted and approved by the City over 50 years ago. [Recorded, as Amended, in Cuyahoga County Recorder as 95-08712 in 1995]. The Amended copies were provided to the City at that time, and again today. The amendments were initiated in the mid-90s for the purpose of enabling the Board to enforce the collection of unpaid dues. There is nothing eliminating rights reserved to and belonging solely to the majority of the 42 homeowners. Nothing delegate changes in to those documents to a board elected to administer the HOMEOWNERS' park and lake.

Those who are proposing the fence are acting outside of any *power* they claim.

Furthermore, they are acting without having been duly elected by a vote of a quorum of a majority of the homeowners. Yet, some proponents have seemingly acted like bullies provoking any opposition.

Therefore, they are not properly before the City and the City should be persuaded to support or validate a dance around the Association's Deed Restrictions, approved by the City in 1958, or the BY-LAWS, The City should not take sides and enable the disregard of each homeowner's individual legal right to a timely majority vote on changes as required within the Deed Restrictions or BY-LAWS.

Doing so will set a new precedent allowing anyone in Solon to erect a fence simply to identify a boundary line by claiming beautification. On the contrary, a fence will forever eliminate the natural rustic characteristics of the park, the neighborhood, the subdivisions and our community.

I offer my statements and the exhibits presents today and at all previous hearings to be included in the record of these proceedings.

We ask you to reject the application.

## Mediation

The idea for a fence was first suggested over three years ago. Our informal and formal opposition was simply disregarded. The current application has pended for some three months, being postponed for some four times at the applicant's request and/or on the recommendation of the Commission chair.

The boundary line that runs across our view is impassable to erect a fence without trespassing on the Gullia property. Note that doing so would a 6' wide downgrade to the water's edge, unless installers enter from the water! Cutting the grass would face similar limits. [SEE PHOTO].

A fence in this area improves absolutely nothing except interfere with our view. We continue to oppose any side-yard variance in that area as there is neither NECESSITY nor HARDSHIP, particularly for a variance reducing a 50' side-yard requirement to 3' anywhere along the 828' of boundary line.

Nevertheless, within recent days, despite expanding the perimeter of their proposal, proponents indicated willingness to being open to discussion. The location, of any fence openings, is remain uncertain but offers the Gullias an opportunity to choose an opening if permitted by the proponents.

**Keeping in mind that most of the ground east of the Gullia home is burdened with unsafe and nearly impassable roots, we have what we believe to be a reasonable a suggestion:**

**Subject to the approval of the City and subject to the required approval by a majority vote of the Homeowners, to waive the deed restriction prohibiting fences, in this one instance, solely for safety reasons,  
we would join in recommending the following:**

**Solely for the safety of those who use the Pavilion and the Park and protecting them from most of the ground burdened with unsafe and nearly impassable root overgrowth located on Park land East of the Gullia home, the City could grant a setback variance from 100' to 50' to allow a 3' high fence to be erected along the pine tree line parallel to the boundary and extending back from the street no further than the edge of the asphalt spur (about 50' in front of the Gullia setback as demonstrated by Mrs. Gullia).**

**This would impede members and guests from tripping and falling on the root overgrowth now on Park Land and concurrently enable the boundary line to be pointed out as they wish [See: Photos and sketch]**