

COUNCIL & PLANNING COMMISSION
SPECIAL SESSION

October 26, 2009

The Planning Commission of the City of Chardon met in Special Session Monday, October 26, 2009 at 6:15 P.M. in the Chardon Municipal Courtroom located at 111 Water Street.

Ken Miller, Chairman of the Planning Commission and Philip King, Vice-President of Council presiding.

The meeting opened with the pledge of allegiance and roll call.

PLANNING COMMISSION ROLL CALL

Planning Commission Members present: Leslie Bednar, Philip King, Nancy McArthur, Ken Miller, Mary Jo Stark.

Planning Commission Members absent: Andrew Blackley, Bill Niehus (6:32 p.m.)

Others present: City Manager David Lelko, Assistant Manager Randy Sharpe, Law Director James Gillette, Clerk of Council Amy Day, Planning & Zoning Administrator John Sheehan, City Engineer Doug Courtney, Michael Augoustidis, Steve Petersen, Joyce Campbell, John Sheehan, Ken Ovarik, Arlene Hill, Bob Strike, Mariel Rouru.

All members of staff were sworn in.

Consider a variance to the Woods of Burlington PUD. ordinance (#1529) to allow for a 12'x14'-8" addition to the house at 120 Woodbridge Crossing which will reduce the minimum required rear yard from 35 feet to 24 feet. (Renata McBride-Barr)

Mr. Sheehan stated that the proposed addition will be at the rear of the house. It will reduce the existing rear yard to approximately 17 feet. The distance to adjacent homes ranges from approximately 77 feet to 103 feet with the addition on the back which is in range of what is common already in that particular portion of the Woods of Burlington. All factors being considered, he recommends the variance be granted.

Mr. Miller stated that the statement that the addition be not less than 17 feet at the rear, there is no actual survey that states precisely where that is, just Mr. Sheehan's summary which states there is an absence of a field survey. He asked if this would not be a problem for the City, but would be the homeowner's responsibility to make sure that this requirement is met.

Mr. Sheehan stated that this is correct. The 17 feet will give them an extra foot that is hoped to be adequate. But ultimately the responsibility will be the homeowners.

Mr. King moved and Mrs. McArthur seconded to grant a variance to the Woods of Burlington PUD. Ordinance (#1529) to allow for a 12'x14'-8" addition to the house at 120 Woodbridge Crossing which will reduce the minimum required rear yard from 35 feet to 24 feet. Upon roll call vote the motion passed unanimously.

Consider approval of construction documents for certain site improvements related to interior alterations for an ambulatory surgical center at 150 Seventh Ave. (Michael Augoustidis Architects)

Mr. Sheehan reviewed the site improvements that are planned for the structure.

Mr. Miller stated that it appears that the construction documents seem to follow what was stated at the informal discussion about the project.

Mr. Sheehan stated that this is correct and he recommends the

approval.

Mrs. Bednar moved and Mr. King seconded to approve the announcement of decision for the approval of construction documents for certain site improvements related to interior alterations for an ambulatory surgical center at 150 Seventh Ave. Upon roll call vote the motion passed unanimously.

Consider a request to extend the filing deadline for Hidden Glen PUD., Phase 2 construction documents from December 11, 2009 to June 11, 2010. (Hidden Glen Associates)

Mr. Sheehan reported that Hidden Glen Associates has requested an extension to file construction documents for Phase II of their project. They have identified a slowdown in the real estate market and general market conditions as the primary reason for the extension. They requested 180 days and Mr. Sheehan suggested an extension until June 21, 2010 and support and recommend the extension be granted.

Mr. King moved and Mrs. McArthur seconded to extend the filing deadline for Hidden Glen PUD., Phase 2 construction documents from December 11, 2009 to June 11, 2010. Upon roll call vote the motion passed unanimously.

COUNCIL ROLL CALL

Council Members present: Leslie Bednar, Mary Bramstedt, Jefferey Campbell, Jr., Robert Cromwell, Philip King, Deborah Reiter.

