

**Planning Commission
Regular Meeting**

Virtual Meeting @ 7:00pm

Tuesday, August 11, 2020

CALL TO ORDER

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

ROLL CALL

Planning Commission members present via zoom were Frank Doden, Chair, Council Alternate Liaison Lisa Kreeger, AJ Williams, Dino Pallotta and Stephen Green. Also present were Denise Swinger, Zoning Administrator, and Village Solicitor Breanne Parcels.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of July 14, 2020 Regular Meeting. Doden MOVED and Williams SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 4-0 on a voice vote, with Curliss abstaining due to absence from that meeting.

COMMUNICATIONS

Ellen and Rodney Hoover re: 241 Xenia Ave.
Marianne MacQueen re: 604 Xenia Ave.
Krista Magaw re: 604 Xenia Ave.
Amber Singleton et al re: 602 Keystone Court
Karen Wintrow re: Hearings at 241, 403, and 604 Xenia Avenue
Ivy Davies (2) re: Permission for Max Crome to Represent Property Owner for 403 and 241 Xenia Avenue

COUNCIL REPORT

Curliss reported that the Village has received a grant for 1.6 million dollars for use in implementing the Village's Active Transportation Plan.

CITIZEN COMMENTS

There were no comments made.

PUBLIC HEARINGS:

- 1) **Conditional Use Application** — R-B, Moderate Density Residential District –David Johansen has submitted a conditional use application for an Accessory Dwelling Unit at 602 Keystone Court - Ch. 1262.08 Specific Requirements; Ch. 1248.02 Schedule of Uses: Residential Districts.
Greene County Parcel ID# F19000100010000300.

Swinger introduced the hearing as follows:

The zoning staff was contacted in August, 2019 about the addition of a sink and toilet in an existing garage at this property. At that time, Village staff was assured by the contractor that it would not be turned into an accessory dwelling unit and its purpose was for the owner to clean up after working in his garage. Recently, during an appraisal of the property, staff received information that the garage was serving as an ADU.

Swinger contacted Greene County Building Regulations (GCBR) and the permit technician did not have any record of the structure being an ADU. GCBR and Village staff came to the site and inspected the interior of the garage, which was originally built in 1981. Staff concluded that the applicant/owner David Johansen was not aware that he was required to seek zoning approval as he had relied on the contractor for securing the permits. Mr. Johansen was willing to cooperate in taking the appropriate steps to resolve this zoning issue and immediately came to the office to complete the required application form.

Pallotta asked whether the percentage of greenspace in the yard currently is sufficient, noting that he had driven by and been concerned at the amount of lot coverage by impermeable surface.

Swinger responded that there is no requirement in this regard if the construction is, for example, a patio, but that setbacks are a factor.

Swinger stated that staff will address the setback issue with Mr. Johansen.

Curliss asked how Johansen had gotten a building permit for the construction.

Swinger stated her understanding that the permit Greene County had issued was only for the bathroom. She stated that she does not know what will be required of him moving forward.

In response to a follow up question from Curliss, Swinger stated that normally permission is obtained prior to construction, but might be obtained after the fact as in this instance.

Pallotta expressed concern at the extent of what has been constructed to date.

Swinger stressed that PC is dealing only with the ADU, and that staff will deal with the setback issue. She will talk to the owner about removing a section of the patio.

Swinger commented that the ADU meets all zoning code requirements—the problem is the failure to obtain permission for the ADU in advance.

Johnnie Burns commented that in order to be an ADU, Greene County Building Department will require an ARC fault receptacles and smoke detectors.

Johansen responded to process questions, stating that he had professional plans made for improving the garage but then “put the cart before the horse” because it “became such a nice space”.

Johansen stressed how much money he’s put into the property to make everything of good quality.

Green commented that the property does seem to have been improved.

Johansen detailed that the home has been entirely rebuilt “to be part of the community”.

In response to a question from Green, Johansen stated that he “has no plans” to rent the property.

Johansen responded to a question from Pallotta, stating that the trailers currently on the property are being used for storage, and that he will take them to another residence in Ashland County soon.

