



CITY OF OLMSTED FALLS
PLANNING AND ZONING COMMISSION
MINUTES
MARCH 6, 2019
7:30 PM
COUNCIL CHAMBERS

Commission Members Present: Brett lafigliola, Michelle Hawkins, Garry Pehanic, Dave Fenderbosch, Jim Haviland. Garry Thompson and Peter Carpenter were excused.
Audience: 27

Chairman Brett lafigliola called the meeting to order at 7:32 p.m.

1. Planning & Zoning Case #13-2018 - A request made by John Jacobs, owner of 7932 Main Street, (Olde Wine Cellar) PP# 291-19-004 for a conditional use permit for outdoor seating areas to be located in the front and back of the Olde Wine Cellar pursuant to Section 1252.03(5)(b).

John Jacobs, 7932 Main Street (business address), stated that he would like to use some of the green space in the front of his business in order to have live entertainment and picnic type of seating for the summer. Mr. lafigliola asked who was necessitating the fence. Mr. Jacobs indicated that the state liquor board requires a permanent structure and has to be an enclosed area so people are aware that they cannot have alcoholic beverages outside the perimeter. Again, we would like to bring live entertainment once a week as well and the inside of the building is too small. Mr. lafigliola asked what type of entertainment. Mr. Jacobs replied primarily bands.

Mr. lafigliola stated that the drawings indicate a fence 48' long and 40' wide in front of the property and would be a white vinyl picket style. Mr. Jacobs replied correct. Mr. lafigliola asked if Mr. Jacobs had appeared before the Architectural Board of Review. Mr. Jacobs replied that he did and ABR recommended the white picket style. He stated that he agrees with the ABR board. He was not approved for the original design of a split rail fence so he will be appearing before the ABR with the white picket design.

Mr. Smerigan indicated that Mr. Jacobs does need a conditional use permit for outdoor seating and we always anticipated that there would be outdoor dining associated with the businesses use. He sees no concerns relative to what is being proposed. Mr. lafigliola stated that Mr. Smerigan wrote on memo dated 08/21/2018 which states "there is no information regarding improvements, such as paving, drainage, etc., in the front patio area." This will be a simple perimeter fence. Mr. Jacobs indicated that was correct. Mr. Smerigan indicated that his was concerned about that issue as it could potentially change drainage issues. But as he understands that is not part of the proposal and is a non-issue. Mr. lafigliola stated that the city engineer sent comments dated 02/27/19 indicating "no engineering objections to the proposed use."

Gail Teper, 25197 Nobottom Road, asked what the current seating is for the business if there was no seating in the front. Mr. Jacobs replied 28. Ms. Teper asked how many

seats would be added. Mr. Jacobs replied 10 to 15. Ms. Teper asked how many feet is anticipated from the front porch to the fence line. Mr. Jacobs indicated that it would not be any farther than the flower bed adjacent to the parking lot and would be 40 feet from the sidewalk in front of the building. Ms. Teper asked about the bands since there are residential properties in the vicinity would there be hours associated with the entertainment. Mr. Jacobs replied that the bands would be on Thursday's and the business closes at 9:00 p.m. but it is possible that they could play till 10:00 p.m. on certain occasions. Ms. Teper indicated that the music would not affect her but could for the residents in the neighborhood. Mr. Jacobs indicated that the biggest band he has had would be four guys. This is more like jazz or singer/songwriter type of bands.

Ms. Hawkins asked if there would be any other type of landscaping with the fence. Mr. Jacobs replied no as he would like to keep the area as low on maintenance as possible. Ms. Hawkins indicated that aesthetically it would look nicer. Mr. Jacobs replied that it is possible that flowers would be planted. He does not want the area to be an eyesore. Ms. Hawkins stated that the building is a historic home and the outside is yellow and asked if the fence could be a different color so that it could blend into the home. Mr. Jacobs indicated that the fence does not come in a matching color.

Mr. Haviland stated that he likes the idea of expanding for outdoor seating and believes this is needed in Olmsted Falls and is consistent with the city's master plan especially in the downtown area. He believes that there is white fence around the wedding chapel around the parking lot. He asked if the tables would remain outside all year. Mr. Jacobs indicated that the tables are small and would be taken in and out.

Mr. Iafigliola stated that because this is a conditional use request the Commission can set operating hours. Mr. Smerigan replied correct. Mr. Iafigliola indicated that perhaps that would be appropriate. He stated that Mr. Jacobs did indicate that his business is open until 9:00 p.m. but Mr. Iafigliola believes that would cut it close and would recommend 10:00 p.m. Mr. Jacobs replied that would be a reasonable hour as he does not want the band to perform any later than that.

Mr. Iafigliola indicated that Mr. Jacobs indicated that he does have to appear before ABR and also indicated that ABR did recommend the white vinyl fence, he does like the low maintenance aspect but he does fear that the fence will stick out in this location. This is a high-profile location but does not qualified to indicate what style of fence to use but ABR should be aware of the proposed type. He stated that Mr. Jacobs is requesting the size of 40'x48' and indicated that 10 tables would be used which seems like a large area for the table amount. Mr. Jacobs indicated that the tables would be spaced out which leaves room for individuals to sit on a blanket, if they would like, as well as room for the band. His kitchen is not large so he would not be able to add more seating as that would overwhelm the kitchen. Mr. Iafigliola asked if the Commission could reduce

the size of the area. Mr. Smerigan replied yes. The motion would include three stipulations: (1) there be no music outdoors after 10:00 p.m.; (2) the fence style would be as approved by the Architectural Board of Review; and (3) the final location of the fence will be as approved by the city engineer. Mr. Pehanic indicated that he does not want to limit the applicant to the number of tables permitted. Mr. Smerigan indicated that the tables will be spaced out for safety issues.

