



CITY OF OLMSTED FALLS  
PLANNING AND ZONING COMMISSION  
MINUTES  
JUNE 17, 2020  
7:30 PM  
COUNCIL CHAMBERS/VIRTUAL

Commission Members Present: Brett Iafigliola (arrived at 8:11 p.m.), Gary Pehanic, Garry Thompson, Peter Carpenter, Cornel Munteanu, and Michelle Hawkins. Dave Fenderbosch was excused. Others Present: Andrew Bemer, Law Director and George Smerigan, City Planner. Audience: 3

Vice Chairman Garry Thompson called the virtual public hearing to order at 7:35 p.m.

Mr. Thompson stated that the purpose of the public hearing is a request made by Anthony Giancaterino, owner of 8965 Columbia Road, PP# 291-20-002 pursuant to Section 1232.06 for conditional use permit to build a 5,000 square foot building in an MUTND zoning district.

Mr. Giancaterino stated that he would like to build a 5,000 square foot building in the back of his property on Columbia Road. The plans are in compliance with the zoning code. He is planning on moving his print shop into the building which is currently located on Bagley and Columbia in the shopping strip.

Mr. Smerigan stated that this conditional use permit is required under the MUTND. As the Commission knows a preliminary review was completed and it was found that the site plan would comply with the minimum code requirements. At this point the Commission is being asked to approve the use and then this will come back for final site plan approval.

**Robert Smart, 8997 Columbia Road**, stated that he is Mr. Caterino's neighbor. He is hear to speak for himself as well as Mr. Caterino. First, he has no issues with any additional building within the city however, it is his opinion that everyone should be held to the same standards and building codes that he has had to adhere to over all these years. For example, when he built his building there were minimum setback requirements required and the building had to be a minimum of 50 feet off of all property lines; he had to install a concrete driveway; he had to install concrete sidewalks; he had to put full facilities within his building; he had a maximum height requirement of 18 feet that had to be met; he had to maximum size that had to be met of 32 x 64 because originally he wanted to build a 50x100 like Mr. Caterino is proposing; he had to put a privacy fence around his property and was not allowed to do any commercial business or have any commercial signage at the time. These are just a few items of what he had to do as a property owner for the last 32 years in this city. He would also like to ask what the building would be used for and how will that be adhered to. He stated that Mr. Caterino is a great business member in the city, he is a neighbor and a friend, and we have no issues with each other. Why does he state all of these above questions, its because in his opinion Columbia Road should be a commercial corridor because you

have many businesses operating up and down Columbia Road and are operating under the radar. For example, you have a recording studio, a car repair shop, a truck repair shop and many other contractors working within the city that are all working under the radar whether you know they are there are not. So, please consider all of these items when making this decision. In closing, please consider this fair use of Mr. Caterino's property and request as we are hard working citizens and neighbors that promote the advancement of our businesses within the city limits.