Parcels inquired as to when Johansen had purchased the property, and Johansen stated that it was “March or April 2018” and that he had no guidance from an attorney regarding the purchase.

Doden OPENED THE PUBLIC HEARING.

There being no comment, Doden CLOSED THE PUBLIC HEARING.

Dino received clarification that the unit will not be a rental or Air BNB, and that if that were desired the owner would need to put in a Conditional Use application with the Planning Commission.

Curliss MOVED TO APPROVE the CONDITIONAL USE APPLICATION with the following conditions: The property owner submit a stormwater mitigation plan to be approved by staff, and that the concrete be removed from the setback and the setback landscaped. Doden SECONDED, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with Pallotta voting against.

- 2) **Conditional Use Application** — R-B Moderate Density Residential District – Michael Anes and Heather Wright have submitted a conditional use application for a Home Occupation at 409 S. Stafford Street to grow fruits and vegetables for resale - Ch. 1262 Conditional Use - Specific Requirements; Ch. 1248.02 Schedule of Uses: Residential Districts. **Greene County Parcel ID#** F19000100090001500; F19000100090001900; F19000100090001400; F19000100090001300; F19000100090001200.

Michael Anes and Heather Wright have applied for a conditional use for a home occupation to develop a “high-density, high-efficiency” garden for vegetable and fruit production. The produce grown will be sold to local restaurants, at local farmer’s markets, and at some future time, to individual customers at their residence. They also plan to sell and/or donate at markets in food desert sites, such as south Springfield. They intend to grow heirloom and experimental vegetable varieties on a small scale, and berries inside a hoop tunnel.

The use is primarily conducted outdoors as it will be a garden for raising fruits and vegetables. The produce will primarily be transported off-site to sell to merchants or at a designated farmer’s market, with only scheduled clients coming to pick up produce. Garden equipment will be stored in an existing shed.

The applicants intend to start a “hobby farm” with commercial potential. There will be a number of temporary outdoor changes to the lots, such as gardening structures, the use of low and high hoop tunnels, raised and in-ground beds, plastic and potted containers, rain barrels and/or other water collection systems, and trellises for

growing fruits and vegetables. Although the tunnel structures, commonly known as hoop houses, are large, ranging in size from 14-23 feet x 24-36 feet with a height of up to 12-feet, they are considered temporary structures.

Temporary structures are defined in the zoning code as a structure erected for a period of time not to exceed 18 months for such use as construction offices or storage buildings at a construction site. Although these structures are used for gardening purposes, the applicants can remove them at any time. The zoning code also exempts structures such as trellises, which applies to their cucumber gravity-fed irrigation project. These can also be easily removed. The Village Solicitor determined that the area is temporary in that the gardens can be plowed under and the hoop tunnels and raised beds removed.

Doden commented that PC cannot regulate the garden area, since it is a temporary change to the outdoor area and not permanent in nature. PC's deliberation, then, is confined to the question of the proposed business use.

Michael Anes stated that it will take some time to become accomplished at the work, and that he and Heather do not anticipate any rapid growth or employees for some time.

Curliss inquired as to how the hoop houses are secured and was assured that the hoop houses will sit on concrete piers and will be moved every 3-4 years to refresh the soil.

Green asked whether there would be issues with stormwater runoff.

Swinger opined that there is a great deal of permeable surface on the lot, and that the addition of the hoop houses should not pose an issue.

Curliss MOVED TO APPROVE THE CONDITIONAL USE APPLICATION WITH THE CONDITIONS RECOMMENDED BY STAFF as follows:

- Only one employee, plus family members
- Only scheduled pre-ordered pickups
- No sales on-site (ex. fruit or vegetable stand)
- No farm animals except chickens: no roosters
- No hoophouse lighting (electric for temperature control only)
- Apply for a zoning compliance permit (staff will want to ensure setback/height/size and lot coverage requirements are met for the temporary accessory structures)

Doden SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- 3) Conditional Use Application** — R-C High Density Residential District – Max Crome has submitted a conditional use application for professional offices at 604 Xenia Avenue. Property owners Andrew Carlson and Krista Magaw. Ch. 1262 Conditional Use – Specific Requirements; Ch. 1248 Residential Districts. **Greene County Parcel ID#F19000100090010500 & F19000100090010600.**

Max Crome, Principal of Crome Architecture submitted a conditional use application for zoning approval to convert the interior of a former church that is currently serving as a residential dwelling into offices for his architectural firm. He received approval from the property owners to seek zoning approval. Mr. Crome's firm is based in San Rafael, California. He is originally from Yellow Springs and his firm does business here. He is interested in opening a branch office in the Village. Crome does not intend to make changes to the exterior of the structure.

