

**Planning Commission
Regular Meeting Minutes**

Council Chambers 4:30pm

Monday, October 10, 2016

CALL TO ORDER

The meeting was called to order at 4:30 P.M.

ROLL CALL

Planning Commission members present were Gerald Simms, Council Representative, Matt Reed, Chair, Susan Stiles, Rose Pelzl, and Alternate Chris Zurbuchen. Also present was Denise Swinger, Zoning Administrator. (Simms and Pelzl arrived at 4:35). Adam Abraham was absent.

REVIEW OF AGENDA

REVIEW OF MINUTES

Minutes for September 12, 2016 were not passed due to lack of a quorum for passage.

COMMUNICATIONS

There were no communications.

COMMITTEE/COUNCIL REPORTS

Reported that the two alley vacations were heard at Council on October 3rd. Swinger noted that Council would like to consider the idea of alleys as walkways at a future point. At present, Jason Hamby, Streets Superintendent, is making a list of those alleys the Village either currently maintains or uses for utility access.

Swinger suggested that a look at alleys could take place as a part of reviewing the Comprehensive Plan in early 2017.

Swinger has asked Greene County Regional Planning staff for a map book to assist in the inventory effort.

Marianne MacQueen commented that all alleys should be identified and noted with those the Village wishes to preserve noted on a master plan.

Reed commented that in the past, PC has hesitated to vacate alleys that terminate in streets at either end.

Pelzl received confirmation from Stiles that the Village is responsible for maintaining alleys (sic) unless they are vacated*. (*In fact, per sections 1020.04 and 674.01, property owners abutting alleys are responsible for maintaining vegetation and for mowing the adjoining section of alley. Village crews will plow heavily used alleys and make surface repairs as needed.)

Swinger commented that that Village is also responsible for maintaining sidewalks, and that this is dependent upon funding.

Pelzl commented that sidewalks are part of citizens awareness, while alleys are not necessarily so, commenting in favor of the inventory.

Reed commented to MacQueen his hope that Council will create a comprehensive plan for the north east corner of Enon and Dayton Yellow Springs Road.

MacQueen responded that this process is being worked upon.

Reed commented to MacQueen his hope that Council intends to create a master plan for the CBE area before taking action.

MacQueen responded that there are plans in the works for a public process and a comprehensive look at the options for that area.

CITIZENS' COMMENTS

There were no Citizen Comments.

PUBLIC HEARINGS:

1. Revision of Section 1224.01 – APPLICATION; FEE – regarding the fee for a Right-of Way Vacation application in the Village.

Swinger noted that during the right-of-way vacation process for two alleys in the Village, she discovered the update of the fee schedule (PC15-06) passed by Council last year on May 4, 2015, section 1224.01 Application; Fee was not updated in Chapter 1224 Right-of-Way Vacation Procedures. See below:

An applicant seeking the vacation of a right-of-way shall complete an application form and pay a fee of ~~thirty-five dollars (\$35.00)~~ as established by the Village Council. The application form and fee shall be filed no later than fourteen days before the Planning Commission meeting at which the matter is to be discussed. (Ord. 82-1. Passed 1-18-82.) It was, however, updated and approved by the Planning Commission and passed by Council in the zoning code's Appendix A's Fee Schedule.

Stiles asked why the section could not be simply corrected and instead needed a text amendment.

The Clerk explained that because the zoning code is a legal document, each section must be changed by ordinance, and that section had been erroneously omitted from the original amending ordinance.

Pelzl asked that in future, language be used in amending ordinances to cover any inadvertent omissions.

Reed CALLED FOR A MOTION. Stiles MOVED TO APPROVE THE TEXT AMENDMENT TO SECTION 1224.01. Zurbuchen SECONDED and the MOTION PASSED 4-0 on a voice vote.

2. Revision of Section 1248.03a DIMENSIONAL REQUIREMENTS: RESIDENTIAL DISTRICTS: regarding the regulation of side yard setbacks in R-A Low Density Residential District.

An application for a variance seeking relief from the required side yard setback at 1210 Corry Street, R-A: Low Density Residential District was submitted by the property owners Rick and Chris Kristensen at a hearing before the Board of Zoning Appeals on August 31, 2016. The Board of Zoning Appeals determined the reason for the variance was the result of an error in the zoning code. The Board of Zoning Appeals made a motion to send this text amendment request before the Planning Commission for their review and possible correction.