Mr. Iafigliola moved to **approve** a conditional use permit for outdoor seating areas to be located in the front and back of the Olde Wine Cellar pursuant to Section 1252.03(5)(b) with the following conditions: (1) the hours of operation be limited to no later than 10:00 p.m. Thursday, Friday, Saturday and Sunday evenings; (2) that the aesthetics of the perimeter fence as required by the State of Ohio be determined by the Architectural Board of Review; however they are advised that the Planning Commission has some concerns about the material as appearance as it relates to the applicants' proposal and would be advised to consider another option that is more appropriate for the historic downtown area; and (3) the overall size, which is currently proposed at 48' x 40' be approved by the city engineer; Mr. Haviland **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

2. Planning & Zoning Case #04-2019 – A request made by Dave Kolar, owner of PP# 281-05-013, East Side of Columbia Road, between Water and Nobottom, for a variance of six (6) dwelling units to Section 1268.06 to permit the maximum density to be 1.95 dwelling units per acre in lieu of the Code maximum of 1.5 dwelling units per acre; and a variance of ten (10) feet to Section 1268.07(a) to permit the minimum front setback from the new street to be forty (40) feet in lieu of the required fifty (50) feet; and approval of the preliminary development plans pursuant to Chapters 1268 and 1232.

3. Planning & Zoning Case #05-2019 – A request made by Dave Kolar, owner of PP# 281-03-013/281-03-009 West side of Columbia Road, between Water and Cook Road, for a variance of 3.65 acres to Section 1268.03 to permit the minimum project area be 6.35 acres in lieu of the Code required 10 acres; a variance of two (2) dwelling units to Section 1268.06 to permit the maximum density to be 3.31 dwelling units per acre in lieu of the Code maximum of 3.0 dwelling units per acre; and a variance to Section 1270.07(f) to permit the proposed street to be a private street in lieu of a public street; and approval of the preliminary development plans pursuant to Chapters 1268 and 1232.

Dave Kolar, 130 West Streetsboro, Hudson, Ohio. Mr. Iafigliola administered the oath.

Mr. Kolar stated that since the sewers are being installed, he is planning on moving forward with the subdivisions. He has resubmitted plans for approval based upon what was originally approved. He is hoping to move forward due the all the preliminary

engineering and work that has been completed. The elevations have been set to be coordinated with the sewer lines on Columbia Road and worked with the city engineer with those elevations. He indicated that he is requesting re-approval of the plans that were previously submitted.

Mr. Iafigliola asked if any changes were made. Mr. Kolar indicated that plans were previously approved and the development needed to be tied into the sewers. The city sewer project has taken over a 2 or 2 ½ to begin as it needed to be rebid and redesigned. He indicated that the project was rebid and construction began last year. He could not complete this project because the EPA would not issue a permit until there was an actual sewer to tie into, so he has been awaiting the sewers to be installed. Now that the sewers are constructed, he is before the Commission to request re-approval of the plans in order to begin construction.

Mr. Iafigliola asked if both subdivisions would be built concurrently since they are related to each other. Mr. Kolar replied that he has been ready, willing and able for quite some time.

Mr. Iafigliola indicated that variances are also being requested. Mr. Smerigan indicated that two variances are needed on the east side. Mr. Kolar stated that there will be 25 lots on the east side. This will be a conventional single-family subdivision and will be a public street

Mr. Iafigliola stated that a resident asked if the development on the east side would have access off of Columbia Road and the answer is no, access will be off of Main Street.

Mr. Kolar stated that the west side of Columbia Road will be a cul-de-sac with 21 lots and access off of Columbia Road. This is the same concept as was previously submitted. This will be a private street with maintenance of that street by a homeowner's association. A portion of the storm detention will be onsite; the rest of the storm detention will be pumped across the street to the subdivision on the east side to the joint storm basin. The difference between what was previously approved and this request, is originally two lots were left off in order to provide for a future connection to the property to the south. There were three parcels that we attempted to purchase from private owners in order to expand the subdivision by putting in a "t" intersection and bringing the street to the South but these individuals elected not to sell their property. So, we eliminated that connection and changed the street to a stand-alone cul-de-sac. This will be single-family detached home development, the same as the east side.

Mr. Iafigliola administered the oath to the audience.

Scott Graham, 7655 Main Street, thanked the Commission for holding the public hearing. He stated that he is the property owner at the very north end of Main Street, his property abuts what will be subplot #1 on the drawing. In 2007 when this subdivision was originally proposed and approved he granted an easement for a storm sewer line to be installed along his back yard in exchange for an easement on a portion of subplot #1 and believes that is still in place. He has been following this development since 2005 to 2007 and has attended almost every meeting and is intimately familiar with what Mr. DiBenedetto and other have planned and what was previously approved. He does consider himself neutral, he is not opposed to this in any way but does want to understand. He knows that Mr. DiBenedetto builds beautiful homes and he is sure that this will be a beautiful development someday when it is done. He wants to understand the plans and hopefully represent the best interests of the current neighbors especially those of us on Main Street. It is his understanding that this is a re-approval of the plans previously approved and is only speaking to the east side of Columbia Road. The plan is to build 27, what he would consider luxury homes, he remembers Mr. DiBenedetto indicating that these would be \$300,000 to \$400,000 luxury homes. The city approved a higher density of 1.95 dwelling units per acre but that approval has expired. The difference between the 1.5 density and the 1.95 equates to six homes, and that is why the letter that was sent mentions six homes, when in fact it is about 27 homes and he thought the letter was deceiving and inappropriate, in his opinion. So, we are here to talk about 27 homes versus 21 allowed by the code. This is a 14-acre parcel and that is how you get the 21 versus 27. As we all know our zoning rules and codes exist for a reason and he believes it is vitally important that any variances be granted only for compelling win/win reasons. Back in 2007, when this was last approved, there was a very compelling reason for the city to approve and that was because the builder agreed to pay for a portion of the sewer project, which we now know as the Phase V Sewer Project. Back then the builder was going to kick in considerable money to help pay for the sewers and that was the compelling reason for approving. This is not the case now where all of us in the area are paying our fair share of the Phase V sewer project, including Cambridge Services, which is on the assessment role and they are assessed \$345,000 for their parcel which has the 27 homes. They are paying their fair share just like all the other 300 residents in the Phase V sewer district. He would like to understand what is the new compelling reason here in 2019 for the city to consider granting these variances to allow the six additional homes on the parcel. He understands why the developer and the owner wants this but why would the city want to do this, what is the win for the city. Long after these homes are built and sold and the developer and builder are long gone, we will be living with the results of what we decide here in 2019. Both the current residents and future residents, including the new residents of the 27 homes, so it is important that we don't screw this up, we are only talking about six homes. His questions are: what does the city feel is the compelling reason for allowing this variance; is there anything different about the 2019 plan versus the 2007 plan and he thinks we heard on the east side there really is none other than

