



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

Commission Members Present: Brett lafigliola, Gary Pehanic, Garry Thompson, Peter Carpenter, Cornel Munteanu, and Michelle Hawkins. Dave Fenderbosch was excused. Others Present: Andy Bemer, Law Director, George Smerigan, City Planner. Audience: 2

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

1. **Planning & Zoning Case #21-2020** - A request by Tommaso Costanzo, owner of 7632 Clark Street for a lot consolidation of PP Nos: 281-02-047 and 281-02-048.

Mr. Costanzo stated that he purchased both parcels approximately three years ago and in the sense of simplifying things in our lives we would like to consolidate the parcels. He is also considering installing a fence in the side yard and in order to obtain a permit he has to consolidate the properties or obtain a variance.

Mr. Smerigan stated that this is a simple lot consolidation. The property becomes a more conforming parcel when consolidated. He believes that there is also an accessory building that has been built over the property lines and the consolidation will eliminate any issues with that building. This is a positive improvement and is recommending approval.

Mr. Bemer stated that the consolidation plat identifies the properties on either side of Mr. Costanzo and look to have been consolidated in a similar fashion. Mr. Costanzo replied that is correct. Mr. lafigliola indicated that those parcels were consolidated under separate agenda items at a previous meeting.

Mr. lafigliola moved to **approve** Planning and Zoning Case #21-2020, a request by Tommaso Costanzo, owner of 7632 Clark Street for a lot consolidation of PP Nos: 281-02-047 and 281-02-048; Mr. Thompson **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

2. **Planning & Zoning Case # 22-2020** - A request by David Horvath, owner of 9175 Lindbergh Blvd, PP# 291-28-007, for the following three variances to Section 1240.09(a)(3)(A): (1) A variance of 16 square feet to permit an attached garage to be 616 square feet in lieu of the permitted maximum of 600 square feet; (2) A variance to permit an accessory detached garage where the existing attached garage is at the code maximum for garage area; and (3) A variance of 880 square feet to permit the total aggregate garage area to be 1,480 square feet in lieu of the permitted maximum of 600 square feet.

Mr. Iafigliola administered the oath to David and Stacy Horvath.

Mr. Horvath stated that he would like to build an outbuilding 24 x 36 feet. He is currently he in the process of building a home and in addition to the attached garage he would like to build an outbuilding for classic car storage. He is confused at some things, before he purchased the property, he spoke with Aimee Stone who gave him some information and indicated that he could build an 880 square foot building which had to be half the distance off the property line of 18 feet since the garage is 36 feet. He has an eight-foot easement on the north side of the property and is where he would like to build the outbuilding. He just recently found out that he needed a variance because she said that the code changed and he wasn't sure what she meant by that; she said she was a little confused herself. Again, he just would like to build an outbuilding and he has noticed that all of his neighbor's have bigger garages than what he is asking for. He stated that his home is not built yet and was wondering if that was because of this variance and if it the permit was held up because he had to go through this process. He has also requested a permit for the sewer and storm lines and a culvert and that permit seems to be held up as well. He would like to find out what he can do to get his home built and what he has to do to get the 24 x 36 outbuilding.

Mr. Smerigan stated that the first variance deals with the attached garage for the new house. As the Commission is aware, the code was very recently amended to change the maximum garage size from 880 square feet to 600 square feet. The garage that is attached is the structure is 616 square feet so it requires an area variance of 16 square feet. The second variance is to permit a second detached garage on the property. As the Commission is aware, the code permits a detached garage but it requires that the total area of garage space not exceed the maximum of 600 square feet; since there is an existing garage that is 600 square feet the applicant needs a variance to have a second garage. The third variance relates to the area of the second garage which is 864 square feet, as proposed, which brings the total garage area to 1480 square feet and since the maximum permitted is 600, he needs a variance of 880 square feet in order to construct the second garage. So, what you have is a variance for the attached garage that he would need whether he was doing the detached garage or not because of the change to the code and at 616 he is over the 600 maximum; that is obviously a relatively minor variance as far as his perspective. The detached garage requires two variances, one because he is adding garage space beyond the maximum and then the second is for the specific square footage beyond the maximum which is the 880 square feet.