**Ted Bowman**, stated that he lives across from Bob Smart and diagonal from Tony Caterino's property. His property number is 291-10-007 and is approximately 9000 Columbia Road. When he got his property in 2001 by doing a lot split and consolidation from Tom Shepka who has long been a member of the Shade Tree Commission in the city. At that time he believes it was Drew Edelman who said "whatever he wants to do eventually he will figure it out and we will go from there, until then if there is a problem it will take care of itself, don't worry about it," and that was pretty much how it was left. That was the halesome days as he was then to learn for about a year then McLaughlin came to town as Building Commissioner and he decided he had another agenda and he proceeded to prosecute him, under or not under, the planning and zoning codes, etc., for the intervening years, which is still going on continuously to this very moment, even though McLaughlin is long gone. Yes, he has been aware of Bob Smart and his tribulations having to put up \$40,000 worth of fencing around his property and having to adhere to a higher requirement for his salt shed and all the other hoops that he was supposed to go through including putting in three driveway entrances off of Eastern Star Lane of which none of which have ever been completed. He is fine with all that, but he wants to know why defectivity and he has no problem with the applicant building his building, don't get him wrong, he is all for it cause the town if finally waking up. His problem is why has he been subjected to getting his business literally shut down and having a nuisance action filed in the Common Pleas Court of Cuyahoga County, yet the city law director never signed the complaint nor did his assist which makes it not a valid complaint; they never hired the outside law counsel which is required to have Council approval; there is none on the record anywhere which means these people have no standing to even be representing the city period. Now, at present they are asking him to pay some \$75,000 in legal fees they have incurred while they have been doing a totally illegal, under our local laws constitution charters, etc., persecution of him. Yet, still the issue today is about Mr. Caterino and his building and really when he had the power put in at 200 amp service for the building Jim Helpfling who was the assistant building commissioner at the time said "your not kidding me I know your running your business in here" and later Mr. Caterino did move his business up into part of the strip north of the Drug Mart, that was fine. But, now he wants to move it back and he is fine with that, why should he pay rent on a building he doesn't own and he should be paying his own mortgage not someone else's and when you have the plant party every year and they take the parking places he has to have people towed out of the places he's renting, etc. he understands all that and is fine with it. But, why the double standard, meanwhile Tom Shepka the guy in front of me who he got his land from is no longer operating a green house on his property but is operating a commercial landscaping type business, he is dumping items which were not grown on his property at all in the back where the leaching is running off on him, there are also plastic flower pots, etc. which if they had

been kicked out there when the pilgrims landed in 1620, 400 years ago, they would still be pliable, pickup able and everything else so there not like they are degenerating. Meanwhile Raddy to the south at he believes 9080 sold and Raddy's son Jason now is storing a dual wheel truck, in excess of the legal limits, outside in plain view. He is coming in everyday that he works and is dumping his debris, etc. on to the back by Shepka where the leach is running on him and no one seems to give a hoot about it. It probably isn't an issue it will simply rot, but the pots won't. Why the double standard why the big split? So yes, he has an issue with how things have been treated. There is nothing legal about it. But, in terms of Mr. Caterino with his building which is the instant case today he has no problems with him going ahead with it. If you want to go down to the south side of the turnpike you have John Yedlick of Limo Busters, a number of years ago as he recalls Mr. Yedlick came to P&Z, or whatever it was at that time, and wanted permission to expand his building and they brought up the fact that he had never gotten approval to build the building he had existing at the time let alone adding to it, and that was a greenhouse initially, and they denied him. So, Mr. Yedlick went ahead and built it anyway and nothing was done; its like guys if you talk about all these equalities you have principles of civility etc. ya better take a closer look.

Mr. Thompson closed the public hearing at 7:48 p.m.

**1. Planning & Zoning Case # 35-2019** - A request made by Anthony Giancaterino, owner of 8965 Columbia Road, PP# 291-20-002 pursuant to Section 1232.06 for conditional use permit to build a 5,000 square foot building in an MUTND zoning district.

Mr. Thompson stated that because the zoning changed to an MUTND district and was previously a MUPD district would change allow Mr. Caterino to build this building with different requirements from when Mr. Smart built his building. Mr. Smerigan replied that when the zoning changed it permitted a lot more uses in this area than was permitted under the old regulation and changed some of the standards in criteria. He cannot speak to how someone was treated years ago, in terms of what standards they had to meet. The current standards were adopted more recently, and attempted to be more business friendly and that is the basis on which we are moving forward. If there are enforcement issues there that is something different, the Commission does not handle enforcement the Commission handles code compliance in terms of review and approval of plans. The issue in front of the Commission is the approval of the use and that use is one of the permitted uses in the district. The Commission has reviewed and approved the preliminary plan, subject to the conditional use permit approval and final sit plan approval. The comments he is hearing from the neighbor's indicate that they are generally in favor of what Mr. Caterino is proposing and hears no objections to that proposal. What he is hearing are complaints about other issues and what he has on the Commission's agenda this evening. He is not stating that the complaints on these other issues are not be valid; what he is saying is that they do not pertain to what the applicant is present for. Given what has been presented his professional recommendation is that the Commission grant approval of the conditional use permit subject to the applicant submitting an acceptable final site plan and having that site plan approved by the Planning and Zoning.

