



CITY OF OLMSTED FALLS
PLANNING AND ZONING COMMISSION
MINUTES
OCTOBER 9, 2019
7:30 PM
COUNCIL CHAMBERS

Commission Members Present: Brett Iafigliola, Gary Pehanic, Garry Thompson, Peter Carpenter, Michelle Hawkins and Cornel Munteanu. Dave Fenderbosch was excused.
Audience: 1

Chairman Brett Iafigliola called the meeting to order at 7:31 p.m.

1. **Planning & Zoning Case #23-2019** – A request by Valore Properties, owner of Falls Glen Clusters, for preliminary approval for a revised subdivision plat for the Falls Glen Clusters PRD.

Mr. Sam Suhail stated that he has not received the email from Mr. Sheehy. Mr. Iafigliola indicated that the email states “I have no issues with what has been proposed in concept. There are impacts to wetlands that require approval from Army Corp and Ohio EPA, any approval should be given contingent upon receiving the other necessary environmental approvals along with final engineering review and approval. Riparian setbacks will need to be shown on the individual site plans for any homes along the western edge of the development.”

Mr. Suhail stated that the Commission has a color-coded plan, the orange shows the existing homes and the green indicates current vacant lots. We are proposing to create nine additional lots, which are shown in pink outline, as well as consolidating the yellow open spaces into the green lots. This will allow us to pull the homes to the front of the property to help with the riparian setbacks on the west side of the development.

Mr. Suhail stated that if we receive approval today we will need to complete an evaluation of the detention and the drainage because of the nine additional lots. We will have to review what drainage was put in and if there is additional detention needed. Basically, there is an underground detention system in the open space on the right-hand side as you enter the development with four pipes side by side. We may have to add another pipe if the calculations say we need to and we will find out once we get into the detailed engineering. There is open space in front of the first two lots on the left side but we are not doing anything with them right now because those homes are already owned. Later, if those homeowners are agreeable, we would be willing to carve out the area right in front of them so it is a nice straight line going to the street and give that area to them. Finally, the temporary cul-de-sac will be removed and a new cul-de-sac built with a landscape island. Mr. Valore indicated that this property started in 2004 and hasn't moved as it should have and we believe that this open space is probably what created this issue.

Mr. Smerigan stated that the applicant has revised his plans based on the comments from the Commission during the informal discussion. He provided the Commission a drawing

indicating what was approved for the original overall plan in 2004. In the original plan the cul-de-sac extended to the back of the property and phase one was given final approval, phase two was never platted nor given final approval. The applicant would like to remove the temporary cul-de-sac in phase one and replace that with a permanent cul-de-sac. The applicant will increase the average size of the lots, reducing the total number of lots and increasing the amount of open space, which he believes are all positive enhancements to the project. He stated that after the development was platted the original overall development plan was approved in 2004; the final plat for phase one was approved in 2007; shortly after that the riparian corridors were adopted and there is a creek that runs along the west property line that requires a riparian setback. The code change since this development was platted makes it difficult to build a home with open space in the front of the lots because those open spaces forces the home to be built further back on the lot and now there are bigger setbacks in the rear property than before because of the riparian setback requirements. He stated that he has reviewed the preliminary plan with Mr. Sheehy who is also in concurrence. The city engineer will need to see the final design drawings for approval but he is supportive of granting preliminary approval. He indicated that he is recommending that the Commission grant preliminary plan approval.

Mr. Thompson stated that the original plan included sidewalks along the edge of the driveway. He did visit the site and noticed that some areas have sidewalks but some do not and he does not see any sidewalks being proposed in the preliminary plan. Mr. Valore indicated that sidewalks will be included. Mr. Smerigan indicated that sidewalks will be shown in the final development plans and our code requires sidewalks.

Mr. lafigliola asked what the expectation is for the back property of the development. He stated that if he was a resident living in this development would he be encouraged to access this back portion of the property as it is common space. Mr. Valore indicated that his intention is to have access to the area for residents to use. Mr. lafigliola indicated that the individuals who purchase sublots 13 and 14 may assume that all the property is theirs and asked if any signage would be utilized to indicate that this is common space. Mr. Valore indicated that signage would not be used and he always shows the property owners where their pins would be and indicate that the remaining portion is a preservation area that will remain natural.

Mr. lafigliola stated that it seems there are four pipes 270 feet each and a 60" storm which is a big amount for retention for essentially 23 homes. Mr. Smerigan indicated that these pipes were originally sized for the entire development, therefore, the likelihood is that these will be big enough to service a smaller development. He indicated that some standards have changed so this will need to be re-evaluated with the city engineer.