tying into the newly built Columbia Road sewer line; will this be a plan residential development, a PRD; our laws require that the development have a certain amount of usable, the key word is usable, green space, please comment on the current green space plan and any differences from the 2007 plan; and lastly, he is a little confused and would like to understand the roles and relationships between the owners Mr. Dave Kolar, Cambridge Services, which is listed as the owner of the property on the assessment role, he is assuming the Mr. DiBenedetto is still the builder and would like confirmation of that and is the design engineering firm still Suhail and Suhail as it was in 2007.

Mr. Kolar stated that the variance is the same that was granted when the project was originally developed and there was a lot of discussion at that time, which predates him, and was based upon the overall concept and what was considered good utilization of the property. He stated that it is a PRD and does meet the open space requirements and actually exists those requirements. A lot of this plan was vetted thoroughly during the original approval. We have stayed with the project over a lot of years, as everyone well knows, with the intention of building. One of the compelling reasons is that we have showed good faith and have stuck with the original plans rather than walking away. We have continued to work with the city and the city engineer to make this work and we believe it will be a real benefit to Olmsted Falls and the city. This will precipitate a very nice development and enhanced to the city and its tax base. It will provide some housing opportunity to individuals who want to come to the city. There are a lot of nice things about Olmsted Falls and people do want to be here. There are some limitations in terms of what is available and new housing so this brings the ability to individuals who want to do a sideways move that want to get into a bigger home or into a smaller home, something that meets their desire. This will create a new housing opportunity and an opportunity for individuals who want to come to Olmsted Falls and have a new home. Mr. Iafigliola indicated that Mr. Graham's particular question was why is the variance needed. Mr. Kolar indicated that the variance is needed in order to build the project as it was originally approved, and all the work that has been done regarding engineering.

Mr. Iafigliola indicated that Mr. Graham's next question is what is the difference in 2019 versus 2007. Mr. Kolar replied no, except for the sewers. The assessment is based upon the number of lots that were previously approved, so, if less lots are approved, he assumes the assessment would reduce as it was completed on a per tap in basis. Mr. Iafigliola asked if Mr. Kolar would comment on the usable green space. Mr. Kolar indicated on the drawing what would be usable green space. He stated that the open space is outside the actual lot itself. There is open space surrounding all the lots to provide separation and a buffer. There are wooded areas. It was originally designed with this idea in mind. The requirement for open space now is similar to what it was back in 2007 and was vetted at the time when the project was originally approved.

Mr. lafigliola indicated that the fifth question he is unsure it is within the Commission's purview and that is what are the roles between the developer, builder and engineer. Mr. Kolar indicated that he is the developer, his development company is Cambridge Services and he is the president. He is the guy who makes the decision and the one who sticks his neck out. We own the property and will be constructing all the improvements and then will sell lots to builders, the most likely builder he will sell to is DiBenedetto and is the individual who brought him to this project. He believes because of their history here and the type of homes they build he believes it is a good fit for this market. They are an upscale builder and he thinks that this market will sustain a nice upscale type of home. Suhail was the original design engineer and still are.

Mr. lafigliola stated that Mr. Graham indicated that he granted an easement in exchange for a storm sewer and the drawing does indicate that and would like to get on the record that this easement is still in place. Mr. Kolar replied yes.

Mr. Graham asked if the homes were still envisioned to be in the \$300,000 to \$400,000 range. Mr. Kolar replied yes or higher as the market has continued to go higher. Mr. lafigliola asked what would be the approximate square footage of the homes, obviously it would depend on the individual buyer. Mr. Kolar stated that Mr. DiBenedetto could address this question better but he would say in the neighborhood of 2400 to 3200.

Mr. Graham indicated that Mr. Kolar stated in his opening remarks that the extension of Main Street will be a public road not private. Mr. Kolar replied yes.

Mark Tomasch, 7522 River Road, stated that his property abuts the proposed development. He stated that at the conclusion of this he is requesting that the Planning Commission deny the requested variances for a very specific reason. Under the codified ordinance 1232 sets out some specific requirements of hardship and various other aspects for granting variances on any piece of property for any project. But it clearly states that one of the conditions that is not grounds for a variance is the profit of the developer or economic reasons and he wanted to make sure this was foremost in everyone's minds because he does not see or has not heard anything that says this cannot be developed as D2 which is what this land is currently zoned for, standard development. He realizes this was all put in place some time ago when the former owner made some sort of financial deal with the city to pay for part of the sewer and that is all gone and should not be relevant. The first question we should ask is why can't they develop this to the standard that has been in place here which is D2 which calls for minimum frontage of 100 feet and a depth of 200 feet and if there is no reason based on the geography of the site or of any thing other than the developers desire to have more houses to sell, he would suggest that is not the basis for a variance. He would like to ask a question related to drainage, all the properties along the back of River Road are swamped because of the current waterfall site which is higher than our backyards there

