

**Planning Commission  
Regular Meeting Minutes**

**Council Chambers 7pm**

**Monday, July 11, 2016**

**CALL TO ORDER**

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

**ROLL CALL**

Planning Commission members present were Matt Reed, Chair, Gerald Simms, Council Representative, Susan Stiles and Rose Pelzl. Following the reading of the Minutes, Chris Zurbuchen joined the table in place of Adam Abraham, who was absent. Also present were Denise Swinger, Zoning Administrator, Johnnie Burns, Electric and Water Distribution Superintendent, and Coolidge Wall Representative Jessica Brockman.

**REVIEW OF MINUTES**

Minutes for June 13, 2016. Simms MOVED and Pelzl SECONDED a MOTION TO APPROVE AS WRITTEN. The MOTION PASSED 3-0 ON A VOICE VOTE. Stiles abstained due to absence from that meeting.

**REVIEW OF AGENDA**

There were no changes made.

**COMMUNICATIONS**

Ted Donnell re: Pocket Neighborhoods: This was assigned to New Business.

**COMMITTEE/COUNCIL REPORTS**

Simms reported that Council has been considering a sewer tap in request from Morris Bean, and that the tabled ordinances in regard to this request are scheduled for Council's July 18<sup>th</sup> meeting.

**CITIZENS' COMMENTS**

There were no Citizen Comments.

**PUBLIC HEARINGS:**

**CONDITIONAL USE**

**Conditional Use Application (PUD) ó 375 W. North College Street** ó Brook Oberst, property owner, is requesting a variance to the setback requirements in the Littlewood Planned Unit Development. Parcel ID# F19000100040013200

The property owner is seeking permission to build a garage in the Littlewood subdivision. The subdivision is a designated PUD and has a 27 foot perimeter setback which is part of the officially recorded site plan. Because of this, a variance, as well as permission from the Homeowner's Association (HOA) is needed.

The owner has been advised by staff to apply for a variance through the Planning Commission. According to our solicitor, only the Planning Commission can authorize variances to a PUD.

The owner purchased the property with the understanding that she would be allowed to build a garage as a previous owner had applied for and received permission from the Board of Zoning Appeals to do so. Previous owners Anthony Frabotta and Heather Sage first went before the BZA on July 16, 2008. They were denied a variance at that time and were advised to move the location of the proposed garage in order to allow for a car to park in front of the structure without encroaching onto public property. On July 20, 2011, the owners brought it back to the BZA with a revised setback of 15.5 feet from the property line. With permission from the Home Owners Association (HOA) allowing the garage to be built within the 27' perimeter setback, along with a record of the utilities easement showing its location to the proposed garage, the BZA approved the variance. However, the proposed garage was never built and the owners sold their property in October of 2012 thus making the variance void per Section 1272.03 (b)

The Village solicitor has advised that Planning Commission review whether the front yard setback variance will encroach into the street right of way for pedestrian or vehicular traffic. The street the driveway accesses is called Green Street. It is not a vehicular thruway and was deeded to the Village of Yellow Springs in September of 1987. There is some question as to whether it is a dedicated street, however only two other residences use it for access to W. North College Street.

The owner positioned her mid-sized SUV in the location it would be if she were to park in front of the proposed garage. She indicated it does not protrude into the street even where the street slightly curves inward, leaving enough room for both vehicular and pedestrian traffic. She also stated the vehicle did not protrude past the location of the existing 6 foot fence. Swinger showed a photo of the driveway and street, showing that there did not appear to be a problem with protrusion.

Staff has found that the Planning Commission can **APPROVE** the Conditional Use for a setback variance or **APPROVE with conditions** the setback variance, considering the following findings of fact:

- The Conditional Use is in conformance with goals of the Village's 2010 Comprehensive Plan and the Vision: Yellow Springs and Miami Township visioning plan.
- The Conditional Use will not be detrimental to the health, safety and welfare of the village's residents.
- The Conditional Use is adequately served by essential public facilities.
- The Conditional Use is compatible with the surrounding character of the general vicinity.
- The Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- The Conditional Use will not block sight lines.
- The proposal as presented complies with most of the requirements of the Village's Zoning Code.

Reed OPENED THE PUBLIC HEARING.

Roi Qualls, President of the HOA spoke in favor of the request, noting that the home owner had received support from 2/3 of the residents, which satisfies the requirement of the HOA.

Reed CLOSED THE PUBLIC HEARING.

(Zurbuchen joined Planning Commission at the table at this point, since Abraham was absent.)

Pelzl received clarification that the setback requested is consistent with other neighborhoods in the area, in part because of the way in which the home is situated on the property.

Swinger noted that the variance had initially been approved through the BZA, but that the new zoning code dictates that the new variance be heard by the body which would have approved the PUD the Planning Commission.

