

Planning Commission Meeting
January 26, 2015
Minutes

The Regular Planning Commission Meeting was called to order by Chairman Stanard at 6:33pm.

PRESENT AT ROLL CALL: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

Others Present: Dave Strichko, Building Inspector, Aimee Lane, Assistant Law Director, Jeff Filarski, Village Engineer, Sherri Arrietta, Clerk of Council, Jim Alunni, Fire Marshall

Mrs. Cooper made a motion seconded by Mr. Fritz to approve the minutes from the October 27, 2014 meeting.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Stanard

ABSTENTIONS: Mr. Pogatschnik, Mayor Renda

NAYS: None

MOTION CARRIED

Govberg Jewelers

34105 Chagrin Blvd., Suite J
Sign

Mr. Jeff Davis with MH Towne Center LLC was present at the meeting. The Board of Zoning Appeals approved a 30 sq. ft. variance for the sign prior to this meeting. Mr. Bolek stated that he would like to suggest that the clock be recessed; however it is not something that this board is considering per Code. Mr. Davis stated that it is easier to waterproof where it is connected by doing it the way he is proposing it, as well as the problem that it would cause if it were ever to be removed. He stated that it does not stick out that far off the wall. Mr. Bolek stated that he understands that it would have been easier to integrate it at the time of construction and that that portion of the building is recessed back from the other portion. He stated that the clock is an improvement to the façade. The clock is 12.5 inches in thickness and sticks out from the building a few inches. Mr. Bolek stated that this board was very careful that all the other tenants in this town center had a limited amount of signage and he believes that they were all nicely proportioned relative to their space and that this sign is in keeping with that as well. Mr. Stanard concurred.

Mr. Stanard made a motion seconded by Mr. Pogatschnik to approve the sign and clock located at 34105 Chagrin Blvd., Suite J for Govberg Jewelers.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Richard Rule-Hoffman

36960 Chagrin Blvd.
New Dwelling

Mr. Richard Rule-Hoffman was present at the meeting. Prior to this meeting, the Board of Zoning Appeals approved a 20 foot front setback, two side setbacks (10.19 and 10.2 feet), and a 5.53 driveway setback. Mr. Rule-Hoffman provided the members with pictures. Mr. Stanard stated that the plans were approved as noted by the Village Architect. The notes are as follows: on sheet 2, fire retardant walls and ceilings over the garage and a fire rated door is required, and on sheet 3, minimum 2 x 12 for the ceilings joists. Mr. Filarski asked that any approval be contingent upon his approval because he has not seen any engineering drawings as of yet, however he does not see any issues that would hold it back. Mr. Strichko stated that he would also ask that approval be given contingent upon his approval as well because he still needs to review mechanical and energy code information. Mr. Bolek stated that as he said in the BZA meeting, he thinks Mr. Rule-Hoffman did a good job of redesigning the house and that a lot of thought was given to the style of the house and the front façade. He stated that the only comment he would make would be on the side facing east where the master bedroom is located, one section is really blank and he would encourage Mr. Rule-Hoffman to re-think about that area. Mr. Bolek stated that such thought and detail went into the rest of the house that that one area looks forgotten about.

Mr. Fritz made a motion seconded by Mrs. Cooper to approve the new dwelling located at 36960 Chagrin Blvd contingent upon approval from the Village Engineer and the submittal of additional information to the Building Inspector.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Brown Residence

45 Fircrest Lane
Detached Garage

Mr. John Brown was present at the meeting. He stated that he is proposing to build a detached garage that perfectly matches the existing house in trim and window details, roof, shutters, eaves, etc. He provided a picture of his house to the members. Mr. Stanard stated that the Village Architect approved the plans with no notes.

