

**Planning Commission  
Regular Meeting**

**Virtual Meeting @ 7:00pm**

**Tuesday, March 15, 2022**

**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 Lisa Kreeger, Susan Stiles, Stephen Green and Gary Zaremsky. Also present were Denise Swinger, Zoning Administrator, and Village Solicitor Breanne Parcels. Scott Osterholm, Alternate, was present to step in as needed.

**REVIEW OF AGENDA**

There were no changes made.

**REVIEW OF MINUTES**

Doden MOVED TO APPROVE the minutes of the February 15, 2022 Regular Planning Commission meeting. Stiles SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Doden MOVED TO APPROVE the minutes of the February 28, 2022 Work Session Planning Commission meeting. Green SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**COMMUNICATIONS**

The Clerk will receive and file:

- Jessica Thomas-Raska re: Support for Farm Conditional Use
- Jim and Rosemary Bailey re: Opposition to Farm Conditional Use
- Alex Melamed re: Change Zoning Code (2)
- Franklin Halley re: Input on Farm Conditional Use
- LiAnne Howard re: Concerns about 655 Paxson Dr. Conditional Use
- Annette Oxindine re: Concerns Around CU Request for 655 Paxson Dr.
- Jeanne Kay re: Support for Farm Conditional Use

**COUNCIL REPORT**

Kreeger provided the Council Report as follows:

A street capital improvement fund was established to fund capital expenditures for fixed assets and infrastructure for the Village streets. Separate funds are recommended by the Auditor of State to record and track the revenues and expenses related to these improvements.

Similarly, and with the same rationale, a stormwater capital improvement fund was established.

A resolution was read strongly opposing House Bill 563 – related to policies about Transient Guest Lodging. The resolution calls for municipalities to continue to have the right to decide what works for their community.

A resolution was read for the Village manager to execute a \$100K grant award on behalf of Antioch College from the Greene County Board of Commissioners for demolition efforts of the Union Building which is beyond repair.

Village manager, Josue Salmeron, noted a list of projects to submit to state capital appropriation funding opportunities; these total just over \$3.5 million and include:

- Electric improvements for Railroad street \$ 225,000.00
- Electric meters system for real-time reading and access \$ 208,765.00
- Painting of Interior and exterior of South and North Water Towers \$ 1,000,000.00
- Water Meter upgrade to new technology and system with real-time reading and access \$ 757,923.00
- Sewer relining \$ 600,000.00
- Outdoor Performance Space \$ 500,000.00
- YS Bike Trail Shops (Kiosks type) \$ 250,000.00

The Village has secured a grant for a storm water system along Dayton St, in the amount of \$439,065.00. Grant agreement received. Conducting engineering for site. Engineering to be completed within the month.

**CITIZEN COMMENTS**

There were no Citizen Comments.

**CONSENT AGENDA**

**Cresco Minor Subdivision** – Replat of CBE/Commerce Park – 1130 Springs Way.

Kreeger MOVED and Green SECONDED a MOTION TO APPROVE the Consent Agenda. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**PUBLIC HEARINGS:**

- 1) **Conditional Use Application – R-B, Moderate Density Residential District** – Rose Pelzl has submitted a conditional use application to operate a farm at her property located at 944 S High Street – Chapter 1248 Residential Districts, Chapter 1262 Conditional Uses, Chapter 1284.08 Definitions – E-F-G

Greene County Parcel ID#F19000100080024300; F19000100070000500; F19000100070000400; F19000100070000300; F19000100070000200; F19000100070000100; F19000100080025000; F19000100080025100; F19000100080025200; F19000100080025300; F19000100080039400; F19000100080039700; F19000100080039600; F19000100080039500.

Stiles RECUSED from the hearing, due to potential conflict of interest. Osterholm joined the meeting as the Alternate.

Swinger introduced the hearing, reading portions of her report as follows:

The zoning code allows farms in residential districts as a conditional use. In order to determine the criteria for a farm, staff checked the definitions in Chapter 1284. Section 1284.08 states, “*Farm. Any parcel of land containing at least **three acres** which is used for gain in the raising of agricultural products, livestock, poultry or dairy products, including farm structures within the prescribed limits and the storage of farm equipment. Riding stables, dog kennels, establishments for the raising of fur-bearing animals and retail sales buildings offering products not produced on the premises shall not be considered a farm.*”

Rose Pelzl has provided a detailed description of her farm operation. The main lot is 6.7 acres with additional smaller lots and vacated alleys totaling 1.5 acres for a total farm area of 8.2 acres. Her plan includes building a farm store with an entrance from S. High Street. The proposed size of the building is 900 sq.ft., with 450 sq. ft. reserved for retail space. The remaining area will include a kitchen for processing products from the farm. This area will also include meeting space for agricultural-focused meetings. Although she lists a variety of products to sell produced from the farm, such as eggs, honey, maple syrup, preserves, jams, herbal tea mixes and soaps, there will also be items sold from other local producers, such as locally grown vegetables.