Table 1248.03a shows the side yard minimum setback for R-A as 10 feet minimum with 25 feet total. After researching the Planning Commission and Council minutes of 2012 and 2013 (zoning code update timeframe), staff was unable to find any discussion of changing the side yard setback for R-A low density residential to 25 feet.

Prior to the 2013 Zoning Code Update, the side yard minimum setback for R-A Low Density was 10 feet minimum (both sides). This change in the zoning code from a total of 20 feet to 25 feet in Residential A makes a number of residential dwellings in this district non-conforming, a fact pointed out by the property owners when making their case for a twenty foot (total) setback.

Additionally, both Ted Donnell and Steven Conn of the BZA were part of the Technical Review Committee (TRC) for the zoning code update and Dan Reyes attended a number of the meetings held to review the draft zoning code. All three concurred this is a text error, as increases in setback requirements were never the intention of the TRC, Council or Planning Commission, and that increased density and infill was the goal.

Swinger noted that the total of sideyard setbacks should be 20 feet to maintain the previous standard for the R-A.

Reed received confirmation that the setback for R-B is 15 feet total.

Reed OPENED A PUBLIC HEARING. There being no comment, Reed CALLED FOR A MOTION.

Pelzl MOVED to APPROVE THE RECOMMENDED REVISION TO SECTION 1248.03a. Stiles SECONDED, and the MOTION PASSED 4-0 on a voice vote.

3. Revision of Section 674.02 REMOVAL OF PLANTS AND WEEDS BY OWNER.

Swinger noted that the existing section has long proven problematic for staff, since they are unable to respond to many complaints that are made each year prior to the July 1 enforcement date. Swinger noted that Council had requested that Environmental Commission look over the code section and make recommendations regarding it.

Duard Headley and Nadia Malarkey presented for the Environmental Commission. Headley spoke to the consideration that the "no mow" date was enacted as a protection to nesting birds or wildlife. He noted that lawns and wildlife are not generally compatible and that therefore the "no mow" date was not meaningful. To address the issue of wildlife, however, EC added into the proposed ordinance revision a caveat for "managed natural landscape". This caveat allows for a wildlife area within the Village limits. The EC also updated the list of invasive species prohibited, as reflected in the proposed revision.

Reed received confirmation that the July 1 date for enforcement of mowing is removed in the proposed ordinance.

Malarkey noted that homeowners are "strongly advised" to attempt to remove invasives, and are asked not to plant those species listed in the ordinance.

Malarkey commented that the ordinance is written from a climate action perspective of managing landscapes as effectively as possible.

Headley responded to a question from Reed concerning a meeting next week on Climate Action.

Headley noted that all setbacks are left in place as they are stated elsewhere in the code.

Malarkey noted that EC will be getting together in the near future with the Tree Committee to revise their recommended tree list.

Zurbuchen asked how the Village will then deal with persons who let their lawns go without maintenance.

Headley stated that anyone with a lawn has to maintain it to a height of lower than 12 inches, according to the ordinance.

Pelzl questioned whether the village has the right to regulate the length of the entire lawn, arguing that the reason for objection to an uncut lawn is the noxious weeds, which are separately regulated.

Pelzl pointed out that at no point in the original or amended ordinances is it required that property owners mow other than the perimeter of their lawn.

Malarkey and Headley expressed surprise that in fact only the perimeter of the property is required to be maintained, as did members of Planning Commission, they having assumed that the code required the entirety of the lawn be mowed after July 1.

This was discussed at some length, and it was acknowledged that the code section is confusingly written with regard to regulation of grasses. There was some disagreement regarding "uncultivated non-weedy plant growth" versus "grasses".

Headley gave several examples of uncultivated plant growth and grasses which would be problematic.

Malarkey suggested that EC take another shot at revising the ordinance to provide clarity with regard to the issue of grasses.

Malarkey commented that EC is working with "Beyond Pesticides" and will offer an evening training to residents with information on maintaining an environmentally sustainable lawn.

Reed asked for direction from PC as to how the section should be addressed with regard to mowing.

Pelzl asked that the requirement remain as written with only the perimeter required to be mowed.

In response to a question from Stiles, Swinger stated that the Village receives a number of complaints from all areas of town.

Zurbuchen asked whether section 674.02 is the only area of the code under which lawn maintenance is addressed.