Mr. Thompson asked if the setbacks are all in compliance. Mr. Smerigan replied that the preliminary plan the Commission reviewed complied with all of the code requirements. Obviously, for the final plan the applicant will have to complete the engineering design that Mr. Sheehy would review. In terms of the layout and placement of things he meets the setback requirements and is complying with the code requirements from a zoning stand point. Mr. Thompson asked about the driveway as Mr. Smart indicated that he was required to install a concrete driveway. He knows that part of what the applicant proposed was partially paved and partially graveled. Mr. Smerigan replied that the code requires a paved driveway and knows that Mr. Sheehy has discussed it with the applicant's architect. Mr. Thompson stated that the driveway would be included in the final plans or a variance granted. Mr. Smerigan replied yes. Unless the Commission were to authorize a waiver or variance from the standards a paved driveway would be required. He stated that nothing the Commission is doing at this point is waiving any standard or requirement.

Mr. Thompson moved to **approve** the request made by Anthony Giancaterino, owner of 8965 Columbia Road, PPN 291-20-002 pursuant to Section 1232.06 for approval of a conditional use permit to build a 5,000 square foot building in an MUTND zoning district; Mr. Munteanu **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

**2. Planning & Zoning Case #14-2020** – A request made by Dave Kolar, owner of PP# 281-05-013, East Side of Columbia Road, between Water and Nobottom, for approval of the final development plans pursuant to Chapters 1268 and 1232.

Mr. Thompson indicated that Don Sheehy the city engineer sent an email which states “I would recommend approval for Planning Commission for both Western Reserve Estates, East and West subdivisions. The plans are approved as revised and there may be some minor coordination items required by other approval agencies but I am satisfied with the design as submitted, please let me know if you have any questions or need additional information.”

Mr. Thompson indicated that the Commission also received draft copies of Shade Tree Commission minutes dated June 2, 2020 along with a copy of the tree protection and management plan.

Mr. Smerigan stated that the Commission previously held a public hearing regarding this request. We have also completed the preliminary subdivision plat review. If you recall the east side is just under 14 acres, there are 27 dwelling units, a public street, with an extension of an existing street, it complies with all the zoning requirements, and is consistent with the preliminary plan the Commission previously approved. In addition to the email sent by Mr. Sheehy, he did have a conversation with Mr. Sheehy who indicated that he has completed all of the engineering reviews for the detailed construction drawings and finds that they meet all the city standards. The minutes from the Shade Tree Commission were also provided to the Commission, Shade Tree did review the tree management plan for compliance with the tree preservation requirements and made their determination that it is acceptable and made the recommendation back to the Commission. Therefore, we have completed the hearings

and completed the preliminary approvals and the applicant is now before the Commission for final approval. The improvement plans have been reviewed and approved by the engineer, the tree preservation plans have been reviewed and approved by the Shade Tree Commission, he has completed his review for compliance of both the preliminary review and zoning code and we are all recommending that the Commission grant final subdivision plat approval.

Mr. Thompson asked if the applicants had any further information they would like to provide. Mr. Suhail and Mr. Kolar indicated that they did not.

Mr. Thompson stated that he knows that some of the property behind the sublots is the detention/retention basin area and asked if this area would be part of the homeowner's association. Mr. Smerigan replied that it will be common property and maintained by the association. He stated that there is no mounding in the drainage area. There is landscaping to provide buffer. Mr. Thompson indicated that he knows that was an issue for the neighboring properties. Mr. Smerigan replied that this was more of an issue for the west side of the subdivision.

Mr. Munteanu asked if the gas well easement would be maintained by the gas company or part of the homeowner's association. Mr. Suhail that the easement has not been granted as of yet, but would become part of an agreement. If the gas company does not continue to maintain then it would become part of the homeowner's association management.