Mr. Stanard made a motion seconded by Mayor Renda to approve the detached garage located at 45 Fircrest Lane.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard
NAYS: None
MOTION CARRIED

Daunch Residence

PP# 912-29-012 East View Lane (Giles)
New Dwelling
Gravel Driveway

Mr. Anthony Kucia, with Blossom Homes, and Mr. Tim Daunch and Ms. Michelle Berggrun, property owners, were present at the meeting. Mr. Daunch stated that they came before the board in November with preliminary plans and received some excellent feedback regarding issues, to which those changes have been made. He stated that they have worked with Mr. Filarski on the site plan and with Mr. Strichko on the building plans and are here for approval. Mr. Kucia stated that they received the blueprints last week that included the notes from the Village Architect. He stated that those changes have been made and have been provided to the members for approval tonight, since Mr. & Mrs. Daunch are anxious to get this project underway. Mr. Kucia stated that Aztec did make changes to the topo, specifically the addition of a culvert and moving the house to avoid the hillside setback. The Village Architect asked for more cornice detail on the front elevations, frieze boards, and dormers, and more details around the windows and one by trim, to which they are amicable in making those changes. He stated that they have also made sure that the house has only two roof pitches; 5:12 and 12:12 pitch. The manual j calculations for heating, the electrical load calculations for electrical and isometric for plumbing have been completed. The truss drawings are complete and have been provided to Mr. Strichko and currently the framing plans for the floor joists are being worked on. Mr. Kucia stated that they have also received septic approval from the County.

Mr. Strichko clarified that the larger plans that the members have are the original drawings with Mr. Kawalek's notes and that the 11 x 17 copies stapled to the front reflect the changes that Mr. Kawalek requested from his plan review of the larger (original) set. Mr. Stanard asked Mr. Filarski if the site plan dated January 2 was accurate. Mr. Filarski stated that he received an updated copy today, dated January 26, which has addressed a majority of his comments from the January 2 set. He stated that while he has not had a chance to review them, it appears that most of his changes have been reconciled; however he does not foresee any problems. Mr. Strichko stated that anything still outstanding with him regarding Building Code issues can be handled with a phone call and/or an email.

Mr. Filarski stated that the only outstanding issue would be the gravel driveway. Mr. Stanard stated that Mr. Filarski has provided a letter stating that a gravel driveway does not meet the Code. He stated that there is also correspondence from the Fire Marshall who is in attendance tonight. Mr. Jim Alunni, Fire Marshall stated that he agrees with Village Engineer regarding the gravel driveway. He stated that for safety reasons gravel driveways are hazards, although he realizes that with older homes that cannot always be avoided. Mr. Daunch stated that some of

his neighbors may have something to say in regard to the gravel driveway and asked if this is the proper forum to entertain that. Mrs. Lane stated that this is not a public hearing and the Code requires a paved driveway. The code is set up so any variation of that would have to be pursuant to Engineer and Planning Commission approval and not subject to a variance because it is a construction method. She stated that if the applicant is okay with putting in a paved driveway, that solves the issue in her opinion. Mr. Daunch stated that they will be doing a paved driveway. Mr. Filarski stated that the plans still reflect a gravel driveway. Mrs. Lane stated that as long as that change is made, it would be compliant.

Mr. Ron Janke, resident, asked if it would help to hear the concerns from the neighbors regarding the gravel driveway. Mr. Stanard stated that he would be okay with it if counsel will allow it. Mrs. Lane stated that it would be fine; however, the Code does not authorize gravel. She stated that if the Commission would be willing to hear the comments, it would be okay. Mr. Fritz stated that they are not asking for a gravel driveway, but instead are going to pave the driveway. Mr. Stanard stated that while that is the applicant's intent, since there is a resident wishing to comment, he would like to entertain that if no one objects.

Mr. Bill Janke, resident of 4193 Giles Road, stated that he would like to comment. He stated that he is the neighbor behind this property, where the driveway will run through the easement. Mr. Janke stated that he was under the impression that they were still requesting a gravel driveway and he stated that he came to support that request. Currently the way the driveway is sloped, there is no erosion because the water can spread out throughout the entire parcel. He stated that asphalt could cause a drainage problem on his property and believes that gravel would be a better option. Mr. Filarski stated that from an engineering standpoint, there is no difference in run off between gravel and pavement. He stated that gravel is as impervious as pavement; it may be better in the first year where there will be less run off, however, over time it ends up as a concrete base underneath. He stated that the only better substitute is called pervious pavement; however, the price of it is astronomical. He stated that when you look at the long term cost of maintenance, the cost of replacing gravel that gets push around over time with that length of driveway, is going to be pricey; once the asphalt is down, there is no maintenance involved, so basically you will either pay more up front (for asphalt/pavement) or later in the long run with the maintenance of gravel. Mr. Stanard stated for clarification that the Zoning Code requires paved driveways therefore the applicant would need to request a variance if they chose to continue with their request for a gravel driveway. Mrs. Lane clarified that the way the code is written, it would not be a variance request. The Code does provide for "alternate methods of pavement," so there is a mechanism in the Code for the applicant to come before this body, and with the Engineer's blessing they could use another form of pavement (such as, brick, pavers, another pervious type of pavement, etc.) however, gravel is not included as another method.