is a retention basin in the southeast corner is there a ditch or swale or something along that space behind those lots to convey water to that particular detention basin. Mr. Kolar replied that he has to solve that problem, the requirement is first of all we cannot put anymore water there and will be required to establish a barrier, basically it would be a swale in the back of the lots to pick up all the water flowing and direct it back to the storm basin and from there it will go underground into the storm. So, the runoff will be eliminated and is a requirement by state law and we have to demonstrate it as part of our engineering. We have to plan for the worst-case storm and is determined through a process that the engineers have to go through to be approved by the Ohio EPA. Mr. Tomasch asked if there would be any sort of landscaping or screening on the east side of the eastern project. Mr. Kolar stated that his plan is to try and impact as little as possible to this area as there are mature trees. It will also depend on the trees, if they are old and are dying then it would make sense to remove, if they are viable trees he is going to try and maintain them. With that said, we will also be putting in some plantings. The individuals who will be building these new homes will be investing a lot of money and will be concerned with what their backyards look like. Until he gets to this point and able to assess what is currently on the property, he could not answer that question. Mr. lafigliola asked if Mr. Kolar was open to installing landscape screening around the perimeter if the site warrants it. Mr. Kolar replied absolutely.

Marion Simon, 25029 Nobottom Road, stated that it was previously stated that they would pay for some of the sewers, now we are paying for the sewers, they are paying their part but the residents are still paying a lot for our sewers. It was also stated at another meeting that none of the trees would be touched but everywhere around it would be with new trees to improve, she does not care if these are \$300,000 or a million dollar homes our homes are just as important if we have a \$200,000 it is just as good as your \$500,000 home. To put this brand-new development in a very historic area she thinks it looks kind of shlucky so to see all these brand-new homes right in the middle of this old house and this old house and surrounded by old homes. Are these condo's or homes on Columbia. She does not think there should be a variance and agrees with that she does not think there should be that many homes, lets cram them all in where we all have property that we enjoy, we like to see the deer, we like to see the racoons we don't want to have everything crammed in and look out and see brand new homes otherwise you are losing the whole thing of the historic district and the ambiance.

Mr. lafigliola repeated will these be condo's or homes. Mr. Kolar replied that they will be single family detached homes. He believes that a condo would be an attached unit. These will be individual homes on individual lots. Mr. lafigliola stated that the applicant is present requesting a variance and is nothing that would stop the applicant from building on the property if he did not request a variance. Mr. Smerigan replied that is correct. Mr. lafigliola stated that to those who do not like new homes in the historic

district there is nothing that prevents the applicant from building new homes on his property. The question is can he build them denser than the code allows.

Ms. Simon stated that the 10 feet and the 40 feet is the variance so how close will that be to the street. Mr. Iafigliola indicated that the variance is six dwelling units, which again 21 is allowed the applicant is asking for 27, and a variance of 10 feet for the minimum front setback because by code it should be 50 and the applicant is proposing 40 and the approval of the preliminary development plan which is standard in a PRD and not a variance.

Jim Boddy, 25735 Cook Road, stated he would like to talk about the west side of the development. He stated that his home is on the south side of Cook Road, the ninth house from Columbia and in fact mows part of the property on the west side. He has followed this for a long time and was originally set up for a planned unit development there would be seven multi-family units and where not happy about that and the residents rallied and Mark Tomasch got on city council and that was dissolved. Now, it is not our property so some day it will be developed. We were so pleased when Mr. DiBenedetto and Mr. Kolar got involved in 2007 because it is something that we desired they were single family homes and the area is zoned single family residential, although it was cluster homes it was certainly upscale and Olmsted Falls deserves upscale as opposed to planned unit development multi-family low income housing, which is off the books. What was approved in 2007, 12 years ago, is basically what is being asked for today, we were for it then and are for it now, there a couple extra lots on the western subdivision and now they do not have to put the access road into property they cannot acquire so he thinks they picked up a couple extra properties and he is fine with that. His main concern is drainage for the west side property, we talked about drainage for the east side project a moment ago but his concern is the property behind his home. Currently water flows from Columbia and Cook, including these 6 acres, to the west, the road flow and this subdivision flows to the west. Between the western edge of the proposed subdivision and the creek there is a private property owned by DeSanto, his question is, is there a drainage easement across Mr. DeSanto's property so they can gain access for surface drainage to that little creek. He would like to point out when we have rain storms we basically have a river running across our back property and he does not want any of the houses on the south side of Cook Road to be impacted by storm drainage should the elevation be raised and should the draining not be anticipated in advance, he wants to go on record saying that the surface drainage needs to be addressed and make sure that it flows to a point it can discharge. Mr. Kolar stated that Mr. Boddy's point is well taken. He does not want to create a problem where there is any inundation of his property so we do have to design the drainage to restrict the flows on our property to our site. The way it is laid out now is a portion will go west to the detention basins but we are also taking it to the east, we are taking it across the road to the bigger area on the east side. The water will be piped under ground and flow

by gravity. We looked at the impact of the residences to the west and determined that the best thing to do is to put all the water into the system and take it to an area that it can be handled best. Mr. Iafigliola asked if there was an easement with the DeSanto property.

Sam Suhail, Suhail & Suhail, 18405 Maycourt, Chagrin Falls, stated that the water will flow to the west because it is the natural topography. The water will go into the ponds and will be detained in these ponds but then it will flow through a sewer under the street across Columbia to the big pond designed on the east side. The ponderance of the water coming to the big pond is from the west side otherwise there would be no need for a pond that big on the east side and is deep. This pond will hold a lot of water and the ponds on the east side are the reason why life is going to be made much more comfortable and easier for all the people on the east of this development. They have complained about water runoff from this property going onto their properties and all of that will be elevated because of this development. Mr. Iafigliola asked if he was the original engineer of the project. Mr. Suhail replied yes. Mr. Iafigliola stated that he also notes that there are yard inlet drains between lots. Mr. Smerigan replied yes. Mr. Iafigliola stated that this will swale the runoff. Mr. Iafigliola indicated that he does not see any swales for the west side. Mr. Suhail stated that as we get further into the engineering design and if there is any water crossing the property line, we will need to intercept that water and cut a swale which could require the removal of trees. We are not showing a swale on the drawings in case it is not needed. There is a detention pond between sublots 1 through 5 and in order to get the water to that pond there will obviously be a swale between 6 through 11. Mr. Iafigliola stated that a tradeoff which you may not accept, is the loss of trees in order to control drainage these are and these are issues that come up in virtually every one of these types of cases and quite frankly there is no good solution.