The applicant intends to make the parking area a pervious surface using a gravel entrance/exit, as well as for the lot. The Planning Commission may approve alternative paving materials, such as permeable/grass pavers. With the Village's concern with storm water runoff, the Public Works director was in favor of a gravel surfaced area. Swinger suggested that PC take into account the concerns expressed by some residents regarding parking.

Crome presented a lengthy powerpoint regarding his ties to the Village.

Crome stated that he had spoken with the current property owner regarding parking in the neighborhood, noting that the parking needs for his purposes would be far less than the needs of the property when it was a church. He stated that he wants to be a good neighbor, and will proceed however PC thinks best.

Crome described his plans for the building, presenting architectural schematics.

In response to a question regarding staff, Crome stated that there would be a possible total of eight over the next few years. He estimated perhaps one client at a time in the building.

Swinger noted that the number of parking spaces could be reconsidered if use increases.

Crome stated that he would be willing to hold space for possible future parking open, but did wish to pave a handicap accessible spot. Crome clarified the two parking plans submitted, stating that the second was in response to neighbor concerns.

Curliss asked whether the cupola could be removed without Planning Commission permission.

Swinger stated that they would have that right, since the building is not located in an Historic District.

Curliss commented that she would be in favor of low lighting only on the property.

Crome stated that he is currently attempting to purchase the property.

Doden OPENED THE PUBLIC HEARING.

Rick Clough, a neighbor commented that they have concerns about the parking. He argued that there is ample on street parking, and that parking on the lot would create a “mini-thoroughfare”.

Pallotta asked how the Cloughs felt about handicap parking.

The Cloughs, Barbara and Rick both stated that they have no issue with provision of ADA parking.

Connie Crockett commented that Whiteman Street is often “parked up”, and Xenia Avenue is busy. She commented that she has no issue with several spaces located on the property.

Krista Magaw, current property owner, commented that there is little parking on Xenia Avenue, and that she does not see the need for off-street parking. She suggested defining on-street parking on Xenia Avenue. She stated her preference as just an ADA spot, and opined that a parking lot would disrupt the neighborhood ambience.

Curliss obtained information that the property now has no parking spots, and all residential properties are permitted a minimum of two.

Magaw commented that there is a bright street light on the corner near where the parking would be located.

Doden CLOSED THE PUBLIC HEARING.

Pallotta commented as to the parking at Anthrotech, stating that he could not imagine this business needing more than that.

Curliss commented that the Comprehensive Land Use Plan will shift more parking onto the street, perhaps making off street parking more desirable.

Crome commented that if there were no parking requirement, he would only put in an ADA spot.

Curliss MOVED TO APPROVE THE CONDITIONAL USE APPLICATION with the conditions that

1. Village staff approve any lighting plan if outdoor lighting is required.
2. The ADA compliant parking spot is approved, but if there is a need for further off-street parking, that plan be required to come before Planning Commission.

Doden SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- 4) **Conditional Use Application** — B-1, Central Business District – Iron Table Holdings, LLC has submitted a conditional use application for 241 Xenia Avenue to have a dwelling unit on the upper floor of a building with a nonresidential use at street level. Ch. 1262 Conditional Use -Specific Requirements; Ch. 1250.02 Schedule of Uses: Business Districts. **Greene County Parcel ID# F19000100100000600 – 239/241/243 Xenia Avenue.**

Swinger explained the request as follows: Iron Table Holdings purchased the property, which includes 239, 241 and 243 Xenia Avenue buildings. All three buildings are attached. The 241 Xenia Avenue building previously held a hair salon and a retail store at ground level. The site plan shows the hair salon will be expanded using the entire ground floor area. A conditional use hearing is being held for the continued use of non-residential at ground level - a personal service (hair salon), and a dwelling upstairs.