Mr. Bolek made some additional comments regarding the grade and proportion near the column by the garage doors. A discussion ensued between Mr. Bolek and Mr. Kucia regarding the height of the columns and the suggestion that more thought be put into that architectural feature of the house.

Mayor Renda made a motion seconded by Mr. Stanard to approve the new dwelling with a paved driveway, located at 1 East View Lane (PP#912-29-012), contingent upon compliance with the Architect's notes, Building Inspector's notes, and Engineer's notes.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Conomy Residence

400 Chagrin Blvd.

New Dwelling

Mr. Ryan Sanders with Premier Custom Builders was present at the meeting. Mr. Stanard informed the members that the Village Architect approved the plans without any notes. Mrs. Cooper asked about sight lines as it relates to turning out of the drive onto Chagrin Blvd. because that section is pretty straight. Mr. Sanders stated that the drive is located right where it turns going up the hill toward Chagrin Falls, so it is located on a pretty high elevation when you first turn, then it flattens out as it gets toward the property. Mrs. Cooper asked if there were any concerns with exiting the driveway onto Chagrin Blvd. Mr. Sanders stated that that is the reason why they ran the driveway all the way down to the flat end, which is close to another drive that exits there; a driver can see clearly down around the curve when exiting. Mr. Stanard stated that a letter from Mr. Filarski has indicated that all area, hillside, and setbacks are met; however there is a utility issue. Mr. Sanders stated that he had spoken with Mr. Filarski earlier today, and as of right now, he is still looking at trying to tie in to the sewer. He stated that to tie in the water, it will be over \$50,000, so they are looking at putting a well on the property. Mr. Filarski stated that the sewer line is at the corporation line and belongs to Chagrin Falls. He stated that it would be in the right-of-way off the road. The Chagrin Falls Village Council would need to grant them an easement to run a force main so that it is memorialized that any maintenance responsibility would be that of the property owner. Mr. Stanard asked what distance would be needed to tie in. Mr. Filarski stated that it would be about 200 to 250 feet across the front of the neighbor's property and an additional 50 feet along Chagrin Blvd. Mr. Sanders stated that they do have the approval from the County for septic on the lot, so if they are not able to tie in or it is not financially feasible, that would be their "Plan B." Mr. Filarski stated that any approval should be contingent upon his final approval since a final decision has not yet been made regarding utilities.

Mr. Bolek stated that he liked that they took the opportunity to set this much larger house back and the fact that the drive comes up past the house with the door on the left. He stated since the surrounding homes are significantly smaller, they have helped it blend in with the neighborhood.

Mr. Stanard made a motion seconded by Mr. Bolek to approve the new dwelling located at 400 Chagrin Blvd. contingent upon the Village Engineer's approval.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None
MOTION CARRIED