Ed Dean, 7594 Mapleway Drive, stated that he would like to concur with Mr. Tomasch as far as his points. He has been in Olmsted Falls since 1975 and Mr. Tomasch has probably be here as long as he has and to see the evolution or change in Olmsted Falls. The codes and zoning ordinances were made for a reason of a plan for the City of Olmsted Falls but what is being presented here and a request for two variances is to condense, compact, the living area in Olmsted Falls by having less property space. He has not heard any viable reason why a variance should be granted to make a more condensed area in Olmsted Falls when it is one of the more desirable communities to live in. Plus, if they are asking for a 10-foot variance on the frontage where is the hardship or justification, why should it be compacting more and have an eyesore out 10 feet more than anyone else. The third point he would like to make is has the city done a traffic study by TraffPro on the impact of Columbia Road for 26 or 20 families at rush hour time, have they said any roadwork has to be widened. He is hearing changes since the original plan was proposed as far as wanting to compact more, there is no

hardship because he has not heard any. What about the traffic impact on the residents in the city, especially on Columbia Road. Mr. Kolar stated that the 10 feet more than anything else is to actually allow a larger home on the lot. You want to maintain a certain rear yard because houses now tend to be deeper than they were 10 or 15 years ago. A typical house is deeper in some cases than it is wide, so the houses are bigger and these houses will be bigger than most in the area, and basically it provides the potential for a larger footprint for a larger house. Mr. Dean stated that it will stick out more compared to other houses because of the 10-foot variance so basically its coming out 10 feet more. In other words, you can get a smaller house to fit in to be in compliance with existing codes which were viewed by Planning Commissions and ABR's years ago. Mr. Iafigliola indicated that the home would be 40 feet from the road not on the road rather than the code prescribed 50 feet. Mr. Kolar indicated that there is 17 feet from the right-of-way line to the curb line so we are not talking about the curb itself, so there is still a significant area. Mr. Dean replied that he understands, but the justification for asking for a 10-foot variance is for the larger house therefore more profitable. Mr. Suhail stated that the current right-of-way is 50 feet wide and we are proposing a 60 foot right-of-way, if you look at the existing homes are closer to the street from the 50-foot street. So, there is more of a blend and we looked at where the existing homes were when we discussed the proposed plan. It is not just the fact that it would allow for a larger home but also how it would fit into the entire harmony of the street and the existing homes. At 40 to 45 feet we are keeping within the existing homes.

Mr. Dean asked what the traffic impact would be. Mr. Kolar replied that we are adding 26 lots and maybe adding 52 trips and the last numbers he saw the total traffic movements were in excess of 8,000 or 10,000 so adding 26 additional trips or even 52 is a very small increment to what is already on the road. Mr. Dean asked if a professional traffic consultant was consulted. Mr. Smerigan stated that this needs to be put into perspective, on one side of the road we are talking about a variance of two units and the other side six units. There is a right to develop the property with the other density so the only difference in terms of traffic impact is a total of two units on one side of the road and six units on the other side. He spoke with the city engineer and this number of units will not impact traffic in any way any necessary to make changes to any of the existing rights-of-ways. We seem to keep forgetting that there is a right to develop this property at a certain density today, so we are not talking about 27 units, we are talking about six units and we are not talking about 21 units we are talking about two units so we need to keep that in perspective in terms of traffic impact. When this project was originally approved in terms of the front set back variance there was discussion about two things; the existing right of way on Main Street is 50 feet wide and because of our subdivision requirements Mr. Kolar is required to make his right-of-way 60 feet wide from where his property starts so we are increasing the width of the right-of-way. In addition to that, as his engineer indicated, the existing homes on Main Street sit closer

to the roadway and between the fact that they are sitting close and there is a greater right-of-way the thought at the time was to allow them to move the houses so as you came down the street they would appear to be in the same alignment as the existing homes and there would be consistency. From the historical perspective that was the basis discussed and approved at the time and wanted that information on the record so everyone is clear. Again, the idea with the setbacks is to have the homes appear to be consistent down the street with the existing homes so you wouldn't see a difference as you drove down the street. Whether or not the commission still considers that to be a valid process is of course up to the commission. He is aware that none of the current commission members were on the commission at the time of original approval and he wanted to make sure everyone had the historical background.

Mr. Dean indicated that he is still waiting for someone to indicate what the justifiable hardship is for both variances. Mr. Iafigliola replied he understands.

Cheryl Schnupp, 7600 Columbia Road, stated that her property abuts the southern boundary line of the property and this directly impacts her because there will be nine lots that she will look at in her backyard. She understands that progress has to be made and people need to develop. She indicated that Mr. Kolar stated that the same type of development will be across the street but there are 6 ½ acres on the western side of Columbia versus 14 acres across the street but there will almost be the same amount of homes so how is that standard to the ABR, is this code acceptable for the historic district. She got a lot of flack for asking for a greenhouse and she has 1 ½ acres. She purchased this home to be in the historic district with the charm of the area not to have 21 houses with a narrow exit onto Columbia Road into a turning lane, because you will be 500 feet from the Cook Road light. She knows that there will not be a ton of traffic impact but it will impact her house directly, it will impact the look of the neighborhood, in her opinion, and she does not understand.