Mr. Bemmer stated that the code change deals with lots under one acre and this lot is under one acre which is why there is greater restrictions than what we use to have but properties in excess of one acre can still build the 880 square feet. So, the result is that this variance is more substantial because of the lot size.

Mr. Thompson asked if the outbuilding would match the existing home that Mr. Horvath is building. Mr. Horvath replied yes, he put that information in the drawings in the packet. Mr. Thompson replied okay.

Mr. Iafigliola indicated that Mr. Horvath property is .7770 acres and asked when he began the construction of his home. Mr. Horvath replied that construction has not started yet. Mrs. Horvath indicated that they signed on 2/29/2020, before COVID hit so the process has been delayed. Mr. Iafigliola asked when the new code change went into effect. Mr. Bemer replied that he was not 100% sure but believes it was towards the end of 2019. The Clerk replied she believes it was in October or November of 2019 but does not have the precise date. Mr. Iafigliola stated that Mr. Horvath has indicated that he is building a new house with an attached garage that is 25.8 x 24 which is the 616 square feet that Mr. Smerigan is citing. Mr. Horvath replied yes. Mr. Iafigliola stated that in addition to that he is requesting an outbuilding that is 24 x 36 feet. Mr. Horvath replied yes. Mr. Iafigliola asked the applicant why he choose this size. Mr. Horvath replied that it would be big enough to fit probably three cars; he has some classic vehicles that he would like to store. Mr. Iafigliola stated that he is trying to establish that the applicant could not easily remove a foot from each side because then it would reduce the utility that he is seeking. Mr. Horvath replied yes. Mr. Iafigliola stated that he noticed that there is a two-car garage door so there will be some additional room on each side of the garage which is shown in the drawings. Basically, the applicant is entitled to ask for what he wants and its up to the Commission to decide whether or not that is a reasonable request. He stated that of the three variances, the first one is 16 square feet for the 616 square foot attached garage and the code allows 600 square feet, most people would find that a reasonable variance in order to build a normal size garage without changing the design of the home. The second and third variances seem to be more problematic. The Commission had a garage situation with a previous applicant where there was a garage requested, it was allowed by code, but the garage unfortunately was much too big to be placed on the site, so now we go through a much higher level of scrutiny to do the best we can to protect the applicant and neighbors.

Mr. Iafigliola asked Mr. Smerigan what follow up questions should be asked regarding the second and third variances. He would note that the variance requests, he would think by any definition are considered substantial which is concerning to him and he is looking for some advice from the planner. Mr. Smerigan stated that one of the concerns is that we recently went through the effort of reducing the permitted maximum size of a garage to 600 square feet and what you have here is an application to more than double that amount and for him there would need to be some evidence of some practical difficulty or hardship that would require that that be done. He realizes that they may have classic cars but certainly that he does not think will meet the standard of a practical difficulty. The question is, if the city set the maximum size permissible for a garage on a lot of less than an acre at 600 square feet there has to be some reason for making it more than twice that size. With regard to the size of the building he would note that under our code if the building was more than 880 square feet, it would have to be further from the property line, so if he makes the outbuilding any larger the setback he is at will no longer work but per the code he can meet the setback because the building is under 880. Again, he has some concerns as to the justification for additional garage space in an amount that is twice the normal amount of the code. Mr. Iafigliola stated that what Mr. Smerigan is basically saying is per the code, if your lot size is under an acre you are allowed to have up to 600 square feet for a garage which is what the first request is because the attached garage will be 616 square feet. The problem we have

is the code only allows for 600 square feet and the applicant is asking to be substantially higher than that number which is why he was trying to establish if the applicant needs a garage that big and we understand what he is trying to store but the applicant has to understand the city's stand point and that the Commission is here to protect the applicant and neighbor's. What Mr. Smerigan is saying is that he is concerned that the garage is much too big so how can we establish that this is a hardship.