Haas Residence
10 Manderly Lane
Request for Reconsideration

Mr. Dennis Nevar, attorney with Kenneth J. Fisher Co., L.P.A., was present at the meeting. Mrs. Lane stated that in November, this matter was on the agenda at the request of the property owners asking the Planning Commission to amend a decision that was made a year prior (2013) where plan approval was given subject to three (3) conditions; that a release be signed, an Affidavit on Fact Relating to Title be recorded with the County to put future purchasers on notice of the fact that work was done without going through the proper channels, and setting forth a completion date for the work. The work has since been completed, a few months later than planned due to materials being delayed. She stated that sometime in June 2014, she sent a letter to legal counsel for the property owner, Mr. Kenneth Fisher, advising him that the Planning Commission's conditions were still outstanding and provided a draft release, draft Affidavit on Fact claims title and a draft additional language that the was being proposed to put into a Certificate of Occupancy. Mrs. Lane stated that in either October or November of 2014, Mr. Fisher contacted her office regarding the release language finalized and at that time, he raised some issues about requiring an Affidavit on Fact Relating to Title. At the November meeting, the Planning Commission took under consideration and passed a motion to amend their prior motion to no longer require the Affidavit on Fact Relating to Title. She stated, at that time, the Village and the Planning Commission thought it was still important to do what it could to put future purchasers on notice that work had been done on this property without plan approvals, permits, and that the Building Inspectors inspections were in fact restricted in that certain things were concealed and to the best of the Village's ability, attempts were made to open up areas of the home for inspection. Mrs. Lane stated that there was an item in the November 2014 decision authorizing a Certificate of Occupancy to be issued by Mr. Strichko containing additional language about the inspections that could not fully be performed to determine Code compliance. After this decision was made, Mr. Fisher has been in touch with Mrs. Lane's office and has issued a letter to the Mayor around Christmas, asking that this matter be brought back before the Planning Commission and specifically seeking a change/revision to the Certificate of Occupancy to remove that additional language. Mrs. Lane stated that the letters are included in the Planning Commission member's packets and so they can see the various reasons set forth why they are requesting that language be removed.

Mrs. Lane stated that she spoke with Mr. Fisher today and it is her understanding that if the Planning Commission would be inclined to consider a revision to the prior decision, he would be amenable to a Certificate of Occupancy not requiring a signature from Mr. and Mrs. Haas and instead of it containing the conditional language, attaching a signed executed release that the parties have already entered into, and lastly containing a statement to the effect of "for additional information regarding this property, please review the Village property file." Mrs. Lane stated that the idea of putting the conditional language into the Certificate of Occupancy was to have an additional layer for future purchasers to be put on notice, in lieu of the Affidavit on Fact. Legal

Counsel for the Haas' is taking exception to that and is requesting an alternate means of doing so.

Mr. Nevar stated that it is the position of Mr. and Mrs. Haas that the mutual lease that was entered into between them and the Village back in November, provides all the protection that the Village needs. It indemnifies and holds the Village harmless not only through his clients but also any subsequent purchasers. He stated that it is their position if there are any public information

requests in the future, certainly the mutual release would come along with that and provide any type of notice to subsequent purchasers of this property. In the event that the notations in Section 5 of the proposed Certificate of Occupancy were removed, the Haas' are amenable to attaching the mutual release to the Certificate of Occupancy as stated by Mrs. Lane. Mr. Stanard asked Mr. Nevar if the language for additional information regarding this property, "please review the Village property file" being placed on the Certificate of Occupancy was amenable as well. Mr. Nevar stated that it was acceptable. Mr. Stanard asked Mr. Nevar for confirmation that there is currently a legal action against the Village. Mr. Nevar stated that there is an administrative appeal pending which will be dismissed with prejudice.

Mrs. Lane stated for purposes of the record, the correspondence that has been provided through Mr. Fisher's office does threaten additional legal action, making certain accusations of violations of rights and other things. The Law Department has reviewed those claims and does feel that they are not well founded and those violations have not taken place.

Mr. Stanard asked if he was correct in assuming that the dismissal of the appeal action as noted would also preclude any future claims about this matter. Mr. Nevar stated that was correct.

Mrs. Lane reiterated that the Planning Commission is considering a reconsideration of their actions two months ago to authorize a Certificate of Occupancy that does not have the previously approved conditional language, that would attach the release, that would have the statement "for additional information regarding this property, please review the Village property file," and that would only require a signature from the Building Official and not from Mr. and Mrs. Haas.

Mr. Strichko stated that he wanted to clarify that Section 5 of the Certificate of Occupancy will be removed and that the signed release will be attached. Mrs. Lane stated that was correct. Mr. Strichko asked what would be indicated on the occupancy that would link the two together. Mrs. Lane stated that instead of the conditional language, she would suggest that it say "see attached release" as well as the language stating "for additional information regarding this property, please review the Village property file," which will both be indicated in Section 5. Mrs. Lane asked Mr. Nevar if this is his understanding as well. Mr. Nevar stated that it is his understanding that they are attaching the mutual release and referring to it saying "see attached mutual release" as well as "for additional information regarding this property, please review the Village property file." He stated that based on that he has authorization to accept that upon receiving the Planning Commission's approval, the administrative appeal will be dismissed with prejudice and of course no additional litigation will be commenced on this issue.

