

**Planning Commission
Regular Meeting Minutes**

Council Chambers 7:00pm

Monday, March 13, 2017

CALL TO ORDER

The meeting was called to order at 7:02 P.M.

ROLL CALL

Planning Commission members present were Gerald Simms, Council Representative, Matt Reed, Chair, Susan Stiles, Rose Pelzl and Adam Abraham. Also present were Denise Swinger, Zoning Administrator, and Jessica Brockman, Village Solicitor.

REVIEW OF AGENDA

Reed explained that if Planning Commission takes no action on the minor subdivision matter (Agenda items (a) and (b)), they are considered approved per the zoning Administrator's recommendation.

Stiles MOVED to TAKE NO ACTION ON MINOR SUBDIVISION ITEMS (a) and (b). Abraham SECONDED, and the MOTION PASSED 5-0 on a voice vote.

NOMINATION OF CHAIR

Stiles NOMINATED Reed. Simms SECONDED, and the MOTION PASSED 4-0, with Reed abstaining.

This was considered as a vote for Chair.

REVIEW OF MINUTES

Stiles Moved and Simms Seconded a Motion to adopt the Minutes of January 23, 2017 as written. The MOTION PASSED 4-0 on a voice vote with Abraham abstaining due to absence from that meeting.

COMMUNICATIONS

There were no communications.

COUNCIL REPORT

Simms noted that Council has held several Executive Sessions regarding Real Estate of late, and subsequently passed two resolutions, one approving up to \$200,000.00 to be placed in the green Space Fund for the purchase of conservation easements, and the other refusing to annex or extend utilities to any properties outside of the current municipal limits.

Simms noted receipt of the final report regarding the New Year's Eve incident.

CITIZEN COMMENTS

There were no comments made.

PUBLIC HEARINGS:

- a. **Minor Subdivision Application** ó For an existing lot located at 412 Dayton Street. Alice Robrish, property owner ó Parcel ID #F19000100110003400.
- b. **Minor Subdivision Application** ó For an existing lot located at 115 North High Street. Albert Schlueter, property owner - Parcel ID #F19000100110003900

See above.

- c. **Conditional Use Application** – For an accessory dwelling unit located at 319 Allen Street (R-A, Low-Density Residential District). Parcel ID #F19000100150002200.

Swinger explained that Eric Juergens has applied to build an accessory structure containing an accessory dwelling unit on the second floor. The applicant went before the Board of Zoning Appeals on February 22, 2017 to seek relief from section 1260.04 (a) (6) - Accessory structures shall not exceed 66% of the principal building floor area or 800 square feet, whichever is less. and 1262.08 (e)(1) D - The accessory dwelling unit shall be limited in size to a maximum of 66% of the total living area of the principal dwelling or 800 square feet, whichever is less. The Board of Zoning Appeals approved a variance of 136 square feet, allowing the accessory structure and dwelling unit to be 936 square feet in size.

Juergens offered to address any questions Planning Commission might have. He assured those present that the construction would be of high quality, and that his adult son would be the periodic visitor to the ADU.

Stiles received confirmation that the current garage will be removed, and the new structure built on approximately the same footprint.

Pelzl asked on what grounds the BZA had approved the variance of 136 square feet.

Juergens could not speak to the mindset of BZA members, but opined that the large lot size may have influenced their decision, as well, perhaps, as his reputation for construction of high quality.

Swinger noted that, in consultation with the Water Superintendent, she recommends the Planning Commission attach a requirement that the applicant install a water meter to calculate the sewer use at 319 Allen Street, and that the applicant or the applicant's contractor contact Johnnie Burns, Water Superintendent for the location and installation of the water meter.

Juergens expressed his willingness to comply with this request, commenting that he is likely to tap in to Village water at some point.

Simms noted that at the Board of Zoning Appeals hearing held on February 22, 2017, several neighbors attended with questions and concerns. One of the main concerns was that of privacy. The owner of a home on Kurt Street directly behind the 319 Allen Street property indicated they have a wall of windows along the rear of their primary structure. Concern was raised over the lack of privacy with the ADUs location at that time.

The builder, Tim Conrad, addressed this concern, stating that the location of the proposed structure is not in a direct line of sight.

Swinger explained that ADUs are allowed as a conditional use in all residential districts. It was noted that although the rear yard setback for an accessory structure is 10 feet, this ADU structure will be set back 20 feet.