Mr. lafigliola indicated that the drawings indicate a 10-foot radius landscape island in the cul-de-sac and asked how that compares to the original proposal as it looks relatively small. Mr. Suhail indicated that the reason the radius is only 10 feet is to make sure that the radius of the cul-de-sac pavement is wide enough for safety equipment. If the island is bigger the pavement would be reduced.

Mr. Suhail indicated that the hope is that the individual who currently owns lot 20 can make application to the building department and they can move the house closer to the street and begin building. Mr. Smerigan replied that we are not going to be able to issue a permit for a house to be built on a common area, the only way for her to do that is do get the development re-platted or have the Commission grant a variance based on the fact that the development will be re-platted. The permit would be at risk, in other words the owner would be at her own risk because she could get the house 2/3's of the way built and if the Commission doesn't approve the final plat then she would never occupy the house. It's a problem and the only way we will know that we can even attempt to solve the problem for her is if the Commission grants this approval and we know we are headed in that direction. This is not a simple problem.

Mr. Iafigliola moved to **approve** the request for Planning & Zoning Case #23-2019 by Valore Builders for preliminary approval of a revised subdivision plat for the Falls Glen Clusters PRD subject to the following conditions: (1) any impacts to the wetlands will require approval from the Army Corp, EPA, and any other environmental approvals that are necessary; (2) produce and provide the final engineering plans for review, submittal and approval; (3) the riparian setbacks be shown on the individual site plan for any and all of the homes along the western edge of the development; Mr. Munteanu **seconded**.

Mr. Suhail asked if it would be possible to also include with the approval a variance for subplot 20 to allow an individual house to be moved up to the street. Mr. Iafigliola replied that he believes the answer would be no and would not want to combine any discussion in the current motion.

Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Smerigan indicated that the Commission could authorize the building department to issue a building permit, which would at an "at risk" permit to commence construction on subplot 20 with the understanding that if for whatever reason the re-platting is not approved the house could not be occupied. Mr. Iafigliola indicated that he understands what is being requested but he is not comfortable with that request.

Jeff Crawford, Cleveland Custom Homes, 23550 Center Ridge Road, stated that Mr. and Mrs. O'Connor are building on subplot 20. We are also really proud to be building the 2020 St. Judd's Children's Research Hospital's Dream Home in Olmsted Falls on Sublot 10 of the Falls Glen PRD. We are scheduled for our groundbreaking ceremony on November 18th and that is when St. Judd and many of the vendor trades, suppliers and volunteers will all join together with Fox 8 news to celebrate the 2020 campaign. We are trying to get the building permit for Mr. and Mrs. O'Connor and the St. Jude Dream Home so we can hopefully dig around the end of November. We have had hardships over the years by starting in February and March and we have to have the house done by April, so this gives us a great opportunity to not stress the trades who are volunteering and giving back. We are very open to any opportunity that we have to get some type of approval.

Mr. Smerigan indicated that the Commission can authorize the issuance of those permits but for whatever reason if the final plat doesn't go forward they would have to replat these

two lots and remove the open space. Obviously, they have space at the end of the development since Phase two will not move forward so it would be simply trading the open space. If they want to move forward the easier way would be to complete a lot split and consolidation after the fact rather than trying to do that before they get their permit because otherwise you would approve a plat then approve another plat. If you allow the house to be built the way to solve the problem is a lot split and consolidation plat. The Commission could authorize that to commence building but we would just simply not allow them to occupy the units or transfer the units until such time as the lot split and consolidation is approved. Mr. lafigliola suggested granting a variance. Mr. Smerigan indicated that the Commission cannot grant a variance for them to build on property they do not own. Mr. Smerigan indicated that subplot 20 has 40 feet of open space and the setback is 20 feet and the owners want to build into that open space. Plus, they will have to disturb the open space depending on where the driveway is installed and to get utilities so granting a variance would not solve the problem. If the Commission is prepared to give some direction we could authorize the building department to issue a building permit with the understanding that before everything is finalized, if the whole plat is not done, that a lot split and consolidation must be approved which would remove the open space areas from the front of the lots.

Mr. Valore stated that out of the vacant seven lots there are six with open space, so if we do not add lots or restructure the subdivision, we could remove the open space and add onto the lots in the back then the problem is solved. Mr. lafigliola stated that essentially, we are taking off open space from 10 and 20 and putting that onto lots that have not sold. Mr. Smerigan stated that in order to achieve what they are asking for they would need to get permits to move forward with the O'Connor and Dream Houses and then bring the documents to the Commission later. He believes it will be advantageous for us to move these things forward if we are moving the development forward in a positive way. Unless the Commission has some objection, he believes we can authorize the building department to do that.