Mr. Thompson indicated that there is a 200-foot setback for the building from the gas company easement but the driveway is permitted to be installed in the easement. Mr. Smerigan replied that was correct, as there is a 200-foot requirement because of that easement.

Mr. Iafigliola arrived and took over as chairman of the meeting.

Mr. Iafigliola stated that the development will be installing sidewalks on both side of the street and will be five feet wide. Mr. Kolar replied yes.

Mr. Iafigliola stated that there is a fairly substantial fill as the developer will be going from 764 down to 753, that's the contours, and asked if there was any concern that this will create some drainage issues for the neighbors to the east. Mr. Suhail stated that there is a detention pond that will collect all the water and will wait in the detention pond and then out. Mr. Iafigliola agrees.

Mr. Iafigliola asked if it was the applicant's intention to not build homes on the two lots near the gas well but build at some point later. Mr. Suhail replied that those are two buildable lots and the setback lines will be much further back. Mr. Smerigan stated that the setback will be 200 feet in order to comply with the necessary separation between the dwelling and the gas well so that becomes the minimum setback for this lot. Mr. Iafigliola asked if it was an operating well. Mr. Smerigan replied yes.

Mr. Iafigliola stated that he was never thrilled with the way the common space looks but believes that the developer has done everything asked by the Commission and extra.

Mr. Iafigliola moved to **approve** the final development plans for Planning and Zoning Case #14-2020, PPN 281-05-013, east side of Columbia Road, as presented; Mr. Thompson **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**3. Planning & Zoning Case #15-2020** – 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 approval of the final development plans pursuant to Chapters 1268 and 1232.

Mr. Kolar stated that the final development plans also reflect that in May of 2019 there was a request that he change the original plan that had been submitted as a private street and redesign as a public street, which he has done. The plans reflect a 50 foot public right-of-way that meets all the requirements of the PRD with the exception of a variance needed for a 30 foot setback instead of a 50 foot setback from a public street, all the other requirements are met. The question as to whether or not we would be able to meet the open space requirements since we converted from a private street to a public street have been met and exceeded as we have 28% of open space instead of the required 20%.

Mr. Smerigan stated that the Commission approved the variance for the 50-foot street setback when the preliminary plan was approved so there would be certainty when he came back with his final design and before he spent the money on engineering, so that has already been done. Mr. Iafigliola stated that he believes the reason for that was at the time we all felt that the applicant would be a little hamstrung so we granted a variance to solve that problem. Mr. Smerigan stated that if you recall we wanted to push the houses as far from the surrounding properties as possible and by pulling them closer to the street the development doesn't impact any of the neighbors only the houses within the development, so yes that was all part of the thought process at the time. He stated that the Commission does have an approval from the Shade Tree Commission for the tree preservation plan and the street trees and they have recommended approval. As the Chairman indicated Mr. Sheehy has recommended approval since this does comply with the preliminary plat and the modifications the Commission requested.

Mr. Thompson would like to thank Mr. Kolar and Mr. Suhail for making the adjustments to the plan and modifying the street into a public street as he is kind of opposed to private streets, we have had enough issues with those. Also, for making the changes necessary to make this a much better development in the long run for everybody.

Mr. Suhail stated that Don Sheehy did comment in the past couple of weeks which we took care of and sent back to him to review which was before he wrote the email to the Commission. Therefore, the date on the latest plat is different from the date Mr. Iafigliola read. In other words, the plat the Commission received has a different date than the one that was last reviewed and approved by Mr. Sheehy. Mr. Iafigliola asked what the correct plat date was. Mr. Suhail replied June 12, 2020. Mr. Iafigliola asked what the

nature of the changes were. Mr. Suhail replied that most of them were cosmetic changes, for example, showing labels nothing that changed anything on the layout of the plat itself but he just wanted to get the record straight about the date.

