

**Planning Commission  
Regular Meeting Minutes**

**Council Chambers 7pm**

**Monday, September 12, 2016**

**CALL TO ORDER**

The meeting was called to order at 7:00 P.M.

**ROLL CALL**

Planning Commission members present were Gerald Simms, Council Representative, Susan Stiles, serving as Chair, Adam Abraham and Rose Pelzl. Also present were Denise Swinger, Zoning Administrator, and Coolidge Wall Representative Jessica Brockman. Matt Reed and Chris Zurbuchen were absent.

**REVIEW OF AGENDA**

The discussion of Airbnb was moved before Pocket neighborhoods.

**REVIEW OF MINUTES**

Minutes for July 11, 2016. Simms MOVED and Pelzl SECONDED a MOTION TO APPROVE AS WRITTEN. The MOTION PASSED 3-0 ON A VOICE VOTE. Abraham abstained due to absence from that meeting.

**COMMUNICATIONS**

Stiles noted a letter from Dawn Clark in support of Eric Clark's petition.

**COMMITTEE/COUNCIL REPORTS**

Simms reported that the zoning code amendments had a first reading at Council table, and are in line for passage on September 19<sup>th</sup>.

**CITIZENS' COMMENTS**

There were no Citizen Comments.

**PUBLIC HEARINGS:**

**RIGHT OF WAY VACATION**

Right-of-Way Vacation: Charlene Prestopino and Carl Champney, property owners of 340 S. High Street have requested a vacation of the unused portion of the alley located between their property and the owner of 419 W. Limestone Street.

Swinger introduced the hearing as follows:

Charlene Prestopino and Carl Champney, property owners of 726 Xenia Avenue, are requesting the vacation of an unused portion of an alley located along the back of their property with an entrance on West Limestone Street. Because they own a partial lot on the abutting side of the alley, they would like to have the alley as part of their backyard setback for the construction of an accessory structure (garage).

Swinger noted that the Streets and Parks Superintendent would like to develop a list of alleys which are no longer functional and have trees or structures crossing them so that Planning Commission can have something of a green light for those alleys.

The alley is described as a 10 foot wide section which begins at the edge of lot #107 and proceeds northward to the end of the partial lot #105 adjacent to the applicants' property (see Exhibit A). The length of the alley is approximately 131 feet as measured by the Greene County GIS map of parcel dimensions. The abutting side of the alley they own is described as a partial lot of #108 and is 12 feet wide.

Swinger commented that the property owners had not realized that the alley was not a part of their property until they were preparing to put up a new shed where the former shed stood.

Swinger stated that if approved, this recommendation will go before Council for a first and second reading of the ordinance. Because the applicants submitted a petition, the second reading may occur within 10 days from the first reading of the ordinance. Thirty (30) days after Council's approval of the second reading of the ordinance vacating the alley, staff will record the vacation at the Greene County Recorder's office.

Stiles OPENED THE PUBLIC HEARING.

Property owner Charlene Prestopino commented that she had always assumed that it was the alley (sic).

Stiles CLOSED THE PUBLIC HEARING.

Pelzl asked that staff work on a list of alleys that could be readily vacated.

Simms commented in favor of making alley spaces available to adjoining property owners if it is not a functioning alley.

Simms MOVED TO APPROVE THE ALLEY VACATION AS REQUESTED. Abraham SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Right-of-Way Vacation: Steven Bognar and Julia Reichert, property owners of 726 Xenia Avenue have requested a vacation of the unused portion of the alley located between their property and that of 111 West Center College Street.

Swinger introduced the hearing as follows:

Steven Bognar and Julia Reichert, property owners of 726 Xenia Avenue, are requesting the vacation of an unused portion of an alley located between their property and the owners of 111 West Center College Street. It is a 15 foot wide section which begins at the edge of lot 234 and proceeds westward toward lot #235. The remaining 8.24 feet shown on the survey belongs to the property owners of lot 235. The length of the area being vacated is 116.42 feet (measurement of the back property line of lot 234) and an additional 11.26 feet (measurement of the lot split from the property owner of lot #233 to the applicants) for a total of 127.68 feet.

Swinger commented that the vacation is complicated in that it will affect three properties in the end, given that the boundaries of all three properties were mis-marked.

Stiles OPENED THE PUBLIC HEARING.

