

**Planning Commission
Regular Meeting**

Council Chambers 7:00pm

Tuesday, January 14, 2020

CALL TO ORDER

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

ROLL CALL

Planning Commission members present were Frank Doden, Chair, Council Liaison Marianne MacQueen, and Alternate Dino Pallotta. Also present was Denise Swinger, Zoning Administrator, and Lisa Kreeger, Council Alternate. Jason Norwood was present representing Coolidge Wall.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of December 10, 2019 Regular Meeting. Doden MOVED and MacQueen SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 3-0 on a voice vote.

COMMUNICATIONS

A late communication from Kay Reimers was acknowledged and was later included in the Conditional Use discussion.

COUNCIL REPORT

MacQueen noted that Council had approved Housing Advisory Board goals at their last meeting and had reiterated their previously established housing goals. She then read through the approved HAB goals.

She noted the Comprehensive Land Use Plan interactive forum set for January 23rd.

CITIZEN COMMENTS

There were no comments made.

MacQueen recused herself for potential conflict of interest. Lisa Kreeger took her place at Planning Commission table.

PUBLIC HEARINGS:

Conditional Use Application: R-C, High Density Residential District. Property owners: Kim and Todd Lemkau. Applicant Kim Lemkau has submitted a conditional use application for a Transient Guest Lodging (TGL) establishment at 114 South Walnut Street per Yellow Springs Zoning Ordinance Chapter 1248 Residential Districts, Chapter 1258 Schedule of Uses by District, Chapter 1262 Conditional Use Requirements. Greene County Parcel ID # F19000100100007300.

Swinger introduced the topic as follows. Kim Lemkau has submitted a conditional use application and a transient guest lodging permit application for the operation of a TGL establishment in her home. She has a room attached with its own separate entrance that was once used as a doctor's office. Her son and his father were living in this space, but have recently moved out. In order to maintain the home, she wants to use this room for transient guest lodging. Ms. Lemkau would continue to occupy the main house during times when guests are present.

Swinger made note of the letter referencing a difficult door, stating that staff recommends granting the conditional use with the condition that the door be repaired to a fully functional state and that proof of the repair be provided to her.

PC members determined that the issue referenced was limited to the door.

Lemkau spoke, describing the space and the issue with the door. She stated that of the 25 guests who have stayed in the space one had phoned stating that they could not get out of the locked apartment. She had then explained to the renter over the phone how to disengage the old-fashioned lock and the person was able to open the door.

Lemkau admitted that she had been asked to stop renting the space until she was able to receive the conditional use, but that she had retained the rental engagement referenced by Kay Reimers in her letter because it had already been booked.

Lemkau stated that she had explained to the most recent guest, in person, how to disengage the lock, but that "she just couldn't get it."

Kreeger commented her concern in reading the letter that a number of safety issues had been raised-slippery steps, lighting, the door lock.

Kreeger asked if Lemkau had considered an entirely new door.

Lemkau stated that there are three matching antique doors and that she did not want to have one that does not match.

Pallotta noted that this “is a business” stating that if the lock can be replaced that is sufficient, but if it cannot, she needs to replace the door.

Lemkau expressed concern that the letter had been somewhat embellished to reflect her and her establishment in a very negative light.

Swinger responded that PC is focused upon safety issues and would not be swayed by the emotional aspects of the letter.

Lemkau commented regarding parking, noting that she had previously lived in the home with her husband and two sons, but that now it was only her and one son, the result of this being two fewer vehicle associated with the house.

Doden OPENED THE PUBLIC HEARING. There being no comment, he CLOSED THE PUBLIC HEARING.

Kreeger MOVED to APPROVE THE CONDITIONAL USE with the CONDITION THAT THE DOOR AND THE LOCK ARE MADE SAFE, AND PROOF OF SUCH IS PROVIDED TO THE VILLAGE. Doden SECONDED, and the MOTION PASSED 3-0 ON A ROLL CALL VOTE.

Norwood advised that the letter should be provided by a licensed contractor, and should attest to the safety of the door. This was verbally communicated to Lemkau.

Swinger iterated that no guests should stay in the space until she has received proper documentation and has issued a permit.

OLD BUSINESS

Review of Subdivision Regulations: Choice One Engineering. Swinger noted that single family dwellings have not previously been required to follow any form of regulation other than the caveat that stormwater not run onto the neighboring property.

Jacqueline Huelscamp from Choice One explained the recommendations made in their report. These are broken into two categories: one for construction of 800 square feet or less, and one for construction of greater than 800 square feet.

The idea, she said, is for each property to release less stormwater so that the stormwater system is less stressed.

Huelscamp noted that the property owners for smaller (800 sf or less) construction are provided with an array of options to mitigate stormwater, and these can be selected by the owner.

Huelscamp stated that for larger projects, an engineer has to provide design for a system which will release less stormwater from the property than it now does without any construction.

Huelscamp commented that climate change has led to greater intensity of rainfall in shorter periods of time, and many communities are trying to address this by increasing the restrictions regarding runoff.

Swinger noted that the last significant changes to the Planning Code were enacted in the 1990s, and that the review of these regulations is due.

Swinger stated that she will need to review the Planning and Zoning codes to assure that any change is reflected across all areas of the codes consistently, and that this will take some time.

The Clerk asked whether PC is able to use the proposed standards in their review of construction requests prior to the changes becoming law.

Swinger stated that she can let builders know of imminent changes when they come in for permits.

Norwood suggested that the ordinance changing the regulation could be passed prior to the resulting text amendments identifying other areas of the code affected.

Swinger stated that she could bring the revised language to PC for their February meeting, then to Council for approval and passage into law in late March.