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

Stiles MOVED TO APPROVE THE CONDITIONAL USE REQUEST WITH THE CONDITION THAT THE APPLICANT WORK WITH VILLAGE STAFF TO INSTALL A WATER METER ON THE WELL TO CALCULATE SEWER USE FOR BOTH STRUCTURES. Simms SECONDED. And the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- d. **Text Amendments** ó The Village of Yellow Springs is applying for an amendment to the General Offenses Code for Weeds:

Amend Chapter 674.02 Removal of Plants and Weeds By Owner ó the addition of the worst invasive plants in Ohio; the management of natural landscapes, and removing the April 1 to July 1 date regarding mowing.

Duard Headly, Environmental Commission Chair, explained that the EC had made little change to the ordinance, but that they had determined that a "no mow date" makes no sense from an environmental perspective and are thus recommending removal of the "no mow date" from the current ordinance. They had also added several noxious weeds and plants to the list contained in the ordinance.

Regarding whether the homeowner must mow only the perimeter (as the ordinance currently reads) or the entire lawn area, Headly commented that from an environmental perspective, as long as invasives and noxious plants are removed per the ordinance, there is no reason to require further action.

Headly summarized the changes to the ordinance as: the addition of purple loosestrife to the list of noxious weeds; addition of a clause recommending removal of the worst invasive plants as listed by the Ohio Department of Natural Resources (ODNR); removal of the no-mow date section, and a clause allowing for managed natural landscapes.

Planning Commission briefly discussed the recommendations. Pelzl received clarification regarding the additional language around managed natural landscapes.

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

Simms MOVED TO APPROVE THE PROPOSED TEXT AMENDMENT AS RECOMMENDED BY THE ENVIRONMENTAL COMMISSION AND BY STAFF, AND TO FORWARD IT ON TO COUNCIL WITH THE FINDING THAT IT IS IN COMPLIANCE WITH SECTION 1280.02(A) OF THE ZONING CODE. Stiles SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- e. **Text Amendments** - The Village of Yellow Springs is applying for an amendment to the following zoning code chapters for Short-Term Rentals:

Amend Chapter 1262.08 (e) (6) Conditional Use Specific Requirements – the addition of specific requirements to a short-term rental unit.

Amend Chapter 1284.08 Definitions: R-S 6 modifying the definition of short-term rentals to further clarify its use.

Swinger explained that at the last meeting of the Planning Commission, short-term rentals was clarified by approving the addition of the underlined words to the definition of a short-term rental:

Short-term rental unit. *A dwelling unit or room in a dwelling unit that is rented or leased to one person, family or entity on a daily, weekly or monthly basis, but typically less than one year.*

Planning Commission requested staff research further language to add to the specific requirements for short-term rentals. Swinger noted that the additional language agreed-upon at that meeting had not been publically notice, and for that reason it was being presented for public hearing.

Swinger commented that the final change to the definition was as follows: ***Short-term rental unit.*** *A dwelling unit or room in a dwelling unit that is rented or leased to one person, family or entity for fewer than 30 days.*

Stiles asked how currently operating B&Bs will be addressed if the amendment passes.

Swinger stated that she would like to ask owners of currently operating B&Bs to come in for a hearing, with fees waived, so that they appear on the record in some fashion and that there is emergency contact information available.

Reed asked whether this could be done administratively, and noted that those B&Bs operational prior to the 2013 zoning code update would be grandfathered in, so this would only include those operations begun after December of 2013.

Pelzl opined that if PC simply approves every B&B that comes before them as a currently operating entity, that may anger neighbors who may object to the operation. She continued that she believed that those entities should appear for a hearing.

Swinger commented that the Village does not monitor long term rentals in any way.

Pelzl noted accountability and safety concerns for a neighborhood.

Reed commented that the Village will have the information if the contact is made administratively.

Abraham commented that he thought it fair to hold a hearing for currently operating entities.

Stiles agreed.

Brockman commented that no one can be forced to appear.

Discussion ensued, and included consideration of the loophole created by the failure of the original definition of short term rental units. That has lead to the presence of B&Bs (or STRUs) which came into existence before their use was properly defined. There being no way to compel the operators of these entities to comply, PC considered the available options.

It was generally decided that the best approach would be to request that these operations register with the Planning and Zoning office so that emergency information is available, as well as a record of the operation.

Stiles asked whether the requirement regarding no more than two adults can be used as leverage.

Swinger noted that enforcement is complaint driven.

Reed suggested that those entities in operation prior to passage of the text amendment be requested to come in to the Planning and Zoning office to register the operation.

Planning Commission agreed generally that if the Village requests, through public notice, that existing B&B operators come forward to register their business with the Village, this will capture some of the operations and will provide some measure of protection against liability.

Reed OPENED A PUBLIC HEARING. There being no comment, Reed CLOSED THE PUBLIC HEARING.

