

Minutes

Clark County Planning Commission

Regular Meeting ~ 2:00 p.m.
Wednesday, January 8, 2020

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Mark Scholl, Chairperson of the Clark County Planning Commission, called the meeting to order at 2:01 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Dave Stickney, Commissioner Lohnes, Mr. Jay Kitchen, Commissioner McGlothlin, Mrs. Charlene Roberge, Mr. Mark Scholl, Mrs. Jo Anderson, Mr. Ken Knight, Commissioner Wilt, and Ms. Louise Maurer.

Absent For Roll Call: Mr. Don Wallace.

Approval of the December 4, 2019 Minutes

Mr. Neimayer stated on Page 1 under absent for Roll Call, "Commissioner Wilt" should read "Commissioner Wilt".

Motion by Mrs. Roberge, seconded by Mr. Stickney, to **Approve** the minutes with the correction as noted by Mr. Neimayer.

VOTE: Yes: Mrs. Roberge, Mr. Stickney, Commissioner Lohnes, Ms. Maurer, Commissioner McGlothlin, Mr. Scholl, Mrs. Anderson, and Mr. Kitchen.

No: None.

Abstain: Commissioner Wilt.

Motion carried.

Chairperson Scholl asked for Staff to present the first case.

Rezoning Case #Z-2020-01 ~ Property Owner/Applicant: Dan & Melanie Phillips ~ Location: 6335 Fletcher Chapel Rd., Harmony Twp. ~ Request to rezone 6.96 acres from A-1 to PD-R (Planned District Residential) to allow for two separate dwellings on the same parcel.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 6335 Fletcher Chapel Rd. and consists of 6.96 acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like to rezone the property to PD-R (Planned District-Residential) to allow for two separate dwellings on the same parcel. Under Section 808.10, only one single-family dwelling shall be permitted on a parcel of land in the A-1, R-2, R-2A, or R-2B zoning districts.

Mr. Neimayer reviewed the recent history regarding this second dwelling. In January 2016, a zoning certificate and building permit were issued for an addition to an existing detached garage. Upon an electrical inspection in January 2017, it was discovered that the existing detached garage was torn down and a new building was built as a second dwelling without proper zoning and building approvals. On January 18, 2017, Zoning Certificate #PZC17-006 was approved to remove a 24 ft. by 24 ft. old detached garage and to construct a new 24 ft. by 40 ft. non-habitable detached garage using existing foundation. On February 24, 2017, revised building plan approval #PB16-0023 was issued for storage only, second story not approved for use. In October 2019, the Zoning Office received information that this new building is being used as a second dwelling. Upon investigation it was determined said use is in violation of Zoning Code Section 808.10. In November 2019, both zoning

and building code violation letters were issued to the property owner, the request for rezoning was filed on November 25, 2019.

The CONNECT Clark County Land Use Plan identifies this area as Rural/Agricultural: Areas that are primarily in agricultural use and include single-family residential, agricultural-related buildings, and civic uses. There is no floodplain in the immediate area of the subject property. There are no public utilities in the immediate area of the subject property. The current right-of-way of this section of Fletcher- Chapel Road is 60 ft., 30 ft. from centerline. The Thoroughfare Plan identifies Fletcher- Chapel Road as a Collector Road with a 60 ft. ROW. Staff recommends the Applicant's request to rezone the subject property from A-1 to PD-R be approved as presented.

Mrs. Roberge asked, were there any other objections? Mr. Neimayer responded, no.

Commissioner Wilt asked to see the map that showed the road and where it is located. I am just trying to get my bearings.

Mr. Stickney asked, what are we trying to approve, something that was violated in the past? Mr. Neimayer responded yes. We are just trying to get the property under proper zoning (district) to clear up the land use violation. Mr. Neimayer stated the Applicant is here and can explain the history.

Commissioner Wilt asked, so they have been essentially living in that structure without proper zoning and permits? Mr. Neimayer responded yes. Chairperson Scholl asked, so when the building was approved it was approved not as a dwelling? Mr. Neimayer responded zoning approval was for a new, larger detached garage to be non-habitable. The use was later changed. Commissioner Wilt asked, so they did it anyway? Mr. Neimayer responded yes.

Chairperson Scholl asked, do they have the proper permits? Mr. Neimayer responded no.

Mrs. Roberge stated, trying to clarify the situation, they requested to build a building, were told specifically not to live in it, they went and lived in it anyway, did not get the permits, and they are now asking to change the zoning district to approve them for not following the rules? Mr. Neimayer responded that is correct. Mrs. Jennifer Tuttle, Planner, added if it is approved, all the permitting process would still have to take place. Mrs. Anderson added, so they are here to make it right. Mrs. Tuttle replied, yes this is step one, but they still have to meet building code.