Mr. lafigliola asked if the typical residential section included sidewalks on both sides of the street continuous through the development. Mr. Kolar replied yes. Mr. lafigliola stated that this is a public street and asked if it met all the specifications the city has established. Mr. Kolar replied yes. Mr. lafigliola stated that behind sublots 10, 11, and 12 there is a dry retention basin, he doesn't have an objection to that, but what is not really apparent is where the 100-year storm overflow is located. He stated that from the plans it looks like it is in the northwestern most corner. Mr. Suhail replied that is correct. Mr. lafigliola stated that his concern is, and he knows from his own subdivision and experience in this field, if the 100 year storm comes, which seems to be coming with greater frequency than the name might suggest, all that overflow from that point is essentially pointed directly at the existing house northwest of the development. He is not suggesting that the design be altered but would like it stated on the record why this basin was placed there and why you believe it will be fine for the duration of the development. Mr. Suhail stated that there is an easement through the property immediately to the north and the intent is to channel everything through that easement to the storm sewer at the end of that easement and believes that sewer has an open grate so everything is intended to flow towards Cook Road and not towards the house. Mr. lafigliola asked if the plans were showing a storm drain. Mr. Suhail replied that the entire easement is for this very specific purpose, to be able to channel the overflow out and that is going to be the use of the easement. Mr. lafigliola indicated it is a 20-foot-wide storm easement from the northwest corner due north but what he does not see are any grading changes to what is already there or is that a natural channel. Mr. Suhail replied that it is not shown on plans as it is a working easement. Basically, we have shown the elevation from one end to the other end and when we get out there, we will work in that easement and create the channel or little swale. Mr. lafigliola stated that his concern is that what he sees on the plat is not a natural channel, from the contours it would not leave him to believe that is what is there. What Mr. Suhail is indicating is that he intends to perform some additional work in that corner which will mitigate his concerns to some extent, however that is not yet shown on the plat. He does not know the individual owner of the house but if he were them, he would not want a retention basin in his direction let alone pointed at his house, it only floods when it rains but when it rains you wouldn't want to be there.

Mr. lafigliola asked if the entry signage was approved by ABR. Mr. Smerigan replied that the west side is not in the historic district but the east side is so this will be two different situations.

Mr. lafigliola moved to **approve** Planning and Zoning Case #15-2020 a request made by Dave Kolar owner of PPN 281-03-013 and 281-03-009 the west side of Columbia Road between Water and Cook for approval of the final development plans pursuant to 1268 and 1232 with two conditions: (1) that the plat map be modified to the satisfaction of the City Engineer as Mr. Suhail indicated; and 92) the proposed storm drain easement on the northwest corner, shown on C-18 and the plat view be graded to the

satisfaction of the City Engineer; Mr. Thompson **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

**COUNCIL LIAISON REPORT – *No Report***

**OTHER BUSINESS** – Mr. Iafigliola asked if the virtual meetings would be ended or continuing until the foreseeable future. Mr. Smerigan indicated that the issue is the 10-person limit for public meetings, once that is lifted or adjusted, he believes we could go back to meeting in person. He stated that in his discussions with the Mayor he has indicated that he is not prepared to have meetings with more than 10 people in the room as long as the Governor has that rule in place, if the Governor either raises the number or eliminates the limitation then we will go back to public meetings.

Mr. Iafigliola asked Mr. Smerigan how he handled meetings in other cities. Mr. Smerigan replied that some cities meet virtually, some are social distancing wearing masks and meeting in person, he has seen a little bit of everything. He has Zoom meetings in some communities and live meetings in other places.

**APPROVAL OF MINUTES** – Mr. Iafigliola indicated that the approval of minutes will be delayed until the next meeting.

**ADJOURNMENT:** Mr. Iafigliola moved to **adjourn**; Mr. Munteanu **seconded**. Voice vote: 6 ayes; 0 nays. **Motion carried.** Meeting adjourned at 8:43 p.m.

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Planning & Zoning Commission Clerk

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Date

\_\_\_\_\_  
Planning & Zoning Chairman

\_\_\_\_\_  
Date