The land use will be for a variety of activities, including a garden area, planting of various types of berries and nuts, hens for egg production and honeybee hives. She is asking for consideration of a small number of goats or pigs. Planning Commission should further explore these activities to ensure noise and odors will not be a concern for adjacent and abutting neighbors.

Swinger noted that Pelzl has applied for a total of 180 chickens.

Swinger noted neighbor concerns received, those regarding: items on the property that they believe are in violation of the zoning or criminal code; concern regarding noise or odor from livestock.

Swinger noted that Pelzl does not intend to keep roosters.

Green asked how much latitude is permitted with regard to the farmstand sales, specifically what all has to be produced on the farm and what could be brought in.

Kreeger echoed Green’s questions regarding farmstand sales.

Parcels looked up the code, and addressed the question regarding items offered for retail, stating that the Village code does not directly address this.

Pelzl commented that items for sale at the stand would be locally produced only.

Pelzl read a statement, noting that she has taken the past two years to research and reflect upon the

best use for the land, of which she considers herself a steward. The land has been in her family since purchased by her great-great grandfather, who purchased it from the founder of the Village. She noted that she is not intending to run the farm at a profit, but so that she is able to pay property taxes. She noted that she has sold off lots piecemeal over the last several years in order to pay those taxes, and this is not sustainable.

Pelzl stated that she is not opposed to offering housing on the property at some point, but if so would like those to center around the farm function of the property.

Pelzl noted that the number of chickens she is requesting permission for has to do with the economy of scale, and reiterated that she will cull out the roosters.

Pelzl remarked several times that she is willing and ready to respond to any issues with neighbors should they arise.

Pelzl stated that she is withdrawing her request to permit pigs and goats, and that she might return in the future to request this.

Pelzl noted that she has been enrolled in the Heartland Farm Beginnings Program through OEFFA (Ohio Ecological Food and Farm Association), a year-long program to prepare new farmers. She stressed that she wants to “do everything right”.

Pelzl stated that six spots for the farm store should be plenty, given that the farm stand is meant for locals.

Pelzl offered to meet with the Bailey’s through mediation if needed. She acknowledged the Baileys’ request that she provide a 100’ buffer, and offered instead a buffer of 50’, in which there would be no chickens, but would contain fruit bushes and trees.

Zaremsky asked for clarification from Swinger as to process if Pelzl wishes later to have pigs and/or goats. He asked whether parcels of land can continue to be sold off as residential in the future. He asked for clarification regarding what can be sold at the farmstand. Finally, Zaremsky opined that six parking spaces seemed to him to be inadequate for the farm as a whole, given the possible number of workers and/or customers and lack of on-street parking.

Zaremsky asked whether the property is currently in violation, given the items now on the property, and stated that he would like to know if the violations need to be addressed prior to PC action on the farm request.

Swinger responded, stating that indeed, Pelzl would need to return to PC for permission to add goats and pigs to the use.

Swinger stated that Pelzl can continue to parcel off properties in the future, or could plat out the entire area as a major subdivision.

Swinger commented that there is no clear definition of “farm stand” in the zoning code.

Parcels commented that the farm stand must be “accessory to” the farm use, and as such could certainly sell some items not created on the farm.

Swinger stated that she is “not a fan” of increasing the required number of parking spaces, and noted that Herman Street extends to the rear of the farm, and additional parking could easily occur there.

Swinger stated that it could be a condition of approval that the complaints (such as junked cars) be addressed. Swinger stated that she has photos and one complaint on file at present, and intends to speak with the Police Chief about the complaints.

Swinger noted the presence of the partially intact original Carr Nursery greenhouse, as well as a burnt out garage.

Parcels pointed out that the junk car ordinance (660.07) was not passed until January of 2020, just prior to the pandemic, which slowed citations dramatically.

Swinger commented that there have been complaints in the past, with no action taken by the Village.