The 241 Xenia exterior brick façade will remain on the front of the building facing Xenia Avenue. It will be exposed on the second story of the building. On the ground level it will remain and still be visible, but will be enclosed by an aluminum framed and glass storefront entrance. The front addition walls will extend out to be flush with 239 and 243 Xenia Avenue, but the store front will be setback several feet as it does at 243 Xenia Avenue, the location of Unfinished Creations. The exterior of the building facing Kieth's Alley will be completely renovated with a new exterior façade.

The dwelling unit upstairs will include a roof deck at the front of the building and will extend over the roof of the attached one-story building at 243 Xenia Avenue. Similar to the building front design at 243 Xenia Avenue (Unfinished Creations), an awning will be added across the front to tie into the existing awning at 243 Xenia Avenue. The framework for the existing awning will remain so there will be a continuous awning roof overhang across the front of 241 and 243 Xenia Avenue.

Swinger commented that the zoning code is out of date with regard to the parking requirements for such a use, noting that 42 spaces would be required. She noted, however, that the code does allow for nearby public parking to be considered, and this does mitigate that requirement.

Swinger stated that the developer has agreed to be sensitive to impact on downtown businesses of any construction.

Crome presented a powerpoint showing the shadowing that would occur from the upper deck to the windows of the neighboring apartment. He noted that six parking spaces will be available on site.

Crome walked through the building floor plan briefly. He stated that the plan is to build a six-foot tall privacy screen between the deck area and the neighboring windows. The shadowing program showed no impact on those windows in any season from the proposed deck.

Doden OPENED THE PUBLIC HEARING.

Ellen Hoover commented that she and her husband own the building in which the apartment is located. She asked where the panel height would fall in relation to the height of her building's windows.

Crome stated that he could not answer definitively because he is unsure of the window height in that building. He stated that the sun study shows shadowing, but does not show what the view out the windows of the apartment would be. He stated that he would be happy to work with the Hoovers in assuring that the tenant's view is also considered in the design.

Hoover asked why the use was conditional when the use is the same.

Swinger stated that staff has the option to bring this to PC any time there is a new owner, and that she wanted the process to be public.

Breanne Parcels asked when the most recent renovation occurred.

Crome speculated that it was the 60's or 70's, and was not historically relevant.

Doden CLOSED THE PUBLIC HEARING.

In response to a question from Green, Crome stated that he was not at liberty to disclose the identity of his client.

Curliss MOVED TO APPROVE THE CONDITIONAL USE APPLICATION AS REQUESTED, with the added condition that if outdoor lighting is desired, a plan be submitted for Village staff approval. Green SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

5) **Map Amendment – Request for Rezoning** – Iron Table Holdings, LLC, is requesting an amendment to the Village of Yellow Springs Official Zoning District Map to rezone their property at 403 Xenia Avenue from B-1, Central Business District to R-C, High-Density Residential in order to allow for its use as a multi-family dwelling per Ch. 1280 Amendments and Rezoning.

Swinger stated that the applicant would like to make the building at 403 Xenia Avenue a multi-family dwelling with two apartments down, and one apartment up. The B-1 zoning district does not allow multi-family dwelling units (*Table 1250.02 – Schedule of Uses – Business Districts*). Staff reviewed the area and suggested the applicant consider making an application for a rezoning (map amendment) because the other two properties in the 400 block of Xenia Avenue zoned as B-1 would not be impacted by this change. The rezoning is for the following three parcels:

Greene County Parcel ID #F19000100090017500 – 403 Xenia Avenue; F19000100090017600 – 120 East Limestone Street (Residential Dwelling) and F19000100090017700 – 415 Xenia Avenue (Greene County Public Library – Yellow Springs branch).

Crome stated that he had reached out to one property owner affected by the potential rezoning, and had had about a 10 minute conversation with him, in which he believed all concerns were addressed.