Mr. lafigliola stated that the applicant needs to help the Commission understand why the variance should not be considered substantial and how we can resolve the request other than a variance. He asked if the property was one acre how big could the outbuilding be. Mr. Smerigan stated that he would still have the issue of garage space, the variance would be smaller because on an acre lot you can have 880 square feet but an outbuilding can be larger. He thinks if you want to do a comparison for instance if the attached garage was a living area and he had a detached garage the maximum size of the detached would be 600 feet, so you could argue that a 600 foot accessory garage would not be out of character with the code but anything larger than 600 square feet for an accessory building will have an issue in terms of meeting the spirit and intent of the code. He understands Mr. Thompson's point about what it looks like in terms of the aesthetics of the building but he is talking about what it looks like in terms of the massing that the code would normally permit. Mr. lafigliola stated that the applicant does not have a small parcel as he is basically a whisker over  $\frac{3}{4}$ 's of an acre as opposed to smaller lots that the Commission has dealt with in the past, unfortunately that is not how the code reads currently one acre is the dividing line and he is under that. However, he thinks you could argue to some credit the fact that he is not on a postage size stamp lot. Mr. Smerigan replied that even on a lot that is greater than one acre he could only have 880 square feet of garage space and he already has 616 so he is not going to get another two-car garage as a matter of right even if he was over an acre. Mr. lafigliola asked if there was a distinction between garage and outbuilding. Mr. Smerigan replied yes. Mr. lafigliola asked where it was defined in the code. Mr. Smerigan replied 1240.09. He stated that his point is on a lot of less than an acre an outbuilding that would be more than 600 square feet is not going to be consistent with what is required under the spirit and intent of the code. Mr. lafigliola asked if we can establish that the code may allow for up to 600 square feet and then return to the applicant to see if that's at all reasonable. Mr. Smerigan replied that the problem is that the code is not going to allow him 600 square feet, the Commission will still have to grant a variance to permit the accessory building to be 600 square feet; its still going to be a large variance because its almost 580 square feet more than permitted. Mr. lafigliola stated that in Mr. Smerigan's opinion the request as written is substantial and does not pass some of the variance tests and therefore you would not recommend its passage; if it was a smaller size you may be able to make the argument that it still fits within the intent of the zoning code and maybe allowed with a variance.

Mr. Horvath stated that before he purchased the property he and his realtor went down to the city and stated that he wanted to build a 2100 square foot house and a 24 x 36 outbuilding and asked if he could, she told us that we could so that was the whole purpose of him purchasing the property and it is a nice piece of land. This garage would

sit back on the property and there is a vacant lot next to him with probably another ½ acre behind him. The whole back lot is wooded so the neighbor on the other side wouldn't even see it and would be only one neighbor that might see it. The whole front of the property is going to be wooded so you would not see it from the road. He understands that he does have a little bit bigger of a garage on the house but he also has a bunch of tools and lifts that he has nowhere to put now because he has two cars parked in the garage that are the main vehicles and he does not want to keep them parked outside and just wants everything in the garage nice and neat. He did not know the code was changed and was never informed and doesn't know how you would look up when stuff is being changed. Mr. Smerigan stated for the record, the change in the code affects the attached garage in his new dwelling but even under the old code he would not have been permitted to build what he is proposing and if his realtor indicated to him that it would be permitted then his realtor was in error because that is not what the code says. Mr. Horvath replied that it was Aimee Stone who that told him. Mr. Smerigan stated that any time there is a question regarding a building size and what is permitted Ms. Stone refers them to him for a response and he does not recall ever indicating that the applicant could built a garage the size he is proposing. He does know that when this request was received Ms. Stone forwarded it to him and he reviewed it and indicated what variances were necessary. Now, you can certainly have an accessory building and he may have been told that, but the code is quite clear that you could not build an 864 square foot accessory garage if in fact you have an attached garage and you couldn't do that before. Now, if there was no indication that there was an attached garage then yes under the old code you could have built an 880 square foot accessory structure that could be used as an garage, so if the city didn't have your building plans and didn't know there was an attached garage that would have been a correct answer to the question. Mr. Horvath stated that he was not informed of that when he asked the question last year. Mrs. Horvath stated that May 2019 was when they were going to purchase the land but it was in probate and was not approved until October of 2019; but we were told even if you had an attached garage to the house you could build an 880 square foot outbuilding. Mr. Horvath stated that is why they are building the house that they are building. Mr. Smerigan replied regardless of what the applicant was told or thinks he was told, the code is the code, and that's why they are here this evening. The question is whether or not the Commission is prepared to grant a variance to permit them to build something that does not comply with the code as its written and whether or not someone told you something or represented something doesn't change the code, and does not change what is in front of the Commission this evening.

