VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION
AGENDA
The Village of Yellow Springs Planning Commission will meet in regular session on
Monday, January 10, 2010 at 7:00 PM in Village Council Chambers on the Second floor
of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER

ROLL CALL

7:02 REVIEW OF AGENDA

7:05 REVIEW OF MINUTES – December 13, 2010

7:08 REPORTS
1. Council Update
2. Bike Enhancement Committee
3. Village Staff Report

COMMUNICATIONS

7:20 CITIZENS’ COMMENTS

7:30 OLD BUSINESS

7:35 NEW BUSINESS
    Public Hearing of Zoning Code Amendment
    2011 Planning Commission Goals
    Form Based and Hybrid Zoning Codes

8:55 AGENDA PLANNING
    PUD Chapter Review
    Historic Preservation

9:00 ADJOURNMENT
MEMORANDUM

DATE: January 3, 2011

TO: Yellow Springs Planning Commission

FROM: Mark Cundiff, Village Manager

SUBJECT: Amendment to Section 1242.06 (d) of Zoning Code – Variance Criteria

The Planning Commission is being asked to review a proposed amendment to Section 1242.06 (d) of the Zoning Code and make a recommendation to Village Council on said amendment. This Code Section provides the criteria under which the Board of Zoning Appeals (BZA) can grant variances from the strict interpretation of the Zoning Code.

Village Solicitor John Chambers is strongly recommending the amendment due to the current language does not meet the requirements under Ohio law as repeated demonstrated by decisions from the Ohio Supreme Court and Federal Court of Appeals. He has indicated to me that he has been trying to get the Village to make this change to the Code for over five years. Attached is a copy of the current language and the proposed language.

As required by Ordinance, this matter will be presented as a Public Hearing, and will then move to Council for a final decision.

The January 10th meeting will be a Public Hearing on this matter.
(d) Variances.

(1) The Board shall have the power to authorize such variances from the provisions or requirements of this Zoning Code as will not be contrary to the public interest, but only in the case of peculiar conditions involving irregular, abnormally narrow, shallow or steep lots, or other unusual conditions, whereby strict and literal application of provisions or requirements of this Zoning Code would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved. No variance from the strict application of any provision of this Zoning Code shall be granted by the Board unless it finds that all of the following facts and conditions exist:

A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, buildings or structures within the same zoning district.

B. That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Code.

C. That the special conditions and circumstances do not result from the actions of the applicant.

D. That granting the variance requested will provide the minimum necessary relief to alleviate the hardship.

E. That granting of the variance will be in harmony with the general purpose and intent of this Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

F. That the proposed variance will neither constitute a change of zoning district, on the Official Zoning District Map, nor be of so general or recurrent a nature as to constitute a de facto change in zoning regulations if approved. In no case shall the Board of Appeals approve a variance for a use which is not a permitted use in the zoning district in which the property, building or structure is located.

G. That, if the subject property is located in a designated flood hazard area, the granting of the variance will not result in increased flood heights beyond that which are allowed in Chapter 1282, additional threats to public safety, extraordinary public expense, the creation of a nuisance or a conflict with any existing local laws or ordinances.
PROPOSED LANGUAGE:

(d) Variances.

(1) The Board shall have the power to authorize, upon request, variances from the provisions of the Zoning Code, in harmony with the intent and purposes of the Zoning Code as provided below. No variance may be granted which permits the establishment of any use which is not otherwise permitted in the district.

A. Variance Standards. Variances from the terms of the Zoning Code shall be granted only where the property owner shows that the application of a zoning requirement to the property owner’s property is inequitable causing the property owner practical difficulties in the use of the property. The factors to be considered and weighted by the Board in determining whether a property owner has encountered practical difficulties in the use of the property owner’s property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

2. Whether the variance is substantial;

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

4. Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;

5. Whether the property owner purchased the property with knowledge of the zoning restriction;

6. Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The Board shall determine, after and weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.
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<th>Level of Priority</th>
<th>Goal</th>
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<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt;</td>
<td>Participate in the Visioning/Planning Process and encourage others to do likewise.</td>
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<td>2&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>Outline policy and/or legislative needs as next steps for implementation of the updated Comprehensive Plan, particularly with respect to the Miami Township Comprehensive Plan. Meet with the Miami Township Zoning Commission</td>
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<td>3&lt;sup&gt;rd&lt;/sup&gt;</td>
<td>Complete an updated inventory of historical buildings. Review and define Special Planning Areas to preserve important historical and cultural assets of the Village.</td>
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| 4<sup>th</sup>   | (The Commission will review its charge from the Charter and examine the Village’s infrastructure in the fall.) Review overall YSO infrastructure (Capital Improvement Planning)  
- Develop assumptions about future land use that is likely to occur, based on Facility Planning Area Category 1 and 2 identified lands.  
- Review a 10-year Capital Improvement Plan, identifying needs, scope of work, costs, location, including:  
  - Water  
  - Sewer  
  - Electrical (Generation, Distribution)  
  - Storm water  
  - Transportation (including non-motorized uses)  
- Complete a plan document for Council’s consideration |
| 5<sup>th</sup>   | Parallel review of procedural requirements for PUD and Subdivision Regulations  
- Review process diagrams for both PUD and Subdivision processes.  
- Eliminate steps in the process that don’t add value to the outcomes.  
- Where possible, follow similar procedures to make each process more consistent with each other, reducing confusion and increasing public awareness.  
- Where possible, create certainty and balance risk and rewards for redevelopment and new development.  
- Where possible include accessibility, walkability and bikeability. |
| 6<sup>th</sup>   | Solar Access Legislation Discussion |
The following items have been identified for inclusion in the list of Planning Commission Goals for 2011 (list not prioritized).

- Identify critical environmental area, such as the well fields, Jacoby Creek Watershed and applicable areas within the Village. Coordinate the work with the Environmental Commission, and the updating of the Areawide Water Quality Management Plan (AWQMP) by the Miami Valley Regional Planning Commission (MVRPC).

- Annual review and update of the Comprehensive Plan’s reference list (following completion of the current Comprehensive Plan review)

- Review the proposed Parks and Recreation Master Plan.

- Review land use alternatives for the Northwest subarea.
  - Focus on future land use of area North of Dayton Street and West of King Street (and the Vernay Site) within the Village’s Facility Planning Area defined as category one and two.
  - Involve property owners, real estate, engineering, legal and economic professionals in developing likely land use in area, along with the public in general.
  - Provide for a diversity of housing types at a wide variety of affordability levels, based on market needs.
  - Project likely land uses to occur in area and related transportation, water, sewer, storm water, and parks needs, costs and timing.
    - Based on likely land-uses, project vehicle trips using ITE Trip Generation Manual and commonly accepted sound engineering practices. Develop traffic circulation to support likely land uses.
    - Based on commonly accepted sound engineering practices, determine water, sewer and storm water needs.
    - Provide space for suitable parks needs.
  - Complete a subarea plan document for Village Council’s consideration.

- Draft a development code to replace the current Subdivision Regulations following completion of the current Visioning/Planning Process.