John Schnupp, 7600 Columbia Road, stated that there is a lot of old growth on the southern border so he is not sure if those southern bordered homes actually have inlets that go to the detention pond on the west side, which is good, that is his main concern and obviously they will probably need to clear a lot of that growth. We were appreciative to have some sort of a buffer zone and obviously it can be addressed when it happens if there is a massive clearing of that area. We obviously hope that the homes are built within the historic means because if we need to build that way, he almost assumes that Mr. Kolar or whoever develops would too. Mr. Iafigliola asked what he meant by build in the historic. Mr. Schnupp replied follow ABR standards as far as the way the home looks, color choices, window choices, everything that everyone else would have to do if he falls within that area and obviously some plantings and he is glad to hear that he does want to do plantings because one of our concerns was losing a lot of the greenspace. Mrs. Schnupp stated that flooding happens in her back yard all the time

and if you take all the trees out there will be a lot more of that which directly impacts her. If there is a 50-foot buffer zone of trees and those trees are dead and fall on her property who is responsible. These are a lot of lots that directly abut her property, she asked what would the size of the lots because 21 houses in 6 ½ acres is definitely not the same as 27 houses in 14 acres. Mr. Iafigliola stated that some of the answers to her questions are included in the drawings that can be viewed in the building department. The bigger question is the ABR guidelines and how he can fit more lots on one side. Mr. Smerigan indicated that the difference is that the development on the east side has one underlying zoning classification and development on the west side has a different underlying zoning classification. Under the code, on the east side, they are permitted a density of 1.5 dwelling units per acre, on the west side they are permitted 3 dwelling units per acre. So, there are two different zoning districts which is why there are two different density's, there is a higher density on her side of the street which is based on the way the code is written. Anything done under the PRD requirements the homes have to go through Architectural Board of Review for approval. In other words, all the dwellings built on both sides of the street will have to go before the ABR before they are built. Mrs. Schnupp asked if there would be an embankment or something to prevent our yard from flooding further, she sees the drainage in the back because that is a big concern. Mr. Schnupp stated that he assumes that the intended swale or drainage would begin at the tree line. Mr. Smerigan indicated that there are inlet basins along the back of each lot. Mr. Schnupp replied that he believes that is better. Mr. Kolar replied that the swale will be located on the lot itself and not in the open area.

Faith Perry Kaput, 25920 Myrtle and 25880 Myrtle, stated that she owns both properties and it abuts this property. She stated that where the water will be retained and there has been an indication that the natural flow is to the west and another one stated that it would be pumped to the east. She stated that she already has issues with water in her background so which will it be will it be that she will be really overflowed with water. She also apologized and nothing against anyone but you can blow all the smoke he wants but the reality is once the property is developed, they are gone, the city is making more money, and she is stuck with the problem. She just moved here not even three years ago. Also, three homes per acre, how big will these homes be. All of us that live in Olmsted Falls currently if you ask for an addition you have to go through everything, which she has considered, and she was told that she can only add on 880 square feet and she has almost an acre of land. The developer is putting three homes on almost an acre what would be the size of those homes because she is being kept within a certain size for her home. Mr. Iafigliola stated that all property owners have the right to request an addition. Ms. Kaput stated that she understands what she would like to know is what would the size of the homes on the west side seeing that the allowance is 3 homes per acre. Mr. Smerigan replied that is correct. Ms. Kaput stated that she wants to know the size of the homes because she knows what the size of her home is.

Mr. Kolar stated that the water over most of the property will flow initially to the west because that is the natural drainage to the two basins, the basins will then counterflow through an additional storm pipe across Columbia Road and into the larger basin. Ms. Kaput asked if he was going to give her a written guarantee that it will not pour into her yard. She stated that her yard is called Lake Kaput. Mr. Kolar indicated that her point is well taken and people normally have these concerns and in the past maybe when there wasn't the kind of oversight in engineering design that we are required to do now things like this happened but that cannot happen today because there are three levels of government that will review the designs and we have to substantiate to a mathematical and engineering certainty that it will not happen. It is designed from the beginning to make sure that the water from any impervious area will not flow onto her property, it will go into the collection system and across the road into the basin and then ultimately ends up in the river. Ms. Kaput replied so she will get a written guarantee its not going to flow onto either one of her properties. Mr. Smerigan indicated that this comes up during every discussion regarding development. There are regulations for design of storm water, there are city regulations, state regulations and they have to design a system to control storms of a certain intensity. Any storm of that intensity the storm water runoff from that storm will be handled and detained and will actually be cleaned because under state law you have to filter it. Any storm up to what is called a critical storm, which is a storm of a certain intensity, will definitely be handled there is no question about that. Now, is it possible that you would get a storm of a greater intensity yes, will this handle any storm that will ever happen in the history of the world, no, if we get a storm that is of a greater intensity than those design standards would it overflow the basins, yes. No one is going to be able to give you a guarantee that no drop of water is ever going to come up over the basin into your yard.

A resident indicated that storms are determined by years between occurrences either a five, 10, 25, 50- or 100-year storm what are we talking about. Mr. Smerigan indicated that there is a formula for calculating what is considered to be the critical storm, what is considered to be the critical storm can vary based on the how the calculations. They have to handle water from the critical storm to outflow no less than it does today after the development is done. So even with all the more impervious area they have to outlet it at the same number. They will have to be able to handle the volume in the basin for that storm. If we get a 500-year storm, which is possible, the basin is never going to handle it because it is not designed to do that and will overflow. You cannot design this for any storm that ever occurred. You see flooding on the news all the time and that is because you had a storm that exceeded the capacity of all the systems there is no way to physical build a system that is big enough to handle a storm of any intensity. So, it is based on the intensity of the storm and they will have to build it to that standard. He does not want anyone to leave thinking that someone promised you that no matter how hard it rains the water is never going to come off the property because that is not true. The resident stated that it still comes back to the same question 5, 10, 25, 50, or 100 so