Mr. Bemmer stated that verbal requests or conversations are as good as the paper they are written on. The point is that is why not realtors but builders understand ordinances and planning and zoning and he does not to denigrate either the applicant's realtor or Ms. Stone, but the art is in the interpretation of verbal communications and unless you have plans that you are looking at yes things are missed or misinterpreted or not clearly understood. He stated that Ms. Stone would have been correct if someone asked if they could build a 864 outbuilding and standing alone that answer would have been yes in May of 2019 so that would have been proper. But to indicate that there would also be a 680 square foot garage well they didn't know that. We are not here to either defend or

castigate anyone in particular but we have an unfortunate situation that he does not believe the applicant had the proper people coming forward with plans and unfortunately, he is faced with a proposition of can he build. If he is listening to what everyone is saying he thinks the applicant may get his outbuilding but its going to have to be downsized and he may be better off if the outbuilding was in the middle of the property in the back of the lot. The other big issue is buffering which is a huge factor and it's going to be real difficult to buffer a garage on the north side with a potential neighbor coming in. He stated that the reason the garage sizes were changed was because we had a very unfortunate situation with a garage that while it was code compliant in height it was a flat roof rather than something that was artistically consistent and compatible with a neighborhood. He stated maybe this Commission would be interested in making some conditions on the size and especially the height because he thinks, as was first discussed, the mast is a big thing. He understands that the applicant wants to go forward because his entire project is being held up but it seems like they may need to do either some quick recalculating or increase the size of the attached garage and determine what they can do with an outbuilding at a later time, but it sounds like he is in a position of having to compromise with his plans.

Mr. lafigliola asked Mr. Smerigan to explain, for the record, 1240.09(b) which talks about lots exceeding one acre, which the applicant is not. However, it does say for lots of or exceeding one acre the max area of such building shall be 3,000 square feet or 3% of the area of the rear yard, whichever is less. Now, he knows the applicant is not at one acre and is at  $\frac{3}{4}$ 's of an acre which is why he is before the Commission. Mr. Smerigan stated that this section talks about an accessory building on a lot that is greater than one acre, the garage square footage is still limited by subsection (a) so understand there is a distinction on a lot of greater than one acre between additional garage area that could be permitted which is very limited or an additional building such as a barn that can be put up on the property. So, you can have an accessory building but it can't necessarily be used as a garage. Mr. lafigliola replied that the applicant can have a barn to store his classic cars, if he chooses to do so, and that may not be what you define as a barn but it is an accessory building. Mr. Smerigan stated that if he is storing vehicles it's a garage that's the problem. Mr. Horvath asked what about storing car parts. Mr. lafigliola stated that the applicant has indicated that he has other things to store such as tools, riding lawn mower, etc. but even if you were to take that line of reasoning the property is less than an acre. Mr. Smerigan stated that the applicant can have a detached accessory building to store other things but as Mr. lafigliola read just a second ago that code section limits it to 140 square feet. The code permits him to have an accessory storage building but it limits the size of that as well. Mr. lafigliola replied that it limits it to 140 square feet because its less than an acre, and then for lots exceeding one acre the max area of that building jumps from 140 to 3,000 or 3% of the area of the rear yard, whichever is less. Mr. Smerigan replied yes.

Mr. Thompson stated that he the building is a pretty good size and is concerned that it is close to the property line and he knows it's a vacant lot right now but its probably going to be a buildable lot sometime in the near future so there should be some kind of screening or something. He is also concerned about overall height as it will have a 6/12 pitch which is a pretty substantial pitch and thinks that should be lower but he also does

not know the height of the house and asked if it was a single story or two story. Mr. Horvath replied it's a ranch. He stated that the height of the garage is only 15 feet from foundation to peak. Mr. Smerigan replied that the plan shows the garage is 15 feet total height. Mr. lafigliola asked if that was in compliance. Mr. Smerigan replied yes. Mr. Thompson asked what was the height of the house. Mr. Horvath replied that it has a 10/12 pitch on a 56 x 60 house. Mr. lafigliola replied that a 10/12 pitch is steep and would be a tall ranch but would be taller than the garage.