Council Members absent: Karen Simpson.

Regarding the Chardon Planning and Zoning Code update, John Sheehan provided some background of the planning and zoning code which was first adopted in 1946.

Mr. Sheehan stated that the base document is David Hartt's planning and zoning code update which is a complete revision to the City's zoning code and the land development regulations. Edits have been made to the document that were directed by Council and Planning Commission as well as staff recommendations. It is the hope to have it adopted at the beginning of 2010.

Mr. Niehus arrived at 6:32 p.m.

Mr. Sheehan began the review of the proposed changes.

Mr. Sheehan reviewed changes to Zoning Districts. Two new zoning districts are being proposed in the new regulations. First is a Planned Residential District to replace the Planned Unit Development. The primary difference is that nonresidential uses will no longer be permitted. Second is a Residential/Limited Commercial District has been recommended to address the long-standing unique challenges to property values and residential uses along Center and Water Streets between Washington Street and Main Street.

Mr. Sheehan stated that the proposed changes to administration, enforcement and penalties include the adoption of series of progressive enforcement actions which were in the land regulations but not in the zoning ordinance. The current exemption that exists for water towers, radio towers and police carports will be discontinued. The current Park Improvement Exception is proposed to be discontinued. This provision exempts improvements to Municipal Park property from all zoning requirements if the park is a permitted use in the zoning district where it is located. For example, installing a gravel driveway where requirements for paved driveways exist.

Mr. Campbell inquired when this regulation was added and if it was added due to an issue with the development of Mel Harder Park.

Mr. Sheehan stated that it was added in 1987 but he does not know the reasons why it was added.

Mr. Campbell asked how this regulation would affect the school.

Mr. Gillette stated that the school needs to make a good faith effort to comply with the City's regulations; however, they are not required to comply with the regulations.

Mr. Campbell asked what jurisdictions would fall into this category.

Mr. Gillette stated that any governmental jurisdiction that would have the power of eminent domain would fall into this category.

Mr. Sheehan asked if the entities have to make a reasonable effort or would they be exempt from complying with the zoning regulations.

Mr. Gillette stated that he would call it an exemption because there is no substantial compliance requirement. They are supposed to act in good faith and develop plans that follow the intent and purpose of the zoning or land planning ordinances.

Mr. Gillette stated that the City does not have to follow its own ordinances.

Mr. Gillette discussed how the regulation had been handled in past situations.

Mrs. Bednar asked if the inconsistencies open the City to some valid arguments for a variance.

Mr. Gillette stated that he did not think there are inconsistencies open the City to some valid arguments for a variance. It was a Supreme Court decision that governmental entities do not have to comply with planning and zoning codes.

Mrs. Bednar spoke in support of removing the existing provision since the City already has the right to choose not to follow its zoning code if necessary.

Mr. King asked if there are municipalities that do not exempt themselves from their regulations.

Mr. Sheehan stated that there are some.

Mr. Campbell asked if any legal issues would arise if a problem is cause for a property owner that would be near a parking lot that was constructed by the City with gravel.

Mr. Gillette stated that it would depend on what the result would be for the City to comply with its own requirements.

Mr. Campbell asked what test would have to be passed.

Mr. Gillette stated that it would depend if it was a nuisance or not. He added that there is a situation where the City determines that it is not the best interest of the City to proceed under the planning and zoning code, they could request a waiver just like anyone else would.

No opposition was heard regarding removing the water tower, radio tower and police carport and park exemption.

Mr. Sheehan reviewed changes to the current regulations pertaining to instituting a new position of a City Architect proposed by David Hartt who recommends that the City institute a new position of a City architect as an employee or as a consultant who would review the plans submitted for buildings to make sure that they meet the style design and requirements set forth in the planning and zoning code. The types of buildings that would be included are all except one and two family homes and their accessories.