Pelzl MOVED to APPROVE THE TEXT AMENDMENTS TO THE DEFINITION OF SHORT TERM RENTALS AS RECOMMENDED BY STAFF. Simms SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- f. **Text Amendments** -The Village of Yellow Springs is applying for an amendment to the zoning code for the addition of Pocket Neighborhood Developments (PNDs). Swinger explained the following:

Amend Table 1248.02 Schedule of Uses ó the addition of pocket neighborhood developments as a conditional use in Residential-A, Residential B, and Residential-C Districts.

Amend Table 1248.03 Lot & Width Requirements: Residential Districts ó permitting pocket neighborhood developments in Residential-A, Residential-B and Residential-C Districts.

Amend Chapter 1260.04 (d) Principal Use per Lot ó the addition of pocket neighborhood developments as an exception to principal use per lot.

(d) Principal Use per Lot. A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building, except for groups of multiple family dwellings, agricultural buildings, approved mixed use developments, Planned Unit Developments (PUDs), Pocket neighborhood developments (PNDs), or commercial or industrial buildings determined by the Planning Commission to be a principal use collectively, based on meeting all of the following criteria:

- (1) Individual buildings share common parking areas, signs, access and similar features;
- (2) Buildings are under single ownership;
- (3) Individual activities support one another (such as auto sales/vehicle repair or gas station/restaurant/convenience store); or
- (4) Buildings are architecturally unified and compatible.

Amend Chapter 1262.08 (e) (6) Conditional Use Requirements ó the addition of pocket neighborhood developments with specific conditional use requirements.

Amend Table 1264.02 Parking Requirements by Use-Residential – the addition of pocket neighborhood developments with specific parking requirements.

Amend Chapter 1284.03 Definitions: C-D ó removing the definition of Cluster housing; adding the definition of Common open space; adding the definition of Dwelling, pocket neighborhood development (PND).

Amend Chapter 1284.05 Definitions: H-I-J-K – adding the definition of a Homeowners association (HOA).

Amend Chapter 1284.07 Definitions: O-P-Q – adding the definition of a Pocket neighborhood development (PND).

Reed opened the hearing for Chapter 1262.08 (e) (6), noting that all of the other chapters listed for amendment follow from that chapter.

Following the January 23, 2017 Planning Commission meeting, Swinger stated that she has incorporated the suggestions and considerations from members into a draft language for a Pocket Neighborhood Development (PND). This will be incorporated as a Conditional Use in the Residential Districts of the zoning code. Swinger then read through each of the sections of the code affected by the addition of PNDs. Swinger then read through the specific requirements as follows:

Swinger noted that Planning Commission has previously determined that PNDs would be considered only in residential districts, and that lot requirements would be as follows:

Table 1248.03 Lot and Width Requirements: Residential Districts		
Zoning District	Minimum Lot Area (Sq. Ft.) ¹	Minimum Lot Width (Ft.)
R-A, Low-Density Residential	7,500	60
R-B, Moderate-Density Residential	6,000 ²	50
R-C, High-Density Residential	4,800 ³	40
<div>1 Public water and sanitary sewer is required for all property in these districts.</div> <div>2 Two-family, attached single-family dwellings, multi-family dwellings and <u>pocket neighborhood developments</u> are permitted a density up to 8 units per acre.</div> <div>3 Two-family, attached single-family, multi-family dwellings and <u>pocket neighborhood developments</u> are permitted a density up to 14 units per acre.</div>		

Swinger noted that at PC’s last meeting, it was decided to keep the setbacks as required by each residential district. However, as staff has continued to research this, it may defeat the purpose of the PND, which is to have more of a compact area for the dwellings in exchange for a common area.

Swinger noted that PND’s are limited to less than five acres in size: once that limit is exceeded, PUD zoning would be required.

Swinger stated that a minimum of four units would be required as a tool to prevent homeowners from using PND as a loophole to build several ADUs, and noted requirements for setbacks and open space.

Swinger stated that an existing structure would be permitted to remain. She then read through the proposed parameters for PNDs as follows:

Setbacks and Building Separation:

1. Exterior setbacks. All buildings within a PND shall be setback 10 feet from the exterior boundary of the PND. THIS WAS AMENDED AS BELOW.
2. Interior building separation. There shall be a minimum separation of six feet between the eaves of the cottages. On cottage sides with a main entrance, the minimum separation shall be 10 feet. Structures other than cottages shall meet the minimum setback requirements of Chapter 1260.04 (a) Accessory Structures in the Village of Yellow Springs zoning code. THIS WAS AMENDED AS BELOW.

See discussion below.

A. Required Common Open Space

See discussion below.