Sandwich Board Signs. The Clerk and Norwood discussed the advisability of Pallotta recusing from the discussion, since his business uses a sandwich board sign. They concluded the advisability of recusal based upon public perception. Pallotta concurred, and stated that he would in fact prefer to speak to the issue from the audience side.

Staff has noticed an increasing number of sandwich board signs in the B-1 Central Business District of the Village, primarily along Xenia Avenue and Dayton Street. Sandwich board signs have sometimes been placed in the middle of the sidewalk requiring a person navigate to the left or right. Other times, staff has witnessed their location in a congested area where there are existing benches and/or street trees obstructing the walkway for pedestrians.

Staff acknowledges the importance of these signs in the day-to-day operations of our local businesses and would like to find a balance between safety concerns, supporting the Village's goal of walkability, and the promotion of local businesses. Staff would like the Planning Commission to consider the creation of standards governing their use under our sign ordinance. Within the Village's zoning code, there is no mention of this type of sign, also known as A-frame. When the zoning code is silent on a use or in this case a type of sign, it most often means it is not allowed.

The zoning code specifically states that signs may not be in our public rights-of-way. That is most likely why sandwich board signs are not in the sign code since they are usually placed on Village sidewalks. If a person trips and falls, the Village can be held liable. Creating standards should reduce this risk.

Swinger noted that if the sign is placed parallel to the parking stripe on the street, it assures that the sign will not be in the way of a passenger exiting a vehicle. If, further, the sign is placed in line with the street trees, it will be out of the general line of pedestrian travel.

Pallotta, speaking as a business owner, stated that the most logical placement for a sign is off to the side of the usual lane of travel so that traffic is not impeded and so that people feel comfortable stopping to read the sign. Pallotta noted that this type of sign is effective in generating business.

Pallotta commented that regulating the signs so that they are all placed in the same area of the sidewalk would make walking easier.

The signs would be required to be brought in at the end of the business day.

Swinger responded to a question from Doden, stating that a sign permit would be required. She noted that the dimension maximums could be stipulated if sandwich board signs are added to the code.

PC discussed temporary signs leaning against buildings as opposed to sandwich board signs as an option.

Burns commented that these signs would need to be affixed to the building.

Swinger noted several types of permitted signs.

Pallotta wondered if the regulation of wall signs would "open up a can of worms".

Swinger stated that she would bring back regulations for review at the February meeting.

NEW BUSINESS

Report on Upcoming Recommended Change to Noise Ordinance. Swinger introduced the topic as follows:

Noise disturbances are handled by the police department usually following a complaint. The most common noise disturbances tend to be loud music or barking dogs. When a complaint is filed, a police officer will attempt to make contact with the owner or tenant of the property to remediate the noise. Occasionally, the complaints come through the zoning office and staff will work with the police department to remediate the complaint. When specific noise complaints are made, the police department follows the noise ordinance in the General Offenses code. This noise ordinance is very technically specific, to the point that it has become problematic to use. The police department, the zoning office and Village administration have requested that the Planning Commission consider amending our current noise ordinance.

In amending the noise ordinance, staff would like Planning Commission to consider removing the strict requirements of a noise control administrator and a noise control officer.

The Village of Yellow Springs does not have such a person on staff. In researching this requirement, staff discovered that finding such a qualified person locally is difficult. Having one or two designated officers in the police department specially trained for this is also costly. If trained officers leave, the training the Village invests in them is gone. The Village purchased a sound meter, along with a certified calibration machine to ensure accurate readings. Staff would like to amend the code to allow police officers to record and document these noise disturbances without undergoing special training. The sound meter could still be periodically calibrated with the certified calibration machine.

Coupled with this amendment is a request by staff to consider the banning of roosters. This ban would not include chickens. When residents contact the zoning office asking whether we have a ban on certain animals, fowl or bees, they are usually asking this in anticipation of obtaining them. Staff explains that they are not prohibited, but there will be follow up if a complaint is made. When this happens, the owner is contacted to abate the issue, whether it is a noise disturbance, noxious odors, unsanitary conditions, or some other reason that has an effect on the safety, health or peace of neighbors. When it is difficult to reach resolution, staff will offer the Village's mediation services. In the end, the expectation is that the abatement will be substantial enough to end the complaint.

Swinger noted that her office's research into how many communities ban roosters showed few, with most complaints following a similar structure, in which the complaint moves to the criminal code for enforcement once a complaint is made.

PC discussed roosters and a potential ban.

Lisa Kreeger, who resides close to the Antioch Farm, commented that the rooster noise from that area does not bother her, although she could see the issue on a smaller, more residential property. She stated that she would not like to see a complete ban if it would remove the possibility for the birds to be kept on larger in-town properties such as Antioch or the Dixon farm.

Swinger commented that the ban, if one is considered, could be limited to residential properties.

Swinger responded to a question from an audience member who asked whether festivals were permitted to violate the noise ban. She stated that festival noise is supposed to conclude at 10pm, but that there have been a few exceptions to this permitted by Council.

Swinger stated that she will bring back proposed text amendments.

AGENDA PLANNING

- February 11: Pocket Neighborhood Development – YS Home, Inc.
- Mobile Vending Conditional Use
- Subdivision Regulations Text Amendment
- March 10: Sandwich Board Signs Text Amendment
- Noise Ordinance Text Amendment
- Parking Minimums
- P&Z Annual Report to Council

The group discussed the possibility of moving meeting times, agreeing to wait until after the Council Retreat to determine whether there will be a change in the Council liaison.

ADJOURNMENT

At 8:27pm, Doden MOVED and MacQueen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 3-0 ON A VOICE VOTE.

Frank Doden, 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.