The Clerk opined that the complaints have to do with creatures and invasives and property values more than to do with sightlines, suggesting that the ordinance provide clear direction one way or the other with regard to mowing.

Headley commented that a lawn planted with non-native grass which is left un-mowed is no different than any other invasive species. A managed natural landscape can be left un-mowed, but non-native grass does not provide a habitat and constitutes a nuisance. He indicated that the ordinance will likely be rewritten to direct citizens to either mowing or to a managed natural landscape.

There was some argument regarding the treelawn and visibility issues, with Headley noting that visibility is addressed elsewhere in the code.

Stiles suggested that the code should be cohesive in terms of visibility and height restrictions, opining that visibility should be referenced in the lawn ordinance as well.

Reed stated that the ordinance has been enforced as if it applied to the entire lawn, and stated that because enforcement is complaint driven, the revised ordinance should specify that the 12 inch height restriction applies to the lawn as a whole, not just to the setbacks.

Pelzl strongly objected to this arguing that the larger problem has been the lack of enforcement through July 1. She asked that PC wait to see what happens when the law is enforced once it starts being cited in spring 2017 to determine whether the issue of mowing the entire lawn needs to be addressed.

Malarkey commented on the topic, stating that EC will need to be very clear in its approach to a document that balances education with enforcement.

Pelzl asked that EC provide more educational information regarding managed natural landscaping, stating that this is labor intensive and requires information.

Headley iterated that what the EC is trying to accomplish with the legislation is to create options for those who do not want gas-burning lawnmowers used or who want to encourage wildlife to co-exist with those who do want a more traditional lawn. Headley argued that both should be properly managed.

Pelzl argued that it is not reasonable to mandate lawn care other than the perimeter.

The Clerk pointed out that this is the document the Police Department and Zoning Department have to use to enforce and to mediate neighbor disputes, and as such it has to provide clarity, which it currently does not do.

Malarkey asked that the EC take the proposed ordinance amendment back for further review and clarification. The document should be ready for Planning Commission's December meeting.

The Clerk offered to pull examples of similar legislation for similar municipalities.

MacQueen received clarification that PC would like the EC to make a recommendation as to whether mowing the entire lawn should be legislated.

OLD BUSINESS

Air Bed and Breakfast Establishments. Swinger introduced the topic as follows:

She noted that she has reviewed the Greene County Building Regulations and Greene County Combined Health District's web pages. There is nothing, she stated, on the Building Regulations web page for short-term rentals, which makes sense as it would relate to building code standards only.

The Greene County Combined Health District does provide regulations. Their regulations are for the minimum standards for hygiene and sanitation, and to ensure standards for the safety of occupants in all dwellings. They also have regulations for owners with occupants. Under section 9 ó Responsibilities of Owners and Occupants, it states, "Every owner of a dwelling containing two or more dwelling units," which staff interprets to be for landlords' owning doubles or larger apartment buildings. Airbnb's would not apply to this section of the code. Under section 10 ó Rooming Houses, the GCCHD requires a rooming house permit, and an Airbnb does not seem to fall under this regulation either as they define a rooming house as "any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not family of owner for living or sleeping, but not for cooking or eating purposes."

Stiles suggested that the code section on short term rentals could be expanded to include one day or more, since it now encompasses only rentals of "one week or more."

Reed commented that this would be a conditional use, and as such would require either administrative or Commission approval.

Stiles agreed with this notion, stating that the Village should have a record of such establishments, and that the information should be available to neighbors. Stiles suggested that perhaps a yearly total of more than 14 days of rental should be regulated.

Pelzl commented that her objection to the proliferation of the short term rentals is that they potentially pull in more money than long-term rentals which could impact affordability.

MacQueen commented that she both rents a room and has an Airbnb rental.

Pelzl asked MacQueen what she thought of the idea of making short term rental more inclusive and regulating the rentals to some extent.

Swinger noted that an Accessory Dwelling needs a Conditional Use, but that in that process the question as to the length of rental for the ADU is not asked, so that the ADU could be a Mother-in-Law unit or a short term rental, unbeknownst to Planning Commission.

Pelzl asked for a list of all possible questions before PC attempts to draft a text amendment.

Stiles asked that Swinger find out what the liability for the Village is for any short term rental.

MacQueen opined that she did not think that the short term rentals would impact affordable housing overall, and touted a positive effect on the economy.