B. Density and Minimum Lot Area:

1. In Residential A, the permitted density shall be a maximum of 6 units per acre.
2. In Residential B, the permitted density shall be a maximum of 8 units per acre.
3. In Residential C, the permitted density shall be a maximum of 14 units per acre.
4. The minimum lot area for a PND is equal to the minimum lot requirements for the corresponding residential district.
5. On a lot to be used for a PND, a minimum of 4 detached single-family dwelling units around a common green space area are required.
6. On a lot to be used for a PND, an existing detached single-family residential or duplex structure, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased, and the existing structure will factor into the maximum lot coverage permitted for that residential zoning district.

C. Height Limit and Roof Pitch

1. The height limit permitted for structures in PNDs shall be a maximum of 35 feet for detached single-family dwellings, and rooflines must present a distinct profile and appearance and express the neighborhood character.

D. Lot Coverage and Floor Area

1. The maximum lot coverage permitted for principal and accessory structures in PNDs shall not exceed 40 percent. No accessory dwelling units (ADUs) are permitted in a PND.
- E. Required Open Space
1. A minimum of 400 square feet of open space is required per unit.
 2. At least 50 percent of the unit shall abut the common open space, all of the units shall be within 60 feet walking distance to the common open space, and the common open space shall have units abutting at least two sides.
- F. Parking
1. One and one-quarter spaces per dwelling unit shall be required.
 2. Location:
 - a. Parking shall be on the PND property with a plan approved by the Planning Commission to ensure that parking is as unobtrusive as possible. The parking requirements and landscape requirements in the PND is limited to that allowed in the zoning code.
- G. Other:
1. PNDs are limited to detached single family dwelling units. Other types of dwellings may only be developed under the limits allowed in the zoning code.
 2. A PND shall be one lot with all open space under the control of a Homeowner's Association (HOA). The dwelling units may be individually owned or rented by the HOA.

Planning Commission discussed all of the above parameters.

The group discussed the issue of accessory structures, noting the nature of the PND which would provide a common storage space. They decided to permit accessory structures in line with the restrictions for the zoning area, but were undecided regarding the need for lot lines, which would make determination of lot coverage difficult.

Swinger noted that these are likely very small houses, and the garage could end up larger than the home.

Yard setbacks were discussed. External versus internal setbacks were discussed.

Reed argued for maintaining external setbacks for the perimeter.

The matter of setbacks was discussed.

Exterior setbacks will remain as described in the zoning code for each residential district.

Interior setbacks were discussed, and PC weighed the advantages and disadvantages of not requiring a specific distance between dwellings.

PC discussed the requirement that access to emergency vehicles be provided.

Regarding distance between dwellings, PC decided to require ten feet between each dwelling.

PC discussed how many of the PND units could be rentals.

PC discussed the matter of Common Open Space and of parking. They concluded that 1.5 units per dwelling should not create an issue.

Pelzl brought up the issue of duplexes, asking that these be permitted within a PND. This was verbally agreed-to for R-B and R-C, with the caveat that no more than 50% of the structures can be rentals.

PC discussed the difficulty inherent to determining accessory structure size in commonly held property.

A number of methods for determining permissible size for accessory structures were discussed.

Parking is excluded from any calculation of open space.

Accessory structures will be permitted, and may not exceed 66% of the primary dwelling unit in square feet or 100 square feet, whichever is less, and must follow setback requirements for exterior setbacks.

PC decided not to permit accessory structures between road frontage and dwellings.

The discussion regarding not permitting more than 50% of the dwellings to be rentals came up again, and Simms questioned this limitation.

Pelzl opined that if a PND is developed with the intention of renting more than 50% of the dwellings, that will influence the quality of the construction.

Reed asked that the matter come back for further discussion.

PC committed to the requirement that a level B site plan is required for PNDs.

PC discussed whether or not to include sidewalks and pathways as common areas, and decided to permit this in the calculation.

Stiles liked the idea of regulating lighting to a particular extent, and Swinger agreed to incorporate this into her draft.

Reed brought up the issue of fencing. This was generally agreed to as the purview of the HOA.

Regarding the caveat that structures be architecturally unified and compatible, the group disagreed.

Pelzl argued against such a caveat, stating that it would encourage sameness.

Reed OPENED A PUBLIC HEARING REGARDING CHAPTER 1248.02 "POCKET NEIGHBORHOOD DEVELOPMENTS". There being no comment, Reed CLOSED THE PUBLIC HEARING.

AGENDA PLANNING

The next meeting of Planning Commission will take place on April 10th. Swinger stated that she is holding all text amendments after this one until Fall 2017.

Comprehensive Land Use Plan.
Chapter 1248.02.

ADJOURNMENT

At 9:27pm, Abraham MOVED and Simms 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.