what is the critical storm, what is the duration of time between this storm hitting. Mr. lafigliola stated that Mr. Smerigan is not the city engineer and cannot answer that question. However, we can get the answer to the question. He stated that the way they rate these storms, in his engineering experience, is very disingenuous to exactly how they rate. For example, super storm Sandy, lots of things flooded, what was the intensity and duration factor. The resident indicated that it didn't concern him but it does now. Mr. lafigliola stated that even if someone says it's a 10-year storm duration or 100-year storm duration it does not mean like clockwork the next one is going to come in that amount of time. He stated that the water will flow west into basins 1A and 1B through gravity no pumps, and then it goes from 1A into 1B and from 1B it goes all the way across the street into Basin 2. The other question on the table is how big are the houses, Mr. Kolar indicated that on the east side they would be fairly large and asked if he could comment on the west side. Mr. Kolar stated again, the size of the house really does not have anything to do with the density. Mr. Kaput stated that she would still like to know the size. Mr. Kolar replied that an acre of ground is 43,000 square feet so theoretically you could build a 43,000 square foot house on one acre. It is more of a marketing type thing, he does not know and is hesitant to guess what the size would be again, he believes we are talking about houses probably between 1800 and 3000 square feet per lot. Ms. Kaput stated that and you are talking three homes per acre. Mr. lafigliola stated that the homes could be two stories. Ms. Kaput stated that she understands and lives on almost an acre and to her to put three homes... Mr. lafigliola indicated that the zoning is different on her property unfortunately that it is on other's property. Ms. Kaput stated that the new homes going in how can you justify their sizes putting three per acre when she lives on almost an acre and the footprint of her home isn't that big. Mr. lafigliola indicated that he cannot speak to her home and as Mr. Smerigan stated we are only talking about the variance, the zoning exists, if you had issues with that it had to be taken up with City Council years ago.

Mr. Smerigan indicated that the code has minimum house sizes that are required in every development, they cannot build homes that are less than the minimums that are established in our regulations.

Tyler Sparks, 7634 River Road, stated that his property backs up to sublots one and two. The lots to his immediate north are vacant and on the map it looks as if he will be the one mainly affected by the collection basin. From what he has learned this evening it sounds like the collection basin on the east side is predominately for water coming from the west side. Since it is upstream it will not collect any water below it and the land slopes down to his property. He stated that the engineer explained that because this collection basin is upstream on this land so one elevation is higher than the other, this will not collect much of the water or any of the water that sits below it so that tells him that there is a small area is essentially collecting all the water from a specific line. It seems like it is not a very large collection basin and his property is the main one that will

be affected by any overflowing. Also, he would like to ask what the basin would look like, it was mentioned that it was a pond so it would be above ground. How and will the basin be maintained because it will be his main view from his backyard. Mr. lafigliola indicated that Mr. Sparks has indicated that the basin is small but there is a second basin and the engineer indicated that it was the larger basin and asked how the engineer plans on getting the water into basin "3", he is using "3" just to denote which basin we are discussing. Mr. Suhail stated that with the level of scrutiny these plans will not be approved if they are not sufficient. The reason this basin is deep is to accommodate storm sewers. Mr. lafigliola asked if it was possible to put in yard inlets in sublots 1 through 10 to pipe all the water to the larger basin. Mr. Suhail stated that the smaller basin is needed for this property. He stated that the basin may need to be extended out from sublots 1 through 5 to possibly 1 thorough 9 or 10.

Mr. lafigliola stated that the majority of the water will be sent to basin "2" and may pick up some of the water behind Mr. Sparks and Mr. Tomasch house. He asked if the basin would be wet or dry. Mr. Suhail indicated that has not been determined. Mr. lafigliola indicated that this development will have a homeowner's association who will be responsible for the maintenance of the basins. Mr. Sparks stated that he understands that there cannot be any guarantees made that these will not overflow, which he understands, his question is who is responsible if that happens would it be the homeowner who's lot the basin overflows onto or would it be the builder. Mr. lafigliola indicated that the builder would have to address where the extra capacity would flow and is an eliminate of the plan that has to be approved. He reminded everyone that this evening the applicant is only asking for the variances and preliminary plan approval, the preliminary plan essentially notifies the city as to what the developers are proposing but not all the engineering has been completed. The developer will not invest 100% of engineering for the city to determine that they do not like the proposed preliminary plan.

Wendell Brooker, 25334 Water Street, stated that he is at the northwest corner of Water and Main. He stated that Main Street is a narrow street and not in very good repair and six families use it now and if you add 27 families to use it in and out it will make a horrendous traffic problem and eliminate what little street parking we have, which is limited to one side. During rush hours it will be difficult for people to get out from Main Street onto Water Street. He is unsure if they have done traffic studies or if a light would be installed. Apparently, they are not going to expand the width of the street so there will be a wider street with a newer development feeding into the very narrow little street and going onto Water Street which will create a mess. Has anyone completed a traffic study on what 27 new families and their cars will do to that. Mr. lafigliola indicated that the commission will have to consider how traffic would be maintained on a smaller street as it relates to on street parking, but, he does not believe that is the developer's issue to resolve. Mr. Brooker stated that people will not be happy

if they are lined up 15 to 20 cars to get out onto Water Street. Mr. Iafigliola indicated that the question is valid and the Commission will have to determine how to resolve.

Donna Faust, 25830 Water Street, this does not directly affect her but there are a few properties in between. If they are adding two houses to the area that was originally was going to be a cut through street are there any plans if these other properties become available that they would continue their development or because this area will be closed is that plan null and void. Mr. Iafigliola indicated that if this plan is approved then the street will not exist. That does not stop this developer or any developer in the future from not selling, or acquiring the property from a resident, they would have to return this body and another public hearing indicating what plans have changed. Ms. Faust asked when the project would start, how long will the project take and what about the ponds. Mr. Iafigliola indicated that the applicant has a year to break ground. Mr. Smerigan indicated that the applicant is only receiving preliminary approval, he would then need to appear before the Commission for final plan approval before he is permitted to begin construction, he then has a year from final plan approval date. Assuming, for argument sake, he receives approval he would then need to submit an application for final approval which would include all the detailed design information for the development for our city engineer to review and then one year from when this is approved. Ms. Faust asked how the ponds would be maintained. Mr. Iafigliola indicated that they will be maintained by the homeowner's association.