Curliss commented that the current structure is now divided into a triplex.

Swinger commented that zoning all three properties assures that there is no spot-zoning.

Doden OPENED THE PUBLIC HEARING.

Crome commented that the building in question is protected by Tecumseh Land Trust in that the exterior cannot be changed.

Doden CLOSED THE PUBLIC HEARING.

Curliss MOVED TO RECOMMEND TO COUNCIL THAT THEY REZONE THE AREAS IN QUESTION AND THAT THE RECOMMENDATION IS FORWARDED WITH THE FINDINGS OF STAFF. Pallotta SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

The Village of Yellow Springs is applying for amendments to the Planning Code:

1) Amend Chapter 1226.07 Subdivision Regulations – Park Land Dedication.

Swinger introduced the proposed text amendment, walking PC through the text below:

(a) In each **new** residential subdivision **with five units or more** ~~of fifty acres or more~~, there shall be dedicated for **active** public use, ~~for open space parks, playgrounds and~~ **or other** recreational uses, a minimum of **three acres of land for each 1,000 people**, exclusive of street rights-of-way and alleys, **per the Village's park plan**. ~~five percent of the total area of such subdivision.~~ **Land dedicated for storm water management shall not count unless it serves a dual purpose as a recreational or aesthetic feature. If there is a dedicated for public use area within six walkable blocks from the proposed subdivision, the developer may pay a fee in lieu of dedication. Residential subdivisions of less than five units may pay a park and recreation fee established by Council in lieu of dedication.**

To determine the acreage of land or fee in lieu, the dedication formula shall be:

- **Three acres of park land for each 1,000 people**
- **Each unit = 3 persons**
- **Multiply the number of units x 3 persons to determine the total number of persons**

- **Multiply 0.003 by the total number of persons to determine the total acreage of land to be dedicated**
- **The fee will be calculated based on the appraised value of the land at the time the developer submits an application**

Swinger stated that she had consulted Aaron Sorrel, of CPI, regarding a formula for a fee in lieu of setting park land aside. That fee would be based upon the number of dwelling units in the development, and would only be an option when there is a park nearby (and “nearby” is not defined). Swinger asked for input on the proposed calculation.

Swinger clarified that this would apply to any major subdivision, which is any subdivision larger than five lots.

Swinger noted that areas dedicated for stormwater management cannot be used in the parkland calculation unless it is a recreational or decorative feature.

PC discussed this amendment.

Curliss MOVED to leave in the words “open space” in the proposed text amendment.

Curliss asked whether the regulations could be brought back with the proposed changes.

Parcels noted that “open space” is not defined in the code, and should be.

Swinger commented that she would prefer to table the matter to make all of the proposed changes and bring the chapter back.

Curliss MOVED TO TABLE THE HEARING ON CHAPTER 1226.07. Green SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

2) Appendix A – Estate Street Section.

Swinger introduced the text amendments to Appendix A, noting that this provides guidelines for developers of new developments of less than one acre of impervious surface with ideas and calculations they can adopt to stay compliant with stormwater regulations.

Curliss asked how this works with the density permitted in the zoning code.

Swinger commented that all developers will need to adopt these regulations.

Green suggested the possibility of cisterns in the event that space is limited.

Pallotta asked about the hearing earlier in the evening, wondering if this regulation would have applied to the impervious surface in that hearing.

Swinger responded that it would not, since patios are not considered in the calculation of impervious surface. She suggested that this could be added to the code.

Doden MOVED TO APPROVE THE PROPOSED TEXT AMENDMENTS AS PRESENTED BY STAFF AND TO SEND THESE TO COUNCIL FOR FINAL APPROVAL. Curliss SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

There was no New Business.

AGENDA PLANNING

Curliss suggested that PC consider the suggestion that citizens be able to see the packet earlier.

Doden suggested that there could be a review of the online information so that it is more clear how and when citizens can access information and/or comment upon it.

Swinger added the Comprehensive Land Use Plan Final Draft presentation.

ADJOURNMENT

At 8:48pm, Doden MOVED and Green SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A ROLL CALL 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.