Simms MOVED to APPROVE THE VARIANCE AS REQUESTED, Stiles SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

## **CONDITIONAL USE HEARING #2**

The Village Manager introduced the topic, noting that the zoning code does not in fact list solar array as a permitted or conditional use for this area. She asked that the hearing proceed, and that Swinger be permitted to follow up with the legal department immediately following.

Reed agreed that PC can hear the site plan, consider it, and let the process unfold pending legal input.

Hempfling asked what the next step would be in terms of rezoning the area to permit the use.

Reed speculated that the restriction was likely that all solar uses were considered as one, without considering

Swinger noted that a solar facility is a long term goal of the Village as a step towards reduction of the Village carbon footprint.

Swinger noted four entrances/access points to the Glass Farm currently, those being located off King st., off Fairfield Pike, off Ridgecrest Drive and off of Wright Street.

Swinger noted that the western edge of the proposed array is in the Township, and is 35 feet from that boundary. She noted that there will be a need for a one-foot variance on the height of the fence which will avoid the need for barbed wire. Swinger also noted the suggestion that a black or green chain link or woven fence be used.

Daniel Young from Dovetail Solar and Wind explained the mechanics of the proposed array, noting that the proposed array is approximately 5.5 acres in size, with an access point off of Ridgecrest Drive that will not impede properties or traffic, and without the need to clear trees, as would be the case with the Fairfield access point.

Young noted that the maximum height of the array would be about 5.5 feet. Currently a six foot fence with a barbed wire top is proposed, but a seven foot fence is acceptable to the American Electrical Code.

Young commented that maintenance is simpler if the entire array and setback are within the fenced area and under their maintenance auspices.

Reed asked about the number of truckloads of materials that would be needed to construct the array. Young responded that approximately 27 truckloads of materials should be sufficient. He noted that the only moving of earth is trenching to place conduit approximately 5,000 square feet so that any effect on runoff should be minimal.

Burns noted that the Village can run the aerial electric poles from Fairfield Pike straight back rather than behind properties along Fairfield as the drawings currently show.

Young noted that the style of the array is driven pier which will minimize runoff issues, given that there is essentially no footprint. The square footage of disturbed soil, he noted, will be about 5,000 square feet comparable to a residential construction.

Reed asked who would maintain the landscaping. Bates interjected that AEP is supposed to hold this responsibility.

Simms asked what the audibility of the array would be, and was told that this should be minimal, since the motors are low power slow moving and not loud.

Simms asked what the rationale was for weaving in the fence. Bates noted that this was a response to some of the reaction to the Antioch array, and with the notion that there may be housing placed on the Glass Farm at a later point. He noted that Cedarville's fencing for their array is black, and wondered if this is preferable to an array that is see-through.

Zurbuchen asked how the positioning on the Farm was arrived upon.

Young explained that the Village had asked that the array be placed as far north as possible.

Zurbuchen suggested that the array be moved more to the south for more options to the design for the roadway.

Burns commented that the current right of way is double that of the Antioch array-to-Corry Street distance.

Bates commented that the array has to be at least 60 feet from the treeline.

Young stated that a number of the trees along the treeline currently are dead.

Burns responded to a question from Zurbuchen, stating that at no point will Village electrical lines cross over into the Township.

Pelzl concurred with Zurbuchen's suggestion regarding moving the array south.

Simms asked whether there would be any other structures other than the array and was told that there would be only a transformer mounted on a concrete pad, in line with the panels.

Zurbuchen recommended against motion activated lighting given the wildlife in that area.

Young responded that they would like this as an option in the event of any vandalism.

Burns noted that the terms of the agreement provide that the Village will pay for crops if they are ruined by in the construction process, since the farmer has already planted for the season.

Simms received confirmation that there is parking on both sides of Ridgecrest so that residents will have parking options if there are trucks moving in and out.

Burns assured that coordination of delivery would be key, and would be carefully managed.

Stiles agreed with Zurbuchen's suggestion to move the array farther south to allow it to be properly placed.

Reed OPENED THE PUBLIC HEARING.

Ted Donnell commented that the entire area can be dedicated to a municipal utility easement without the need to rezone, which would solve the rezoning problem.

Bates commented that the Village would have to grant itself a utility easement and file it with the County Recorder.

Reed CLOSED THE PUBLIC HEARING.

Brockman commented that the easement would be the simplest route to take. She noted that the solar array can be considered a government facility and could be permitted in the R-B under those auspices, but opined that the easement seemed a better option.

Bates responded to a concern from Simms, suggesting that the use be granted with the condition that the easement is granted.

Pelzl asked if the PC could recommend that the Village grant itself an easement.

Swinger commented that she is far more comfortable with Donnell's suggestion.

Regarding fencing, Donnell commented that he would prefer to see the field rather than see an opaque fence. He commented further that deer need to be able to see or they will run into the fence, advocating for a standard chain link fence. He commented that the Village would have the option to provide screening rather than the opaque fence.