Mrs. Bednar expressed concern about maintaining the character of the old Village core even though she wants to respect the property owners' rights.

Mr. Cromwell expressed that in the past, buildings have been constructed that are not aesthetically pleasing. He questioned if

some language should be incorporated into the regulations to eliminate this from happening in the future.

Mr. Sheehan stated that he did not think that this part of the code is where this should be done, but felt that they could be added in another section.

Mr. King expressed concern with the possibility that an historic home could be remodeled to a contemporary style.

Mr. Campbell stated that he can not recall where there has been an issue with 1 and 2 family dwellings.

Mrs. Bramstedt felt that an important aspect is if it can be challenged in Court.

Mr. Campbell stated that he is concerned about property owners' rights and the cost.

Members of Council and Planning Commission expressed interest in protecting the investment of property owners who spend money to restore an historic home.

Members of Council and Planning Commission concurred to have staff investigate further the process for hiring an architect and the duties and processes they would be responsible for.

Mr. Sheehan added that he would investigate a geographic area to which they could apply standards to 1 and 2 family homes.

Mr. Sheehan reviewed changes to the responsibilities of the Board of Zoning Appeals. It is proposed that they will be responsible for deciding all non-conforming uses, all use variances, and all area variances for 1 & 2 family dwellings and related accessory structures.

Mr. Sheehan stated that currently, the Board of Zoning and Building Appeals is responsible for all of the variance issues and non-conforming issues in the zoning ordinance. This is strictly their jurisdiction. Planning Commission currently is responsible for the land planning regulations.

Mr. Sheehan stated that now that the land planning and zoning regulations will be combined, there is no easy way to separate their duties except by defining what Council and Planning Commission wants each group to deal with.

Mr. Sheehan stated that Planning Commission is proposed to be responsible for hearing and deciding appeals regarding the administration and enforcement of the code, any variance request not specifically within the jurisdiction of the BZA, adjudicate a dispute or uncertainty regarding a zoning district boundary and rule on a conditional use application.

Mr. Sheehan stated that another new section of the code is a conflict of interest provision that would apply to members of BZA, Planning Commission and Council. It would require that anyone that sits on one of those boards who owns property within 300 feet of an applicant's property would be required to stand down and not participate in any discussion or vote.

Mr. Miller stated that this would preclude him from participating in discussion concerning Main Street.

Members of Council and Planning Commission expressed modifying the recommendation to 200 feet rather than 300 feet.

Mr. Sheehan reviewed changes proposed to the development plan review process in order to standardize the review process and simplify the manner in which the regulations are presented. David Hartt has suggested that involving Council and Planning Commission at the beginning of a review process rather than at the end.

Mr. Cromwell stated that it had been previously discussed the need for more architectural renderings and he suggested that renderings from 4 sides be considered. He expressed his displeasure with the location of mechanical systems at Sheetz that were not on the

drawings presented to the City.

Mrs. Bramstedt spoke in support of architectural renderings and expressed the 3 dimensional model for the Heritage House was well received.

Mr. Courtney asked how often mechanical systems are included on drawings.

Mr. Sheehan stated that they are not usually included on the drawings.

Mr. King asked if the City has any say in how a building is located on a lot.

Mr. Sheehan stated that the City does not have a say in how a building is located on a lot in its current regulations.

Council and Planning Commission expressed interest in requiring architectural renderings.

Mariel Rouru suggested screening be used to cover mechanical systems.

Mr. Miller stated that it will help to have the architect look at the plan.

Ms. Stark inquired if there are provisions in the code that would require some type of professional to design the sketch for the concept plan submittal.

Mr. Sheehan stated that they are required to be prepared.

Mr. Campbell inquired about the appeals process for variances.

Mr. Sheehan stated that he would cover that topic a bit later.

Mrs. Bednar asked if there is a provision that would allow a non-profit organization to come to present their project in portions.

Mr. Sheehan stated that their concept plan should show their entire project but then they would file their construction drawings in sections.