Commissioner McGlothlin asked, is that family and family; is that the scenario? Mr. Neimayer responded, yes I believe so. Commissioner Lohnes asked, are there separate wells and septic? Mrs. Tuttle responded, there were no comments received from the Health District. Mrs. Roberge added, so we do not know if there is one well or two? Mrs. Tuttle responded, no we do not.

Dan Philips, Applicant, 6335 Fletcher Chapel Rd., stepped up to the podium. Mr. Phillips stated that he has lived on this property for four or five years now. His daughter and her husband had been living with us and we were planning to finish out the basement for them. We just got the idea to finish out the garage for them and call it a mother-in-law suit, not knowing that we really could not do that. Once it happened, they were already living in it. It progressed into more than what we thought it was going to be. Mr. Phillips stated he just wants to make it right, do what I need to do to correct it, and make it livable and be on the same property as our house.

Commissioner McGlothlin asked, can you answer the question about the well and septic? Mr. Phillips responded they are hooked together. Commissioner Lohnes asked, is there only one well and septic? Mr. Phillips responded yes, there is only one well and one septic.

Mrs. Roberge asked how many bedrooms are in the main house? Mr. Phillips answered three. Mrs. Roberge asked, how many bedrooms are in the garage? Mr. Phillips answered four. Mrs. Roberge asked, and do you know the size of your septic tank? Mr. Phillips responded yes. The Health District has been out a couple times and I asked them about the load on it and they said we were good because we have the same amount of people that were living in the main house.

Commissioner Wilt stated if you were to sell, that would probably change because that is based on the number of bedrooms vs. the number of people. You could be forced to put in a new, bigger septic system. Mr. Philips responded I understand that.

Commissioner McGlothlin asked Mr. Neimayer, you said this would need to be inspected if it passes through here? Mr. Neimayer responded it would have to go through the proper zoning and building permitting process. Commissioner Lohnes asked, would it need to go through the Health District for the septic system? Mr. Neimayer responded the building department will want their approval before they would issue a Certificate of Occupancy. Commissioner Lohnes added, and the Health District may or may not approve it.

Mrs. Roberge added, so we could approve this and the Applicant could potentially run into an issue with the Health District. Mr. Neimayer responded yes. This is just one of many steps.

Chairperson Scholl asked the Applicant, the work you had done was it done by licensed contractors? Mr. Philips responded everything was done up to code. My friend is a builder. I bought everything and we did the work together. The electric was done by Robinson Electric. The insulation was done by Robinson Insulation.

Chairperson Scholl stated you have to watch that these days, there have been a lot of instances where people go to refinance their property and the addition was not inspected, permitted or approved. Mr. Philips stated he learned that from his insurance because they do not want to insure it. Chairperson Scholl added, plus you do not want your family living in a structure with electricity that has not been approved by the building department.

Commissioner Lohnes stated I am shocked the companies you worked with did not ask for permits. Mrs. Tuttle added, the permits were for non-habitable, not for habitable. Commissioner Lohnes added, a full permitting process would have triggered issues at the auditor's office.

Commissioner McGlothlin stated, it looks like this needs to be rezoned to what the Applicant is asking for, then it would need to go through the permitting process to get it a habitable dwelling, is that correct? Mr. Neimayer responded yes.

With no further discussion from the Board, Chairperson Scholl asked for a motion.

Minutes

Clark County Planning Commission

Action on Rezoning Case #Z-2020-01 ~ Property Owner/Applicant: Dan & Melanie Phillips ~ Location: 6335 Fletcher Chapel Rd., Harmony Twp. ~ Request to rezone 6.96 acres from A-1 to PD-R (Planned District Residential) to allow for two separate dwellings on the same parcel.

Motion by Mrs. Roberge, seconded by Commissioner McGlothin, to **Approve** the Applicant's rezoning request as presented.

VOTE: Yes: Mrs. Roberge, Commissioner McGlothin, Commissioner Lohnes, Ms. Maurer, Mr. Knight, Mrs. Anderson and Mr. Kitchen.

No: Mr. Stickney.

Abstain: Commissioner Wilt.

Motion Carried.

Chairperson Scholl asked for Staff to present the next case.

Rezoning Case #Z-2020-02 ~ Property Owner/Applicants: ARDDBPP Homes LLC, Larry Pegram ~ Location: 4034 Dayton- Springfield Rd., Mad River Twp. (PID# 180-06-00021-000-051) ~ Request to rezone 1.05± acres from A-1 to B-2 to allow for a 2.37± acre lot split for Jenks Electric.