Pelzl commented that she is not in favor of weaving, given its propensity to deteriorate.

There was some discussion as to the esthetics of fencing.

Stiles asked Young his opinion regarding the colored fencing. Young responded that Dovetail has not heard of deer being an issue, but they do not have a lot of experience with larger opaque fences.

Zurbuchen suggested adding the conditions that the solar array is moved to within 60 feet of the treeline, and that permission is granted pending granting of an easement.

Simms asked for clarification regarding fencing, stating his preference for a 7-foot fence rather than a shorter fence with barbed wire.

Reed expressed that while he is in support of a solar array, its location on the Glass Farm is frustrating and feels like a waste of prime property. He asked for a master plan geared towards thoughtful direction of any development on the Glass Farm to be developed.

Zurbuchan expressed agreement with Reed.

Reed reviewed the conditions, stating that a utility easement be filed for the property; that the array be moved as far south as feasible; that the fence be 7 feet tall and therefore not in need of barbed wire, and that the entire fence be either black or green, including the posts.

Young gathered clarification that the mesh and posts as well as

The Clerk read back to PC their recommendations as a proposed motion, those being:

- The Conditional Use is in conformance with goals of the Village's 2010 Comprehensive Plan and the Vision: Yellow Springs and Miami Township visioning plan.
- The Conditional Use will not be detrimental to the health, safety and welfare of the village's residents.
- The Conditional Use is adequately served by essential public facilities.
- The Conditional Use is compatible with the surrounding character of the general vicinity.
- The Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- The Conditional Use will not block sight lines.
- The proposal as presented complies with most of the requirements of the Village's Zoning Code.

#### CONDITIONS ADDED BY PLANNING COMMISSION:

- A utility easement be filed and recorded for the property
- The array be moved as far south as feasible in coordination with Village Staff
- The fence be 7 feet tall and therefore not in need of barbed wire
- The fence be either black or green, this to include posts as well as mesh

Zurbuchan MOVED TO APPROVE THE CONDITIONAL USE AS PROPOSED ABOVE. Pelzl SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

#### OLD BUSINESS

There was no Old Business.

#### NEW BUSINESS

Ted Donnell spoke to PC regarding the Pocket Neighborhood proposal he had provided to PC. He noted that the idea of the new zoning code had been to increase density to the greatest extent possible. He noted that in his work as an architect, he is seeing more options for pocket neighborhoods, which can occur where streets have narrow frontages with long depth and put access up front with a commons area connecting all of the front doors to a common space, thus increasing pedestrian access.

Cohousing, as Donnell characterized it, would include a true cohousing with space for larger gatherings, to reduce house sizes. Donnell stated that he is looking at properties in the village that might lend themselves to the concept. He noted that Antioch College is forwarding the same idea with their Village Commons proposal.

Donnell noted that PUDs are different in nature in that they result in spot zoning, effectively, and that the pocket neighborhood concept provides something that could be integrated throughout the Village without spot zones.

Donnell commented that the PUD process is cumbersome, and that bringing the pocket neighborhood concept into the zoning code would significantly ease that process.

Donnell commented that the notion promotes walkability and gardening. He noted that he is currently working on a cohousing community in Vandalia expressly for veterans.

Reed noted that it could be added as a chapter to the code and could be added to any R district.

In response to a question from Pelzl, Reed stated that PUDs are quite varied. The pocket neighborhood idea, he said, redefines such things as setbacks as a standard for this type of development, rather than defining this separately for each PUD.

PC discussed the merits of the notion, with comments made that PUD requires, a re-writing of the zoning code each time, while this idea provides a model for housing density that did not exist at the time the zoning code was written.

Stiles asked that the matter of affordability be addressed if and when PC looks at the idea as a text amendment.

Reed asked that Swinger research how to bring the matter forward and fitting it into the existing zoning code.

Donnell noted that this is an overlay concept, and can be applied in any neighborhood.

Simms noted the serious need for living space in the community and asked that the matter proceed without delay.

#### AGENDA PLANNING

Swinger removed the proposed hearing for 1535 Xenia Avenue at least as far out as the September meeting, noting that there are no cases pending for August.

Swinger added 101 South Walnut, the Corner Cone, for a Conditional Use for the September meeting.

Swinger agreed to bring information on the Pocket Neighborhood concept for the September meeting.

Swinger asked for guidance on the topics of Air B&Bs, on individual apartments (which are regulated) as opposed to renting a room in a house, (which is not regulated). Swinger was referred to legal counsel on the matter, although PC and Donnell discussed the matter for about five minutes, acknowledging the legal intricacies.

**ADJOURNMENT**

At 8:35 pm, Stiles MOVED and Zurbuchen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

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Matt Reed, 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.*