Doden asked Pelzl to respond to parking concerns.

Pelzl stated that the farm store is not meant as a “huge draw”.

The parking discussion continued for several minutes, with Pelzl indicating that she sees the current number of spots as sufficient, but that there are other areas that could be converted to parking spaces if future needs occur.

Green received the information that Pelzl, her partner, and Pelzl’s mother are the three trustees of the land.

Green commented his discomfort that Pelzl intends to run the farm on a not-for-profit basis and that she does not have a business plan. He added that he sees myriad safety concerns.

Pelzl responded that she is taking the farm readiness class, and has a farm mentor. She commented that she has put a lot of thought into the request to facilitate the property as self-sufficient. She added that the plan speaks to her sense of sustainability and community.

Green pressed the question, speculating as to “what will happen if you don’t make enough money,” and asserting that Pelzl would let violations and unsafe conditions abound.

The Clerk asked the Solicitor to weigh in as to the appropriateness of this line of questioning, noting that is unprecedented.

Parcels stated that Planning Commission cannot base a decision on whether or not they believe the business will thrive. Conditions for approval, she noted, are contained in 1262.04.

Green argued that conditions for approval include potential impact on property values and the neighboring community. He received confirmation that if he believes the use will negatively impact property values, he can make a record of this opinion and can vote against approval of the use.

Parcels noted that there are no specific conditions listed in the zoning code for farms.

Green argued his opinion that there are potential safety issues. He asked Pelzl if she had ever raised bees or chickens. He asked whether the proposed fencing would work.

Pelzl affirmed that she has raised chickens and bees, and will be diligent in restraining the chickens. People will not be permitted to wander into all areas of the farm, she added. She will be following recommended practices.

Green stressed his opinion that there will be hazards.

Kreeger commented that children and others will be kept safe in the usual ways, and that chickens will be fenced.

Kreeger received clarification that plants will be grown within the buffer mentioned above, but that no bees or chickens will be contained there.

Osterholm received confirmation that the chickens will be contained. He asked whether the former greenhouse area will be cleaned up.

Pelzl stated that she intends to clean up the glass from the greenhouse currently on the property.

Doden noted neighbor concerns regarding damaged buildings and abandoned cars, which he commented would likely be addressed during the public hearing.

Doden OPENED THE PUBLIC HEARING.

Susan Stiles spoke as a neighbor, stating that she understands the challenge of trying to maintain a property in the Village. Just south of the property, she said, is farmland, and the concept of a farm in this location “just seems to fit into the village.” Stiles stated her objection to pigs, but stated that she and her husband are happy to permit up to 250 chickens on the farm. Stiles commented that no other applicants for conditional uses have been required to submit business plans. She added that PC needs to be consistent on parking, and has not typically required parking over that required by the zoning code.

Stiles ended with an offer from her husband to assist Pelzl in any way possible in cleaning up the property.

Jim Bailey stated that he and his wife are “generally receptive” but stated that there are three trustees—two in addition to Pelzl—and asked who would be held responsible for compliance. He added that the property has cleanup needs dating from the Xenia tornado, with many going back many years. He stated that this informs his skepticism regarding compliance. Bailey reiterated his desire for a 100’ “setback” from the Bailey property line. He reiterated his concerns regarding compliance.

Rosemary Bailey voiced concern regarding runoff of contaminated water onto their property, and of rats “due to storage of possible feed”. She added that there might be many more than the permitted number of chickens. She expressed traffic concerns. Finally, Bailey expressed concern that the farm will grow larger.

Kate Hamilton called in support of the farm use and of Pelzl, stating that she would much rather see this than a large development from an outside developer.

Krista Magaw, a near neighbor, voiced her support for the use. She acknowledged that parking can be an issue on that end of High Street, but added that the Herman Street extension is a viable option. Magaw noted that Pelzl has been consulting with and talking with her neighbors, and is also working with the Natural Resources Conservation Service, an organization about which Magaw spoke highly.

Dustin Maple spoke in support of the use and of Pelzl, noting that she has been diligent in her planning efforts and is highly invested in the community. Maple remarked upon the need for local food sovereignty. Maple offered to assist in cleanup efforts.

Jordan Maple remarked that Pelzl has consulted her regarding urban farming, and commented that Pelzl is being diligent in planning for the highest number of animals. Maple commented that changes will be incremental and well managed.