Mr. lafigliola stated that he understands that the lot split is being done as a timing issue. Mr. Smerigan indicated that if the final plat comes back before they are ready to complete the houses there is no issue so it is a timing issue. If there is some delay because he has to redesign drainage and he is not going to make it time wise then he would have to do the lot split and consolidation plats. He does not think there is an issue but we need to do it with everyone understanding the plan.

Mr. lafigliola stated his he does not want to put the Commission in a spot that we could be questioned as to how we made this decision. He indicated that Mr. Smerigan is suggesting that the applicant do a lot split and consolidation to move the current open spaces in 10 and 20 into another lot. Mr. Suhail suggested placing that open space into the back property. Mr. Smerigan indicated that until the development is platted there is more open space than will ever be needed in the back area so you would not actually have to move any open space.

Mr. Valore stated that from a marketing approach we would only release seven lots for sale with the open space removed. He indicated that there is 2.96 acres in the back area that had 17 more lots approved in 2004 which will now be open space.

Mr. Iafigliola stated that the Commission approved preliminary plans for the revised subdivision which is what was requested this evening. If the applicants want to take additional steps they will have to return to the Commission. Mr. Smerigan indicated that the Commission does not have a lot split and consolidation plat before them to approve so the only issue is do they wait to come back with a lot split and consolidation plat before they can get building permits or can the building department issue permits based on the fact that those lot split and consolidation plats will be coming before Commission. Mr. Iafigliola asked if there was a waiting period for a split and consolidation. Mr. Smerigan replied no, they would only need approval and get it recorded.

Mr. Iafigliola indicated that he is not comfortable asking the building department to work in this fashion because you do not know when someone could question the process or object. He would suggest that the applicant return in November for the lot split and consolidation. The applicant agreed.

2. Planning & Zoning Case #12-2019 – A request by James Dixon, tenant of 8154 Columbia Road, PP#281-22-009 for approval of a variance of 35.1 square feet to Section 1272.04(d)(3)(A)(1) in order to permit the installation of 56.1 square feet of front wall and window signs in a C-3 Community Commercial District in lieu of the permitted 21 square feet.

Mr. Iafigliola administered the oath to Mr. Dixon.

James Dixon 9213 King Court, Olmsted Township, stated that he owns Gibbs Butcher Block. He purchased the business that use to be Taqueria Junction and turned into Gibbs Butcher and Brews and would like a sign. The business opened approximately three weeks ago and everything is going well. He appeared before the Architectural Board of Review and the board believed that the word “Gibbs” and the hat were a little too big. The original design was 57 inches and the board would like these two items to be the same size as the old Taqueria Junction sign which is 46 inches in diameter, and he agreed to that reduction. He stated that he hired a sign painter and while he was looking at the building, he noticed the other existing buildings, the feed store and hardware store which is where the inspiration for his lettering and size of letters came from.

Mr. Smerigan indicated that the total permitted area for signage is based on a percentage of the frontage of the building. The logo, identification letters and the window lettering all counts toward that percentage. Even with the reduction recommended by the ABR the applicant is still over the permitted amount of signage. ABR noted that the size made sense and does fit the building better rather than reducing the signage down to the permitted size. This size is also consistent with what is in the immediate vicinity so it is not out of character with the neighborhood. He does not have any issues with what is being requested.

Mr. Thompson indicated that he would be in agreement with the original size as proposed but will defer to the ABR suggestion. He also likes the fact that the lettering and logo will be painted as that fits the area and nature of the building.

Mr. Dixon indicated that he was informed that the upstairs of the building could only be used for storage. However, during his fire inspection there were seven firemen upstairs and asked why the space could not be utilized.

Mr. Iafigliola asked if the sign would be illuminated. Mr. Dixon replied yes. He will be speaking to the building department as to how the sign can be illuminated. Currently, he does not have plans to immediately illuminate the sign his plans are for next Spring. Mr. Iafigliola stated that he would suggest the applicant determine how the existing building signs are illuminated. He indicated that if illumination is permitted the code states that it shall only be from an exterior source illumination by incandescent lighting fixtures.

Mr. Pehanic asked what would happen if the hat size would remain 54 inches. Mr. Smerigan indicated that sign approval requires ABR approval and they have approved a smaller size. Therefore, the Commission is not in the position to overrule ABR's decision but, ABR can also not grant the 46-inch sign without the Commission's concurrence. Mr. Dixon indicated that the area behind the existing sign can be painted over the entire circle and still be able to fit the hat into the 46-inch square and cover the paint that is not faded behind the existing sign. Mr. Iafigliola stated that the hat is not a circle like the existing sign so at some point the hat will not be 46-inches. Mr. Dixon indicated that the circle is 46-inches in diameter so if he creates a square that is 46-inches square he believes the hat will fit. He believes the hat will fit in a 46-inch square rather than a 46-inch diameter circle and there is more space in a 46-inch square than in a 46-inch diameter circle.