Mr. Neimayer stated the subject property is located at 4034 Dayton- Springfield Rd., Parcel #180-06-00021-000-051, south of Cold Springs Rd. The property consists of 5 acres and is currently zoned A-1 (Agricultural District). The front of the subject property, along with the front of the adjacent Parcel #180-06-00021-000-038, has been used in the past for commercial business. Jenks Electric is interested in buying the front portion of these two parcels to relocate their business. That adjacent parcel is already zoned B-2 (Community Business District). The Applicant is therefore requesting to rezone approximately 1.05 acres of the subject property, Parcel #180-06-00021-000-051, from A-1 to B-2. The proposed 2.37± acre lot split is subject to this rezoning approval. The remainder of these two parcels would be combined with the Applicants parcel at the corner of Cold Springs Rd. and Dayton-Springfield Rd., Parcel #180-06-00021-000-044.

The CONNECT Clark County Land Use Plan identifies this area as Rural/Agricultural: Areas that are primarily in agricultural use and include single-family residential, agricultural-related buildings, and civic uses. There is no floodplain in the immediate area of the subject property. There are no public utilities in the immediate area of the subject property. The current right-of-way of this section of Dayton-Springfield d. is 60 ft., 36 ft. from centerline to the subject property. The Thoroughfare Plan identified Dayton-Springfield Rd. as a Primary Arterial with a 100 ft. ROW. The previous tenant, Green Vista Water Gardens, closed its storefront doors in the summer of 2019.

Mr. Neimayer stated prior to the CPC meeting he was informed by the Applicant of an amended request to rezone the entire subject property, Parcel #180-06-00021-000-051, to B-2. Therefore, Staff recommends the Applicant's amended request to rezone the entire subject property from A-1 to B-2, allowing for a 2.37± acre lot split for Jenks Electric, be approved as presented.

Mrs. Roberge stated, I am curious about the lot split because we talk about being nice and neat and if that is several parcels, one of those parcels will only have a 30 ft. frontage and that will not be enough. Mr. Neimayer responded the remaining parcels will be required to be combined with the Applicant's corner parcel ending in -044. Mrs. Roberge asked, so the only thing we are approving

today is the zoning? Mr. Neimayer responded yes. Mrs. Roberge stated, so you are going to require them to also combine with the other parcels so that it has frontage, and it is not land locked? Mr. Neimayer responded that is correct.

Mr. Stickney asked what the County Engineer's Office concern is. Mr. Neimayer responded their concerns have to do with existing curb cuts. They are not in favor of approving additional curb cuts. There are currently two curb cuts. I would imagine the County Engineer's Office would want to work with Jenks Electric to eliminate one of those curb cuts to improve traffic safety. (From the audience) it was stated that Jenks Electric only needs one curb cut.

Ms. Maurer asked how the proposed use corresponds with the CONNECT Clark County Land Use Plan. Mr. Neimayer responded the Land Use plan identifies this as rural agricultural. Ms. Maurer asked, has there been any complaints? Mr. Neimayer responded no. Business use on the property dates back to the 1960s. From my understanding the proposed use (Jenks Electric) will all be indoor, nothing outdoor.

Larry Pegram, Applicant, 4034 Dayton- Springfield Rd., stepped up to the podium. Mr. Pegram stated the 30 feet I initially asked for, I did not know where the property line was on the drawing. And just now talking to Jason (Jenks Electric), he does not need two entrances. Once he gets the lot split, he only wants one entrance anyway. So we would be doing away with one of those.

With no further discussion from the Board, Chairperson Scholl asked for a motion.

Action on Rezoning Case #Z-2020-02 ~ Property Owner/Applicants: ARDDBPP Homes LLC, Larry Pegram ~ Location: 4034 Dayton- Springfield Rd., Mad River Twp. (PID# 180-06-00021-000-051) ~ Request to rezone 1.05± acres from A-1 to B-2 to allow for a 2.37± acre lot split for Jenks Electric.

Motion by Mrs. Roberge, second by Mrs. Anderson, to **Approve** the Applicant's amended rezoning request as presented.

VOTE: Yes: Mrs. Roberge, Mrs. Anderson, Commissioner Lohnes, Ms. Maurer, Commissioner McGlothin, Mr. Kitchen, Mr. Knight, Mr. Stickney and Commissioner Wilt.

No: None.

Motion carried.

Chairperson Scholl asked for staff to present the case.