Mayor Renda made a motion seconded by Mr. Pogatschnik to approve the Planning Commission's reconsideration of their actions two months ago to authorize a Certificate of Occupancy that does not have the previously approved conditional language, that would attach the release with the language "see attached release" included, that would have the statement "for additional information regarding this property, please review the Village property file," and that would only require a signature from the Building Official and not from Mr. and Mrs. Haas and that all other aspects of the Planning Commission's November 14, 2014 approval remain unchanged.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: Mr. Fritz

MOTION CARRIED

Mrs. Lane asked Mr. Nevar for verification that they will receive a service copy of the notice of dismissal and any future claims. Mr. Nevar stated that is correct. Mrs. Lane stated that the Certificate of Occupancy would be available in a matter of a day or two after the receipt of the notice of dismissal.

Mr. Stanard stated that at this time, the Planning Commission will need to approve the minutes from the November 24, 2014 meeting. Mrs. Lane explained that the reason they are approving them now is because they take the position that approval of the minutes then renders the administrative appeal ripe so we did not want to do a reconsideration of the decision if the appeal was deemed filed and pending. She stated that she thinks that the Planning Commission would potentially be divested of jurisdiction, but they would not be now because they have just taken action on this matter.

Mayor Renda made a motion seconded by Mrs. Cooper for approval of the minutes from the November 24, 2014 meeting.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mayor Renda

ABSTENTIONS: Mr. Bolek, Mr. Pogatschnik, Mr. Stanard

NAYS: None

MOTION CARRIED

Discussion:

Mayor Renda stated that she and Mrs. Lane have been talking about having a Planning Commission training session. The Code has changed a little bit and this board has more ability to comment on aesthetics than originally thought. She stated that she has suggested having a working dinner after the next Planning Commission meeting for the purposes of this training session.

Mrs. Cooper suggested adding language to the Point of Sale Inspection to the effect of "there are always additional records on file for this property at the Village Building Department" because she stated that people may not know that there could potentially be more information on a

property that they can look at. Mr. Strichko stated that there has been some discussion to expand the scope of what is inspected for the Point of Sale Inspections; currently only the carbon monoxide and smoke detectors are looked at. Mayor Renda stated that Mr. Strichko is limited in what he can cite them for since he is only there to look at those two items. She stated that if he were to see a hole in the floor, he couldn't really do anything about it.

Mr. Bolek asked if the training session from Mrs. Lane would include exterior maintenance issues as well. Mayor Renda stated that she and Mrs. Cannon had a long discussion regarding exterior maintenance issues and that may be a good reason to have a separate training session since there is so much to cover. She stated that Mrs. Cannon understands her concerns since our Village has an aging housing stock and the down turn in the economy added challenges. Mayor Renda stated that the discussion was just in the beginning stages but discussions will continue and when we have clearer objectives, she will bring it to Planning and then to Council. She stated that it is a big issue. Mr. Bolek agreed and stated that he learned at the seminar he went to that the biggest problem municipalities have is continued acceptance of the non-appropriate property actions, use, and up keep. He stated that he feels that it falls on the Village to enforce it. Mayor Renda stated that she agrees and that just because you are not seeing things change, like at Sunoco, does not mean that the Village is not pursuing change. She stated that things get difficult when the owner goes bankrupt and the property goes into foreclosure. Mr. Strichko stated that, like the Mayor said, it is not that things are not being done, but that sometimes it moves very slowly. Mayor Renda reminded them of the issues at the BP Station that were similar to Sunoco and the Village started in 2004 to straighten that property out and it was finally finished in 2014. It was not that it was not worked on a lot, but it was a long time consuming process. Mr. Bolek stated that he understands and that he knows that there are long-term attempts to solve the issue; however, from his standpoint they are left to go far too long. He stated that it would be helpful to really have an understanding of what we are able to do about it. Mayor Renda stated that she thinks that is a good idea for Planning Commission to understand; what we can actually do and what belongs to them and what belongs to the administration, and how to ultimately work together on it.

Mr. Fritz made a motion seconded by Mr. Stanard to adjourn the meeting at 7:48pm.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Respectfully Submitted,

Sherri Arrietta, Clerk of Council