Mrs. Bednar inquired about the Equivalency provision that states that the first meeting of the Planning Commission at which the applicant presents utilization of the Equivalency Provision shall be devoted to the discussion of the merits and deficiencies thereof. The Planning Commission shall not consider approval until the next regular meeting or other subsequent meeting.

Mr. Sheehan stated that this provision was included to prevent a knee-jerk reaction and should be the result of deliberate consideration.

Mrs. Bednar asked if 2 ½ years is given for major development projects is reasonable.

Mr. Sheehan stated that currently, regulations provide 3 years.

Mr. Campbell inquired if the phrase "good cause shown" is a broad term when referring to the extension of a deadline.

Mr. Gillette stated that good cause shown gives Planning Commission or BZA some discretion to permit or deny a request for extension and gives flexibility to look at any conceivable excuse that can come about.

Mr. Sheehan reviewed the timeframes for the plan approval process.

For public notice of a major development, the notice of public hearing will remain at 10 days as it is now.

The zoning administrator will have 3 days to get through the submittal documents to make sure everything has been provided but the content is not judged.

The plan review process requires comments be returned to the zoning administrator within 10 days notice for projects of 5 acres or less and 15 days notice for projects 5 acres or more.

The zoning administrator would have 3 days to forward comments to the applicant who would have 6 months to resubmit revised or corrected plans if deficiencies were noted by the plan reviewers.

Mr. Sheehan stated that the concept plan will then go to Planning Commission which at present has no specific timeframe. It has been proposed to be revised to occur quickly. There is a specific provision to allow Planning Commission to vote on the application immediately following the public hearing or may direct the zoning administrator to prepare an announcement of decision incorporating the finding of facts for action at a later meeting.

Mr. Gillette reviewed the purpose for the changes for incorporating the finding of fact.

Mr. Sheehan asked for Mr. Gillette's thought on the timeframe in which action should be taken.

Mr. Gillette stated that action should be taken as soon as possible. He recommended that action be taken at the next regular meeting or a special meeting if it is something critical.

Council and Planning Commission members stated that action should be taken by the next regular meeting.

Mr. Campbell asked if a supermajority vote of Council is necessary to approve or deny a Planning Commission decision.

Mr. Sheehan stated that there are only certain situations where a supermajority is necessary. Code amendments or rezonings have typically required a supermajority or if Council chooses to go contrary to Planning Commission, it would require a supermajority.

Mr. Gillette stated that this is in the Charter.

Mr. Campbell stated that no reference is made to how Council votes.

Mr. Gillette stated that a reference to the Charter could be included.

Mr. Sheehan reviewed the regulations for construction documents for 1 and 2 family dwellings. Construction documents would be handled by staff and would not go to Planning Commission or Council. The timeframes for approvals would be the same as the concept plan approval process. The zoning admin would issue an announcement of decision for approval of conditions or denial of construction documents. Once approved, a zoning certificate would be issued.

Mr. Sheehan reviewed the regulations for the minor construction approval process. Currently, if it is anything other than for 1 and 2 family homes, it would go to Planning Commission. The new regulations would allow the zoning administrator to act on various minor construction projects including: construction of small accessory structures 1,000 square feet or less, an addition of 5% or less of floor area of a building, not to exceed 2,000 feet, the interior alteration of an existing building without change to the building's exterior architectural design, style or finish materials, or minor design modifications with no discernible impact on neighboring properties, the public, or intended occupants.

Mr. Campbell asked how 1,000 square feet was determined.

Mr. Sheehan stated that the 1,000 square foot provision was recommended because they used a typical two car garage as a frame of reference and figured that twice the size of a typical two car garage would be acceptable.

Mr. Cromwell asked where the architectural element would be considered.

Mr. Sheehan stated that it would not be considered unless it is in the historic district where the architectural review would take place. There are no architectural design standards for one and two family homes outside of the historic district. There are in the commercial and industrial areas, there are architectural design standards for exterior finish materials.