Mr. Horvath stated that the garage sits sideways and faces north so from the street you do not see the garage. Mr. lafigliola asked what he meant by you won't see the garage. Mr. Smerigan replied that the attached garage is a side loader the garage doors will face the street. Mr. Horvath stated that you will not see the garage from the street but the garage he is trying to build does.

Mr. Thompson stated that he is still concerned with the overall size because it is a substantial variance although this seems to fit with the house its just the overall size that is the question.

Mr. lafigliola stated that you are allowed to have an outbuilding by code but what the applicant is requesting is much bigger. Basically, what is allowed by code is a shed and so far we have not heard, to Mr. Smerigan's satisfaction for a recommendation and his as well, why the variance should be granted. We certainly recognize that Mr. Horvath is in a difficult spot with what he thought he heard when he and his realtor spoke to Ms. Stone at the building department so we are all in a difficult spot. He stated that the applicant does have some options subject to changing his plans which he has indicated he really doesn't want to do. The question is does he want the Commission to vote and see where it goes or is he open to some other ideas. Mr. Horvath asked what he needed to do to make satisfy the city. Mr. lafigliola stated that from the garage standpoint the property is too small because its under an acre so that reduces the amount of the out building you are permitted to have to 140 square feet which he knows the applicant will find unacceptable. There was a code change that reduced the garage size from 880 to 600 and he may be able to make some argument about that but the other concerns we have is this is a relatively large outbuilding close to a property line which we recognize is vacant. He would like to suggest adding additional garage width attach to the attached garage which would essentially make the garage wider and further away from the street and that would eliminate any property concerns but you would still need a variance but this may get rid of some of the issues that some people may have and it would be tucked behind your house so nobody could say they could see it.

Mr. Smerigan indicated that he does not understand what the Commission is trying to accomplish. Mr. Horvath asked what if he were to attach the garage to the house. Mr. Smerigan replied that it does not make a difference as he would still need the same variance. Mr. lafigliola stated that basically we have two concerns, the combined garage no matter how you do the math is too big and you are getting close to your neighbor's property line, and we acknowledge that no one lives there, but we know that someone may build something there some day. If you put it behind your house that would take

that issue off the table. The second question is the Commission could grant a variance to some reasonable amount to let you build what you are hoping for but the applicant is asking what number he could get to and the Commission can't answer that question. Mr. Smerigan stated that if the Commission granted a variance to permit a 600 square foot detached garage that would be consistent with what an adjoining property owner would see on an adjacent property that did not have an attached garage but simply had a detached garage so that size would be what one could expect on a code compliant lot with no attached garage. No matter where you put it if you build a building greater than 600 square feet he does not see any legitimate way to say that it is going to be consistent with the spirit and intent of the code. Mr. Horvath stated that all of the surrounding neighbor's have outbuildings bigger than the code allows, granted their acreage is different, but the buildings are huge and his would blend in with the neighborhood because it's going to look like a garage to the house and not as big as all the others. The vacant lot is all wooded so the trees will stay there.

Mr. Iafigliola indicated that in a couple of years the applicant could decide to close off the garage and build a bedroom then he would be well within his rights to request a 600 square foot garage but he is asking for 864 square feet now which is the crust of the matter. It is fair to say that the garage space is what it is but he thinks if we are being reasonable about what he is asking; he is asking for his allowed 600; forget the garage inside the house it's a side load garage it's going to look like the front of the house and he can always at any time turn that into a bedroom; so really the max what he is asking for is 24 x 36 that's 864 and the difference from 600 is 264 under that line of reasoning the variance seems much less substantial. Mr. Smerigan asked what sets this apart from every other lot of less than an acre in the City of Olmsted Falls that creates the reason for varying the law or are we just rewriting the code for every lot that is less than an acre in the City of Olmsted Falls. The code very clearly says to get a variance you must have a unique circumstance, the fact that you own extra cars is not a unique circumstance so what is the unique circumstance that creates the basis for the variance to allow an even larger building on this lot than what the code permits and how are you going to say yes to this request and say no to somebody else that makes the same request. Mr. Horvath indicated that it could be a potential future business of working on old classic cars. Mr. Smerigan replied then he would violate another section of the code. Mr. Horvath replied that he is not running a business he is working to fix new cars and then sell them to a point where he has enough money to find a shop somewhere else. Mr. Smerigan replied that only makes it worse because then we have the use of a residential property for commercial purposes so your talking about even complicating this further and making it even more difficult to grant any kind of variance. Mr. Horvath stated that he would just like to build a garage for the cars. Obviously, they are going to break down or leak and they are his own cars and will not sell them, he is just trying to get a place where he can have them close to home and that was the whole purpose of building this house to find a place he can build an outbuilding and a house. Mr. Smerigan stated that he does not know what the realtor told him but then he is in the wrong location, if the Commission grants a variance for an outbuilding and that outbuilding gets used for commercial purposes it makes this very difficult. Mr. Horvath replied that the building will not be used commercially he is looking to retire not a job; he wants to retire and tinker around with his cars.