In response to a question from Reed, Swinger speculated that a Change of Use would not likely resolve the issue across the boards.

Stiles remarked that she would like to require some proof that the renting parties had insurance to cover liability.

Pelzl commented that the County does not have regulations for short term rentals.

Swinger clarified that building codes will cover rentals with more units or more persons, but that it requires a certain critical mass to reach that point. Swinger commented that she can caution persons applying for conditional uses that they need to obtain any needed permits from the County.

MacQueen commented that she hoped the PC would not "take it too far," using the example of people who might periodically rent out their homes for a summer, for example, or who rent out a room in their homes.

Pelzl suggested that citizens not simply be directed to the Health Department, but that the maximums should be stated by the Village. She pointed out what she saw as a confusion in the numbers used by the County.

Pelzl commented that the definition needs to be included in the specific requirements, and that its exclusion makes the code inaccessible to most users.

Pelzl asked for a list of conditional use recipients to be created.

Swinger stated that she does in fact have access to this list.

Swinger cautioned against overregulation.

Review of the Pocket Neighborhood Ordinance. Swinger introduced the topic as follows:

At the last Planning Commission meeting, staff was asked to bring a draft Pocket Neighborhood Ordinance for members to review. After researching the model regulations, a number of questions came to mind and further direction is necessary. At the last meeting, there was discussion around the existing PUD legislation, and reasons for not using this for a pocket neighborhood development included the high cost involved for the developer with a plan that may, at the end, not be allowed, as well as requirements for each PUD being different and thus more difficult to regulate.

It was also discussed as to whether this legislation can be incorporated into the code's current residential districts, and whether or not it would be legal. Concerns over the standard requirements for street access, parking, pedestrian walkways, etc. were mentioned.

Swinger use the example of a PUD-Residential ordinance for Grove City, Ohio. The Clerk of Grove City indicated they use this zoning category for the development of cottage housing or pocket neighborhood developments. Swinger asked whether it would have less of an impact on the zoning code to add this type of an ordinance to the Village's existing PUD legislation and adding language for cluster-type housing with pedestrian walkways and alternative parking areas.

Swinger asked that PC consider the least impact on the relatively new zoning code, but commented that whatever is decided, whether creation of a new chapter or incorporation into an existing chapter, will take time. A new chapter, she commented, will affect the entire code in terms of the numbering of sections, cross-referencing for parking, landscaping, definitions, etc. Incorporation into an existing chapter may not have as broad an effect, but will still need to be carefully checked against other chapters within both the planning and zoning code.

Reed described the PUD process as it occurs in the Village, noting that it takes several months of work with staff and two meetings of PC before it goes on to Council commenting that this has a chilling effect on the development process, since at any point the PUD could be derailed.

PC discussed the differences in regulation generally, and issues raised in other communities.

Swinger asked how insertion of Pocket Neighborhoods into the zoning code as a conditional use would save time in the long run.

Pelzl reasoned that because it would be a standard form of spot zoning, with standard requirements, it would at least receive a preliminary approval.

Swinger suggested that a Pocket Neighborhood PUD might solve this issue.

Pelzl argued that there should not be a new zone, but that an existing zone be amended to permit Pocket Neighborhoods. Her notion was that if Pocket Neighborhoods were conditionally permitted in, for example, R-C, than a developer who wished to create a Pocket Neighborhood in, for example an R-A district, would have that area rezoned as R-C and then request a Pocket Neighborhood within that zone.

Reed received clarification that this could be conditional in all residential areas and that it would provide a consistent standard for this type of development.

Zurbuchen pointed out that the reason for the process used for PUD was to assure a sufficient level of community input and vetting by Planning Commission.

Pelzl countered that if there were a boilerplate list of standards, however, it would be fairer to developers.

Stiles commented that the idea fits with the desire for more affordable housing and infill.

Swinger affirmed that Pocket Neighborhoods could be listed as conditional uses.

The group discussed options within the conditional use framework.

Swinger noted that writing up the issue will take her some time, but that she will continue to work on the matter.

Pelzl offered to gather information on Pocket Neighborhoods or Cottage Neighborhood concept from Antioch College, which held a charrette on the topic.

NEW BUSINESS

There was no New Business.

AGENDA PLANNING

There was no Agenda Planning.

ADJOURNMENT

At 6:19 pm, Stiles MOVED and Zurbuchen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Matt Reed, Chair

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.