Steven Bognar commented that a number of years ago, one of the previous owners built a garage over the top of the property pin and on into the alley. He stated that he had assumed for the last 25 years that he and Reichert's property was significantly larger than it actually is, due to the positioning of the garage.

Swinger stated that if PC approves the alley vacation that Bognar and Reichert will then need to apply to the Planning Office for a lot split, and if that is approved then apply for a replat, which will then need to be recorded with Greene County for the tax record. Swinger noted that because there was no petition from neighbors submitted with the application, there will need to be a six-week time period between the first and second reading of the ordinance from Council vacating the right-of-way in question. Thirty (30) days after Council's approval of a vacation, the zoning administrator can officially record the vacation at the County Recorder's office.

Stiles OPENED THE PUBLIC HEARING. There being no comments, Stiles CLOSED THE PUBLIC HEARING.

In response to a question from Pelzl, Bognar noted that both adjoining property owners have agreed with the plan, and had included signed agreements to that effect in the packet.

Simms MOVED TO APPROVE THE ALLEY VACATION AS REQUESTED. Pelzl SECONDED and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

## **CONDITIONAL USE**

Conditional Use Application: 121 E. Davis ó Eric Clark, property owner, is seeking approval for an accessory dwelling unit in R-C, High-Density Residential District. Parcel ID #F19000100090018500.

Swinger introduced the hearing as follows:

Ted Donnell, Axis Architecture, Inc., has submitted an application on behalf of property owner Eric Clark, to construct an accessory structure (garage) with an accessory dwelling unit on the second floor. The two-story accessory building will be located in the rear yard behind the primary structure. The dwelling unit will be accessed by an exterior staircase.

The proposed conditional use meets the requirements of the Village's Zoning Code. The garage/ADU will be accessible off of the existing driveway on E. Davis Street. The size of the garage and dwelling unit conform to the maximum square footage allowed in the zoning code. The placement of the accessory structure meets the setback and sizing requirements of the zoning code. The accessory dwelling unit will not be separately metered for utilities.

Stiles OPENED THE PUBLIC HEARING.

Donnell presented as the architect for Eric Clark. Donnell noted that the request fits with the zoning code's intent to increase infill and density, and fits well with the surrounding uses.

Pelzl inquired as to the history of the garage.

Stiles CLOSED THE PUBLIC HEARING.

There being no further discussion, Abraham MOVED and Simms SECONDED a MOTION TO APPROVE THE CONDITIONAL USE AS REQUESTED.

The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Conditional Use Application: 150 Railroad Street: Ted Donnell, property owner, is seeking approval for a building with a dwelling unit on the upper floor and non-residential use at street level in B-1, Central Business District. Parcel ID #F19000100110024700; Parcel ID #F19000100110024700.

Swinger stated that she had provided site plan review guidelines since the proposed structure meets the criteria for an Accessory Dwelling Unit, with the exception of height, yet requires a site plan review because the property is located in the B-1 along Walnut Street, Corry Street and downtown.

Swinger clarified that the request is for a non-residential space on the first floor with a residence above.

Pelzl asked several questions related to the need for the site plan review and why the property was zoned B-1 rather than R-C.

Donnell explained that when he purchased the property it was his office, and he had 6-7 employees for a number of years. More recently, he and his wife have moved into the property after converting it to a residence. Donnell stated that he desires to add the unit so that he can have his home office (with no outside employees) accommodated on the property.

Swinger responded to a question from Pelzl, observing that there are a number of residences within the B-1.

Donnell commented that the ability to have a business on the first floor of one's residence is meant to be an advantage within the B-1.

Stiles OPENED THE PUBLIC HEARING. There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Swinger addressed the matter of parking, noting that there are two points of access to the property. Off street parking for three vehicles is located at the front of the property. An additional access point is located on the south side of the property running along the Village owned parcel to an entrance/exit at Dayton St.

She addressed a question from Stiles, stating that following the requirements for an Accessory Dwelling Unit, one space is required. The existing residence requires two spaces, plus one space for a home occupation. If one additional space is added for the proposed art studio, the required spaces total five. With the 25% reduction for the Central Business District, the parking requirement totals four, one more than what currently exists at the front of this property.

Donnell commented that the garage will have a rolling door and that the garage could be considered as a parking space.

Swinger asked that if there is a change of business, the property be required to return to Planning Commission for approval for the parking requirement.