Mr. Pehanic stated that some of things that Mr. Iafigliola suggested seems like he is really reaching to get to a point where the Commission can grant the variance. He remembers back on the Board of Zoning Appeals we always had a sort of an unwritten rule that you really have to watch the size of the requested variances and as long as he has been involved in this kind of activity, he has never seen a request for a variance this large. He does not know if right now there is a workable solution. Mr. Horvath stated that he is not sure if anyone drove through this area and looked up the driveways but you will see huge garages that line the whole neighborhood; there is one next door at 9199 and actually has 2 outbuildings. That is where he is confused and asking the Commission to be lenient because at the time he did not know the code was going to change during the process of building his house. Mr. Pehanic stated that he did drive there today and would agree there are some huge buildings back there but again the lot size is a factor.

Mr. Bemer would suggest asking Mr. and Mrs. Horvath whether they would like to table this request and talk to their builder so they can come back with other plans before the Commission votes. He does not have a vote but it seems to him that Mr. Horvath is "pushing the boulder uphill" and is losing the race. That is just a casual observation after sitting through hundreds of these types hearings. He also suggested having the builder speak with Mr. Smerigan and may have a strong argument to add a couple hundred feet onto the attached garage but to get a separate outbuilding that exceeds 140 square feet does not seem to be in the cards. He stated that if the board denies the request he would not be able to make another request for a year. Mr. Horvath asked for any recommendations that he could give on what square footage they think would be allowable. Mr. Bemer stated that they could not at this point which is why he alluded to having his builder speak with Mr. Smerigan as he is here to accommodate potential projects and to see if there is middle ground; he has more experience than anyone on the panel in dealing with these issues. He stated that Mr. Horvath is not going to get any further tonight other than a vote and it doesn't seem like there is enough people supporting his position at this point. Mr. Horvath replied that he does not want a vote and will speak with his builder and Mr. Smerigan.

Mr. Iafigliola moved to **table** Planning and Zoning Case #22-2020 a request made by Mr. David Horvath, owner of 9175 Lindbergh Blvd, PPN #291-28-007, at the applicant's request, until the applicant is ready to reconsider his request as necessary; Mr. Munteanu **seconded**. Poll: 5 ayes; 1 nay (Carpenter). **Motion carried**.

**3. Planning & Zoning Case # 23-2020** - A request by David Forni, Forni Landscaping, owner of 8051 Brookside Drive, PP# 291-22-021 for a Conditional Use Permit and site plan approval for a proposed commercial landscaping firm.

Mr. Forni stated that he has been in business for 13 years as a commercial landscaping company and is currently leasing property in Westlake. He came across this building while he was looking for a permanent home and he would love to move his business here, potentially forever. He stated that he will be running out of the building 12 trucks, 8 trailers for day-to-day landscaping use enhancing residential and commercial properties. He stated that for the general landscaping plan he wants to increase the

buildings curb appeal by the street along with the right side of the building in order to make the building look nicer. The proposed gate will cover the asphalt entrance from the front of the building to the grass area simply for security purposes for his equipment. He stated that behind the building is slightly overgrown which he will cut down and gravel the areas to keep the vegetation in check and this is the area where he will store the trucks and trailers. Inside the actual building he will store all of the hand tools, backpack blowers, small engines, etc. and repairing any equipment that goes down. Mr. lafigliola asked about the perimeter fence. Mr. Forni stated that he is not proposing a complete perimeter fence but rather a black aluminum six-foot-tall security gate that will stem from the building to the grass area on both the north and south side. This will be a slide gate and will be locked at night. Mr. lafigliola stated that the drawings show two gate proposals, one on the left and one on the right, north and south. Mr. Forni replied that is correct. Mr. lafigliola asked about the landscape island shown on the renderings. Mr. Forni replied that this will just be a general overhaul of what is currently there. There is a not so attractive area that is gravelly with some over grown plants and he would like to renovate that and add some upright trees and small perennials for color.