Jessica Thomas commented as a citizen, supporting Pelzl and pointing out the inappropriateness of questioning Pelzl or making requirements of her in a manner not consistent with previous requesters. Thomas offered her time and funds in order to support the farm’s success.

Megan Bachman of Agraria spoke in support of Pelzl and offered the resources of Agraria. Bachman spoke of the importance of regenerative agriculture and local food sources. Bachman noted food insecurity within the village which the farm could help to address. Bachman noted the fit of the farm use with village values. Bachman added that Agraria’s research into their own farm store revealed that under Ohio law, the use cannot be denied if at least 50% of the goods sold are produced on the farm.

The Clerk noted that she has received three letters, two in support (Laura Curliss, if the area is cleaned up and brought into zoning compliance first) and Jeanna Gunderkline, and one misperceiving the request as a variance (Katie Main).

Doden CLOSED THE PUBLIC HEARING.

Kreeger MOVED TO APPROVE THE APPLICATION FOR CONDITIONAL USE FOR FOREST VILLAGE FARM WITH THE FOLLOWING CONDITIONS:

- Current complaints are resolved if found to be present.
- Chickens and bees only: no pigs, goats or other “farm animals”.
- A 100’ buffer with the neighboring boundary in which there will be no chickens kept.
- Hens only: no roosters permitted

Pelzl commented that she would like to respond by removing the two lots on which there are cleanup needs from the application. She explained that she would rather work with the Planning office to resolve those matters and not have the farm process affected by the need for the property cleanup.

Pelzl stated that she needs the funds from the farm to move forward, and cannot both clean up the property and wait to begin farming.

Kreeger restated her motion at the request of Zaremsky.

Kreeger responded to a question from Zaremsky, stating that inclusion of the cleanup need is meant to respond to safety concerns expressed during the meeting.

Doden SECONDED.

Zaremsky received confirmation that she would walk the property and issue citations for all but the junk cars, which would be cited by the Police Department.

Kreeger responded to a query from Osterholm, stating that her original motion stands.

The Clerk repeated Kreeger's motion and CALLED THE ROLL.

The MOTION PASSED 4-1, with Green voting against.

**Conditional Use Application – R-A, Low Density Residential District** – Joel Levinson has submitted an application to operate a transient guest lodging establishment at 655 Paxson Drive – Chapter 1248 Residential Districts, Chapter 1262 Conditional Uses. Greene County Parcel ID# F19000100050024100.

Swinger explained the request as follows, first noting that there are no transient guest lodging establishments located within 500 feet of this property.

The property is the owner's primary residence. The home will be used as a transient guest lodging establishment when the owner travels. Because Mr. Levinson works remotely, he can do it anywhere and he plans to travel and rent his home out at times. The home does need to be owner-occupied to be eligible for the use.

Mr. Levinson expects to rent it out 10 to 20 percent of the time, which averages to 36 - 72 days of the year. The applicant will need to submit documentation showing proof of residency prior to issuance of the TGL permit.

Swinger noted having received several neighbor concerns, including on-street parking and occupancy limits (large parties/gatherings and associated noise).

Kreeger stated that she had received a concern that the home is already listed on AirBnB, and is advertised for rental "up to a year".

Swinger commented that pre-listing the rental has not previously been held against the homeowner, since applicants aren't always aware of the permitting requirement.

Stiles noted that street parking is public parking, and if the applicant is providing adequate off-street parking for renters, nothing more should be required.

Swinger clarified for Zaremsky that indeed, there is no approval needed for provision of a year-long rental.

Joel Levinson addressed concerns. He stated that his wife had indeed listed the home prior to approval, in preparation for rental over the summer months. He confirmed that if they found a person who wanted to rent for an entire year they would likely accept that option and "take a sabbatical year".

Levinson related the family's housing history, affirming that the house is their family home, and they wish to rent out the home to supplement their income. He stressed that he does not intend to permit the home to be used for parties, given that it is their family home.

Doden OPENED the PUBLIC HEARING.

Hearing nothing, Doden CLOSED THE PUBLIC HEARING.

Stiles MOVED TO APPROVE THE REQUEST FOR A TGL, WITH THE CONDITIONS THAT-PROOF IS PROVIDED THAT THE ADDRESS IS THE OWNER'S PRIMARY RESIDENCE, AND THAT THE RESIDENCE PASS INSPECTION FROM MTR. Green SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Text Amendments** -The Village of Yellow Springs is applying for text amendments to the zoning code to comply with current State of Ohio requirements and/or to remove outdated references:

- **Repeal and Replace Chapter 1022 Numbering of Buildings to Chapter 204 Official Standards** – moving addressing of buildings to Chapter 204 Official Standards, and updating the language.