Mr. Iafigliola moved to **approve** a request by James Dixon pursuant to Planning and Zoning Case #25-2019, tenant at 8154 Columbia Road, PPN #281-22-009 for a variance of 35.1 square feet pursuant to Section 1272.04(d)(3)(a)(1) to permit the installation of a 56.1 square feet of front wall and the window signs in a C-3 Community Commercial District in lieu of the permitted 21 square feet; Ms. Hawkins **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

COUNCIL LIAISON REPORT – Mr. Munteanu indicated that during last night's Council meeting there was a great turnout regarding the Dollar General store and they have been encouraged to attend the Commission's meeting when they appear before us for final approval.

Mr. Iafigliola indicated that he also attended the Council meeting. This was a normal Council meeting and went through the normal procedures including Communications from Residents and there was a lot of communication. The room was not as packed as he believed it would be as there were still seats available. The comment period ran well past 10 o'clock and before Council got to their agenda. A lot of the comments were what the Commission previously heard, people in general opposed to the proposal, there was some misinformation regarding what was already "a done deal" and we did our best to inform them that was not the case, the applicant does need to return regarding other issues. He

stated that Council, rightfully so, put a lot of pressure on planning for when the applicant returns that would be for us to judge how exactly this will happen. He would ask that all members be present during that meeting and to be as prepared as they can be for whatever the discussion will entail. He wants everyone to be aware that this will be a difficult meeting.

Mr. Thompson replied that he does not know what the Commission can do as the applicant complies with the code that has been in place for 20 years. We did not make the rules, our job is to interpret them and apply them across the board to all the property owners equally. Everything that is being proposed fits our code, just because we do not like them, or not like their business, or the color of their building we cannot deny them the use of their property. Mr. Carpenter indicated that he cannot understand why you would want to encourage them to pursue the campaign against Dollar General when it is completely out of the Commission's hands. Mr. Munteanu indicated that the residents were upset because they feel when a business like this, or any business wants to come into the city that they have to go to the Mayor and appear before Council to get approval to move forward. Mr. Carpenter indicated that it has been previously stated that most of these individuals do not know what the zoning is in the area. Mr. Munteanu replied that Mr. Iafigliola did point that out last evening to several individuals. Mr. Iafigliola stated that he pointed to the map that currently hangs in Chambers and is dated in 2014, but, what was even more interesting at one point he stepped out of the room and across the street there is almost an archaic looking map, looks like a relic amongst all the other historic pictures, which also indicates the exact same zoning relative to the property in question, which is a C-2, and the latest revision on that map was 1989 so it has been at least 30 years. If you read the title block the 1989 edits did not pertain to any changes to this property. Mr. Carpenter indicated that for years we have referred to ourselves as "Historic Olmsted Falls" and that has given a broad misconception. Mr. Munteanu indicated that the residents feel they are a part of the historic area. Evidently, they have forgotten about Westview lumber when train loads and trucks of lumber use to pull in and out. Mr. Pehanic asked if Council projected the issues the city would face if the applicant was rejected. Mr. Munteanu replied yes and the residents felt that the reason the city doesn't want to pursue is because we are afraid of another lawsuit. But, it would be a lawsuit that the city would lose. He indicated that the law director informed the residents to get their own attorney to pursue the issue. Mr. Smerigan indicated that the resident can file an injunction but Zaremba is a large outfit and have sued a number of communities, this is what they do for a living, Zaremba would petition the court to require the residents to post a bond because they will indicate that they are losing time and time is money and if you lose the court case then Zaremba will want to be made "whole" and that bond will be substantial, they will lose the court case because there is no basis for the appeal. As he explained at the meeting, either you meet the standards or you do not meet the standards. Whether we like the applicant or do not like the applicant does not make a difference. The applicant requested no variances, there is no conditional use permit, so there is no discretion whatsoever. The residents also expressed concern that they were not notified, but there is no notice because nothing has been requested. The Commission is completing an administrative function of code compliance and that is the only issue before the Commission, if you fail to do that then the Commission is liable, we have to follow the law.

Mr. Iafigliola indicated that whatever decision the Commission renders because there is no variance required there is no appeal to City Council, so our decision could be appealed to the Court of Common Pleas but cannot be appealed to Council.

OTHER BUSINESS – None

APPROVAL OF MINUTES – None

ADJOURNMENT: Mr. Munteanu moved to **adjourn**; Mr. Pehanic **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**. Meeting adjourned at 8:59 p.m.

Planning & Zoning Commission Clerk

Date

Planning & Zoning Chairman

Date