Gail Teper, 25197 Nobottom Road and her question concerns greenspace. She stated that Mr. Kolar has indicated that greenspace would be around the perimeter, what or who will have access to this greenspace. Her property will butt up against on some of the area, she has seen a development built in Fairview Park and the greenspace is ridiculous there. She believes it is important to maintain greenspace as we all moved to this area because we like it, and she would like to know what does greenspace imply to the builder as well as the builder. Mr. Smerigan indicated that when this plan was originally approved one of the decisions made was rather than try and create some playground or play space the open space would be used to buffer the adjacent properties. This is why the lots are in the center and the greenspace is around the outside edges in order to use as buffering to the adjacent residents. By code there is a requirement for a minimum of 20% open space, both developments exceed that minimum, one is at 29% plus and the other one is 28% and is predominately around the edge to provide buffering to the adjacent property owners and was the intent during original approval. The idea was to save as much as of the existing vegetation in this area because they will not be clearing it for homes and it is required to be maintained by the homeowner's association. Ms. Teper asked if the open space is still at 27% as it exists now. Mr. Smerigan replied that the west side of the street the open space is 27.9% and the east side it is 29.25%, based on the calculations on the drawings. Ms. Teper asked if a big playground would be developed in this area. Mr. Smerigan replied

there is not intent to do that, at the time this was originally discussed the idea was rather than have play areas there would be buffers and they are still maintaining that concept. It is up to the Commission if that concept is still acceptable.

Mr. Iafigiola stated that in the interest in time, there is a lot of testimony to absorb and he would like to request that these issues be tabled in order for the Commission to make a proper decision.

Mr. Iafigiola indicated that there are a few questions that he would request the applicant to provide answers to before the next time these issues are on the agenda. (1) what is the compelling reason for the variance, he is not asking why the applicant wants to build 27 houses, he is asking why the six additional homes; (2) comments regarding why he feels the useable greenspace meets the intent of the code; (3) the proposed drainage strategy that he intends to utilize on the borders of essentially all the properties, some of the residents on the east side have swales and some on the west have inline drainage, some have basins and it would be best if the applicant could say, "I understand this is a preliminary approval, but, this is what we are hoping to achieve"; (4) what is the screening proposal, will there be landscaping or not and here is why; (5) how the applicant feels that this development, on both sides, will have impacts on traffic; (6) will the basins be dry or wet or answer that it has not been determined but this is what the strategy is.

Mr. Haviland indicated that there have been two or three points made regarding the streets. He would like to know if an analysis was completed in 2007 and he is assuming there has been. The applicant can build 21 houses as opposed to 27, so there will still be road impact. Mr. Smerigan replied that anytime land is developed there will be impact. Mr. Haviland indicated that it is not a non-starter that there will be some traffic that could occur. He also would like to look and see if Main Street is on the resurfacing list.

Mr. Iafigiola stated that the first question was regarding the compelling reason for a variance and he would also like the applicant to break out why he wants each variance; he would also like to see what the overland flow route if the basins fail where will the water go; the applicant included two nice exhibits and he would ask that they be included in the packet.

Mark Tomasch stated that relative to the list for Mr. Kolar he would like to add that this property currently has a large section of land that is devoted to a gas well and obviously he will not build a house on the gas well. At some point this gas well will be retired and would like to know what the intent would be for that land in the event if and when that well is retired, whether than would be additional housing land or greenspace. Mr. Iafigiola indicated that he would add that to the list of questions.

Mr. Haviland indicated that when the applicant is listing the requests for the variances, he would ask that the applicant reinforce what variances were already approved. The Commission is revisiting and challenging in some cases, actions that have been taken by previous bodies that went through due diligence and that should be reflected on.

Mr. Iafigliola moved to **table** Planning and Zoning Case No. 04-2019 and 05-2019 until such time as the developer provides written responses to all said questions, which is expected to be March 20, 2019 at the regularly scheduled Planning and Zoning Commission meeting; Mr. Pehanic **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

COUNCIL LIAISON REPORT: Mr. Haviland indicated that he did update City Council indicating that as a Commission we were reviewing the master plan. He also invited Ms. Accordino to participate in that discussion.

OTHER BUSINESS:

Mr. Iafigliola indicated that he would like to read an article from the newspaper. The article is from Willoughby which states “the City is seeking developers to build apartments and a public parking space on city property near Todd Field and Glenn Avenue downtown the News Herald reports. Council recently authorized the administration to move forward with the plan. The City is hoping the project will address the lack of parking downtown, the Mayor’s idea is for the development ot include a bi-level parking deck with residential space above it.” He stated that when he reads this it seems that the city is looking for a developer to lease city property, in other words, it sounds like the developer does not have to buy the land the city will lease it for a long period of time and the developer will spend his own money to build essentially what he can make money from but the city has a say as to what happens. Not knowing any of the details about this case but also knowing some of the properties that the city may or may not have, it seems like somebody should find out what is going on and see if there is any practical application that we can essentially use here. Mr. Smerigan indicated that this is not the first time something like this has been done. Cities enter into public/private partnerships with developers all the time.

Master Plan Discussion – Mr. Pehanic moved to **table** the Master plan discussion; Mr. Haviland **seconded**. Voice vote: 5 ayes; 0 nays. **Motion carried**.

APPROVAL OF MINUTES: Mr. Iafigliola indicated that the minutes will be tabled until the next meeting.

ADJOURNMENT:

Mr. Pehanic moved to **adjourn**; Ms. Hawkins **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Meeting adjourned at 10:25 p.m.

Planning & Zoning Commission Clerk

Date

Planning & Zoning Chairman

Date