Pelzl MOVED TO ACCEPT STAFF RECOMMENDATION REGARDING APPROVAL OF THE CONDITIONAL USE WITH THE ADDED CONDITION THAT: If there is a change of use or a change of occupancy, the conditional use shall return to Planning Commission for another hearing to discuss and determine parking requirements. Simms SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

At this point, Simms left the meeting.

**OLD BUSINESS**

**Air Bed and Breakfast Establishments.** Swinger introduced the topic, noting that the phenomenon has moved across the country rapidly since it began in 2008. She differentiated this use from short term rentals, noting that those regulations may not fit Airbnbs but could be adapted to fit.

Stiles noted that the Village regulations for short term rentals start at one week, which may not cover the Airbnb situations which are often one week or less in duration.

Pelzl received confirmation that short term rentals are permitted in all districts.

Abraham asked whether Bed and Breakfast regulations would cover this situation, and wondered whether approval for Airbnbs should be easier than getting a Bed and Breakfast approved. HE noted that there are many different sizes and incarnations of Bed and Breakfast establishments.

Pelzl asked who makes the determination as to whether the business is a true Bed and Breakfast.

Abraham stated that he sees the lack of requirement for residence for short term rental or Airbnb as problematic.

Swinger observed that the requirements for long term rental and typical Airbnb regulations are not significantly different.

Swinger stated that the property owner is supposed to fill out a change of use if they no longer reside on the property and plan to rent it out in any fashion, but that this is not well regulated.

Pelzl argued that while there are no regulations in place, the Ohio Building Code kicks in once a property is not occupied. He noted that the Village has a responsibility to issue the correct zoning permits or not in compliance with the Ohio Building code.

Donnell commented that the Village zoning code should comply with county level requirements so that applications to the County for change of use are compatible.

Donnell commented that if a property owner is renting out his or her former residence as a residential rental, this is permitted. If they are renting out a room short term, they need to secure a change of use so that their insurance on the property is not nullified in the event of an incident.

Swinger noted that while change of occupancy permits are required for businesses, these are rarely filled out.

Donnell commented on this, stating that different uses require different types of fire and safety regulations, and that this is information critical to first responders.

Stiles brought up issues of insurance and liability, wondering who would be contacted in the event of a problem.

Judith Hempfling joined the Planning Commission at this point as Alternate, and commented upon the need for housing within the community.

Swinger noted that there have been several complaints from some neighborhoods regarding parking congestion.

Swinger noted that the impetus for the zoning code changes initially came from the Council goal of strengthening the economy.

Swinger offered to go to the county to determine their requirements to provide this data to the PC.

Hempfling expressed hesitation at the idea of going to the county for information, opining that citizen input on the matter should be received first. She characterized the county regulations as "too much bureaucracy," opining that the seeking of information would "take matters out of our hands."

Stiles stated that Planning Commission should be aware of what the regulations are, and commented that the issue has arisen because of complaints.

Stiles asked for comment.

Donnell commented that if the property is not properly outfitted for the use, as evidenced by proper permitting, any insurance claim will be nullified, leaving both the renter and the property owner in a bad way in

the event of a catastrophic event. The Village, he opined, bears some responsibility to communicate these expectations, and commented that in fact the Village might bear legal responsibility.

Donnell referenced property owners who purchase homes solely to rent them as Airbnbs, but who may reside entirely elsewhere.

Abraham concurred, stating that he is aware of a number of these within the Village.

The Clerk noted that some of the impetus behind the zoning code's requirement that changes of use and occupancy be filed with the Planning Department was so that persons seeking to rent or purchase homes would know what type of neighborhood into which they were potentially moving.

Pelzl asked that county regulations be determined so that PC can decide whether to implement the same or stronger regulations. She noted that the matter has not yet been thoughtfully addressed in the zoning code, and urged that the Planning Commission should undertake this discussion.

Donnell commented that prior to the advent of the internet, the phenomenon did not really exist, and it is therefore under-regulated.

Donnell commented that there are privacy issues at hand with regard to strangers in the neighborhood on a regular basis, and that neighbors are reassured when they know that the use of the property as a rental has been vetted with the Village.

In response to a comment from Donnell, Hempfling stated that some uses will require a great deal of retrofitting of the property, such as construction of fire walls.

Donnell explained the situations in which this would be required.

Abraham asked whether there are stakeholders who should be invited to a meeting where this is discussed.