Parcels stated that the standards are simply being moved from the Utilities portion of the Zoning code to the Standards portion of the code.

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

Stiles MOVED to REPEAL AND REPLACE CHAPTER 1022 NUMBERING OF BUILDINGS TO CHAPTER 204 OFFICIAL STANDARDS; MOVING ADDRESSING OF BUILDINGS TO CHAPTER 204 OFFICIAL STANDARDS, AND UPDATING THE LANGUAGE. Kreeger SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- **Amend Chapter 1226 – 1226.02 Submission and Action on Preliminary Plats**, updating the language, **1226.06 (c) Utilities Review**, requiring verification with Public Works that utilities are ready at site, **1226.13(d) Replats – fees, 1226.13 (e) – clarifying the language.**

Parcels introduced the all of the proposed amendments, stating that she had advised Planning Commission in February 2021 based on case law updates from the Ohio Supreme Court and Second District Court of Appeals that the Village should consider amendment to certain sections of Chapter 1226 – Subdivision Regulations to comply with ORC 711.09, which has a 30-day deadline for action on plats unless the plat applicant agrees otherwise.

Section 1226.02 is an acknowledgement by applicants that the next available regularly scheduled Planning Commission meeting is the earliest date the Village can act while also complying with open meetings and notice requirements. It does not change the timing of the plat submittal to the Planning & Zoning office, which will continue to be 25 days ahead of the next Planning Commission meeting. It also includes language from ORC 711.09 stating that if the Village fails to act within 30 days from the date of submission (“submission” being the same date as the regularly scheduled Planning Commission meeting), unless the applicant otherwise agrees to tabling or other delays, the plat is deemed approved by Ohio law.

Section 1226.06(c) is the addition of a Utilities Review. This language states that for all subdivisions creating new buildable lots, applicants are required to provide proof that sewer laterals conform to regulation, as well as other utilities, such as electric. This change is due to a recent situation with a lot split where the owner was informed that the overhead electric line would need to be moved underground. This was not done and the owner no longer lives there.

Swinger added that Section 1226.13(e) needs further clarification to reflect this is a fee and not “in lieu of” a land dedication as would be appropriate for larger developments in major subdivisions. It also changes “units” to “lots”. Because there is not an established park fund, the fees collected will go towards capital improvements at the nearest dedicated park to the new lots created under the minor subdivision requirements.

Staff also requests that Planning Commission discuss potential changes to the final plat approval (Section 1226.05) and consider whether additional language is needed specific to what Council is approving. For example, they are required to accept the dedication of the streets, utility easements, etc.

Doden OPENED THE PUBLIC HEARING for Text Amendments to Chapter 1226.

Sarah Sinclair Amend expressed concern that changes are being considered prior to a wholesale review of the code.

Doden CLOSED THE PUBLIC HEARING.

Kreeger MOVED TO APPROVE TEXT AMENDMENTS TO CHAPTER 1226.02 through 1226.07 as RECOMMENDED BY STAFF. Doden SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

- **Amend Chapter 1440 – 1440.03 Authority of Village Manager**, removing reference to Greene County Building Regulations

Swinger explained the proposed language, which removes reference to “Greene County” from the Building Regulations.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED THE PUBLIC HEARING.

Doden MOVED TO APPROVE THE RECOMMENDED TEXT AMENDMENTS TO Chapter 1440-1440.03. Stiles SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**OLD BUSINESS**

There was no Old Business.

**NEW BUSINESS**

**Selection of PC Liaison to Active Transportation Committee.** Zaremsky volunteered for this position, and all members present were fine with the appointment.

Parcels presented information regarding the Comprehensive Land Use Plan (CLUP), in which she noted that the Plan is not a legal document, but is a planning tool.

Swinger noted that the process used to assess and review the proposed Oberer PUD was wholly in keeping with the Village's CLUP.

**AGENDA PLANNING**

Swinger noted a Conditional Use request upcoming for a patio expansion at Peachs Grill.

Swinger stated that she will likely be bringing a major subdivision request for the Kinney property.

**ADJOURNMENT**

At 9:24pm, Green MOVED and Zaremsky SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

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Frank Doden, 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.*