Rezoning Case #Z-2020-03 ~ Property Owner/Applicant: Shane Nugent ~ Location: 204-208 Sycamore St., Bethel Twp. ~ Request: to rezone 0.77 acres from B-3S (General Business District, Specific Use) to PD-M (Planned District-Mixed Use) to allow for a single-family residence, body shop repair, and a small car lot (to comply with Ohio law).

Mr. Neimayer stated the subject property is located at 204-208 Sycamore St. and consist of 0.77 acres. The property is currently zoned B-3S (General Business District, Specific Use). The Applicant's business includes buying and repairing totaled cars from insurance companies and selling them. Ohio Law requires the Applicant to get a dealer's license – see Applicant's narrative. Because

the current B-3S zoning does not provide for “selling vehicles”, the Applicant has filed this rezoning request for PD-M (Planned District-Mixed Use), which will also allow for the rebuilding of the single-family home, if necessary, that under B-3S is not permitted.

The intent of the PD-M District is to provide flexibility for a variety of land uses arranged in such a way as to develop a plan permitting a mixture of types of buildings and uses in harmony with each other, and to promote an attractive environment that is compatible with surrounding developments. The CONNECT Clark County Land Use Plan identifies this area as Suburban Living, Low Intensity.

There is no floodplain in the immediate area of the subject property. There are no public utilities in the immediate area of the subject property. The current right-of-way of this section of Sycamore St. is 40 ft., 20 ft. from centerline. The Thoroughfare Plan identifies Sycamore St. /Medway-Carlisle Rd. as a Secondary Arterial Road with an 80 ft. ROW. Staff recommends the Applicant’s request to rezone the subject property from B-3S to PD-M be approved as presented. The Applicant is hereby informed that any future change (land use or building) would require a zoning amendment to this PD-M, if approved.

Mrs. Roberge asked, when we rezoned this to B-3S was the residence there at that time? Mr. Neimayer responded yes. Mrs. Roberge asked, and we did not catch it? Mr. Neimayer responded that is correct. The focus at that time was on the business. Mrs. Roberge then asked, so we should have done this back then? Mr. Neimayer answered, correct.

Mrs. Roberge asked, can you clarify a little more the complying with Ohio Law. Is that regarding the body shop? Mr. Neimayer answered, complying with Ohio law is to get the proper zoning for the selling of the vehicles. As explained in the Applicant’s narrative, you are allowed to sell up to a certain number of vehicles without zoning, but now Ohio law is requiring the Applicant to get proper zoning and license. The current B-3S zoning does not identify the selling of vehicles. Mrs. Roberge asked, is that how all of this got discovered? Mr. Neimayer responded yes. Mrs. Roberge asked, so you had no complaints? Mr. Neimayer answered no. This is all by the Applicant trying to get everything in compliant.

With no further discussion from the Board, Chairperson Scholl asked for motion.

Action on Rezoning Case #Z-2020-03 ~ Property Owner/Applicant: Shane Nugent ~ Location: 204-208 Sycamore St., Bethel Twp. ~ Request: to rezone 0.77 acres from B-3S (General Business District, Specific Use) to PD-M (Planned District-Mixed Use) to allow for a single-family residence, body shop repair, and a small car lot (to comply with Ohio law).

Motion by Mrs. Roberge, second by Commissioner Wilt, to **Approve** the Applicant’s rezoning request as presented.

VOTE: Yes: Mrs. Roberge, Commissioner Wilt, Commissioner Lohnes, Ms. Maurer, Mr. Knight, Commissioner McGlothlin, Mr. Kitchen, Mrs. Anderson, and Mr. Stickney.

No: None.

Motion carried

Staff Comments

Mr. Neimayer stated the next scheduled meetings are February 5 and March 4, 2020.

Chairperson Mark Scholl introduced a new Board Member: Ken Knight.

Other Business

Mike Sebastian, 1455 Wilson Rd., asked to speak to the Board. Mr. Sebastian explained that he is having some difficulties (nuisance issues) with his neighbor and would like the Board's input. The Board explained that there is nothing this Board can do to help him. They told him that he would need to keep going to the Harmony Township Trustees meetings and taking it up with them. Commissioner Wilt added, I hate this for you, but this Board's strongest action we could take is to do the code enforcement that we are able to do, which is not going to solve your problem. The next route is a criminal investigation which does not fall under our jurisdiction. Commissioner Lohnes added that again, the Township Trustees have more pull on this than we do.

Commissioner Lohnes left the meeting at 2:55 pm.

Commissioner McGlothlin left the meeting at 3:03 pm.

Adjournment

Motion by Mrs. Roberge, seconded by Mrs. Anderson, to **Adjourn**.

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:08 pm.

Mr. Mark Scholl, Chairperson