Donnell noted that any property owner who rents to businesses has to be aware of the need for a change of use or occupancy, and if they are not informing their tenants, they are choosing that.

Abraham commented that if he wanted to start a rental in his home he likely would not be aware of the need for permitting.

Swinger commented that the only way the matter will come to the attention of Planning Commission is if there is a neighbor complaint.

Swinger commented that the number associated with the number of Airbnbs in the Village is 119.

Hempfling asked Swinger to provide outreach to potential stakeholders so that they can provide opinion on the matter.

Pelzl asked that another discussion be held, and directed staff to gather information regarding regulations at the county level on Airbnb.

Planning Commission further requested that a subsequent meeting be held to formally discuss the topic, and that Swinger invite any property owners who have asked about regulations for Airbnbs be invited to attend.

Planning Commission as a body asked for another discussion on the matter before holding a public hearing for a text amendment.

**Pocket Neighborhoods.** Stiles commented that she liked the model presented in the packet, but commented that the four acre minimum seemed excessive, agreeing more with the two-house pocket neighborhood concept.

Swinger characterized the pocket neighborhood concept as holding a place in the zoning code, rather than any such development being a PUD, which would carry varying regulations dependent upon the situation.

Donnell commented that even in highest density zoning, there is no freedom for creating more pedestrian access and a different manner of regulating vehicle traffic. He characterized the PUD process as agonizing and time consuming.

Donnell noted that the zoning code should reflect community values, commenting that enabling pocket neighborhoods would serve as an accurate reflection of those values.

Pelzl asked for an outline for pocket regulation.

Abraham asked for more examples of pocket neighborhoods.

Donnell commented that he is encountering difficulty with zoning regulations with the pocket neighborhoods he is currently working on. He commented that part of the problem is the regulation regarding minimum housing size in many communities.

Pelzl asked whether pocket neighborhoods could simply be permitted in any neighborhood.

Donnell responded that allowing those densities in residential zones would affect property values negatively.

Donnell suggested that if the pocket neighborhood was an option within the zoning code, it would come to Planning Commission for a hearing. He noted that infrastructure is placed with an eye to the zoning for each area, which would have to be taken into account.

Swinger commented that if the area needs to be re-zoned first, it gives an indication to the developer as to whether the plan is likely to be able to gain approval once it gets to the conditional use hearing. She cited the advantage of having the pocket neighborhood in the zoning code is that there are standard parameters, which are less the case with a PUD.

Donnell responded to a question from Stiles, stating that the homes would not need to be similar.

Planning Commission asked that Swinger write a preliminary ordinance for pocket neighborhoods for their review.

Donnell suggested starting with a statement of purpose for the pocket neighborhood legislation.

Hempfling asked what problem the pocket neighborhood zone would solve.

Donnell responded that it would offer a standardized option rather than having PUD as the only option. He added that the cottage community is in line with what Yellow Springs is trying to accomplish.

There was a brief discussion about increasing permitted densities.

Hempfling stated that if this was permitted then tiny houses should be permitted throughout the Village.

Swinger responded that as long as a house meets the setbacks, the house can be very small those minimums no longer exist.

Swinger added that in Chapter 14 (Housing) there are minimum housing standards, but these are very small and conform to the Ohio Building Code.

Swinger differentiated between minimum house size and lot density and setbacks.

Swinger noted that any house needs to be on a foundation, as there is regulation against a house that sits on a chassis.

Donnell expressed frustration at trying to work with other communities to try to implement pocket neighborhoods.

Swinger noted that she is being kept extremely busy of late.

## **NEW BUSINESS**

There was no New Business.

## **AGENDA PLANNING**

Mowing Ordinance

Pocket Neighborhoods

Air B&Bs

Text Amendments: (ROW Vacation Procedure: Fees); Dimensional Requirements in R-A (Side Yard Setbacks)

Swinger explained the issue of the side yard setbacks, which should read as 20 feet total, with a 5 foot minimum on one side.

## **ADJOURNMENT**

At 8:43 pm, Pelzl MOVED and Abraham SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 ON A VOICE VOTE.

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Susan Stiles, Acting Chair

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Attest: Judy Kintner, Clerk

*Please note: These minutes are not verbatim. A DVD copy of the meeting is available at the Yellow Springs Library during regular Library hours, and in the Clerk of Council's office between 9 and 3 Monday through Friday.*