Mr. Cromwell expressed concern about the material that could be used on a minor structure.

Mr. King stated that this process is deciding what process the zoning administrator will handle rather than planning commission and not the standards.

Mrs. Bednar stated that the process of the zoning administrator handling these is fine. Implementing standards is a good point.

Mr. King stated that the issue of applying architectural standards for the 1 and 2 family homes has already been discussed and decided that they should not be applied.

Mr. Sheehan stated that should it happen that the planning and zoning department would be doing a plan review under the delegated authority of the Planning Commission, and if a circumstance would occur where something is not appropriate, then it would go to Planning Commission.

Mr. King asked if the City is protected.

Mr. Sheehan stated that the City is not protected as there is no standard for something to be measured against for one and two family homes outside the historic district.

Mr. King stated that Council and Planning Commission have had much discussion about that topic.

Mr. Cromwell stated that he did not recall discussing accessory structures and felt that it should be revisited.

Mr. Miller suggested that what could be done is the Planning and Zoning Administrator could consult with the City Architect and if Council and Planning Commission decided that they don't want standards, then what could be done is that the recommendation of the architect will impact what is brought back to Planning Commission or not.

Mr. Sheehan stated that there still would be no standards.

After some discussion, it was decided that the Legislative Committee would investigate and prepare guidelines for the Planning and Zoning Administrator to use to prepare architectural design standards for 1 and 2 family homes and their accessory structures.

Mr. Sheehan reviewed the submittal requirements and stated that they mostly reflect what the City has currently.

Mr. Sheehan stated that there are also no substantial changes to zoning certificates.

Mr. Sheehan stated that the conditional use certificates will remain mostly unchanged but noted that Planning Commission would have to adopt an Announcement of Decision at the next Regular Meeting following the close of the public hearing.

Mr. Sheehan stated that in the Variance and Appeals Procedure, the number of days that the Planning Commission or BZA will have to make a decision will be changed to 35 instead of 30 days.

Mr. Campbell inquired about how public notice is handled when a meeting is not completed in one evening.

Mr. Sheehan stated that there should be a provision added where the continuance date is noted before the meeting is adjourned then no further notice is necessary.

Mr. Campbell stated that he feels that public notice is still necessary even though a meeting continuance has been announced.

No objection was heard from Council and Planning Commission to require notification of a continuance of a public hearing.

Mr. Gillette recommended that the code be amended to add a provision stating that notice of the recessed hearing date shall be sent to all owners entitled to notice by regular U.S. Mail.

Mr. Sheehan stated that the Appeals and Variances chapter will essentially remain as it exists presently.

Mr. Sheehan reviewed the Amendments Chapter will essentially remain as it exists presently. The edits include changes to timeframes.

Mr. Sheehan stated that the nonconforming uses chapter will essentially remain as it exists presently.

PLANNING COMMISSION EXECUTIVE SESSION - none.

ANY OTHER BUSINESS TO COME BEFORE PLANNING COMMISSION - none.

PLANNING COMMISSION ADJOURNMENT

Mr. King moved and Mrs. McArthur seconded to adjourn.

Meeting adjourned at 8:30 p.m.

COUNCIL EXECUTIVE SESSION - none.

ANY OTHER BUSINESS TO COME BEFORE COUNCIL

Mrs. Reiter moved and Mrs. Bednar seconded to set a special meeting on November 12, 2009 at 6:00 p.m. to discuss the Announcement of Decision by the Board of Ethics Review.

Results of the roll call vote:

Bednar:	Yes	King:	Yes
Bramstedt:	Abstain	Reiter:	Yes
Campbell:	Yes	Simpson:	Absent
Cromwell:	Yes		

Motion passed.

ADJOURN

Mr. Campbell moved and Mr. Cromwell seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 8:32 P.M.

PHILIP KING, Vice-Mayor
Vice-President of Council

Attest:

AMY DAY
Clerk of Council