Mr. Smerigan stated that this is located in the MUTND district and will need a conditional use permit as well as site plan approval. The Commission will need to schedule the public hearing for the conditional use permit and at that meeting they would approve both the conditional use permit and site plan, assuming everything is to the Commission's acceptance. The primary issue for this evening, other than the Commission's general familiarity with the project is to set the hearing date which directs the clerk to send out the appropriate notices.

Mr. Thompson stated that he likes the site plan and the repurposing of the property as a commercial endeavor, however, the back of this property butts up to the creek which is overlooked by the Grand Pacific Junction property. He understands that they will be storing trucks and trailers but anything that could be done landscaping wise to make this area not as visual from the other side of the creek would be helpful and does understand that this could be difficult due to the difference in elevations.

Mr. lafigliola stated that basically he has a lot of outdoor storage for tools and larger equipment and the smaller equipment will be stored inside because part of his skill set is being able to not have to look at an eyesore from the parking lot of Grand Pacific. He does know that the back area also floods and advised him to be cautious not to store anything to low. He stated that this particular property has somewhat of a history within the city, it was the service department and a fire station before that. He would like the applicant to keep in mind when they are looking at the property that there is a house to the immediate south of the property which unfortunately does not show up in the renderings. This is a historic home and thinks he should pay particular attention to how this is screened and recognize that he will operate as a commercial function in a commercial district, which he is entitled to do, but the resident that lives in that house has been vocal many times when this particular property has been up for discussion in previous years. Mr. Forni replied that he has looked over the property and currently there is a nice screening of blue spruces to the south to screen the building from that

property. There are a few that are dead which he plans on taking down to replace and possibly extending both west and east to increase some of the screening between that house and his business. He stated that further east towards the back of the property it becomes more tree covered but we will be looking at any place where we can plug in either a nice big hemlock or some more greenery to try and screen ourselves from that residence. Mr. Iafigliola stated that he is not sure if the resident still lives in the property but would encourage him to try and reach out to her either via a letter or a knock on the door to see if she has any particular concerns. One of the things the Commission takes into great consideration is how the neighbor's feel about properties being developed and he may be able to get on her good side or not but it would be in their best interest to speak with her before the public hearing.

Mr. Iafigliola stated that the fence in the renderings is shown as somewhat opaque but the fencing shown on the secondary page is a see-through fence, he is not sure which one is beneficial. Mr. Forni replied that they are leaning towards what is on the site plan because as we learned more about the neighborhood, we thought a vertical black aluminum fence was attractive for the area as opposed to a very industrial screened looking fence and will update the renderings. He stated that as far as people looking through the fence the only thing he plans on keeping out are our trucks and trailers all of the small valuable equipment will be locked up inside the building. The gate is more serving as a purpose so people can't drive a truck into the back and hook up to one of our trailers and drive away so we can error more on the aesthetic than the actual security. Mr. Iafigliola stated that he does not have a strong opinion.

Mr. Iafigliola complimented the applicant on the entry sign and likes the way it was described and suggested increasing the picture as he thinks that adds a lot to the property and to the walkability. There is a historic railroad train depot across the street, with a surprisingly decent amount of pedestrian traffic in the area along with a lot of cars that stop there because of the train.

Mr. Iafigliola moved to **schedule** a public hearing for Planning & Zoning Case #23-2020 for Mr. David Forni at 8051 Brookside Drive, PPN #291-22-020 for November 4, 2020 beginning at 7:30 p.m. for a conditional use permit and site plan approval; Mr. Thompson **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

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

### **OTHER BUSINESS:**

1. Commission and Boards Interactions – Mr. Iafigliola stated that Ms. Tomasch, Chairman of the ABR, asked to speak to the Commission. He believes it is a valuable experience to understand what planning does. The purpose is to talk about how we may benefit each other and what we can do to make our respective boards better for the city as a whole.

Ms. Tomasch thanked the Commission for allowing her to speak. The ABR has some simple questions that have come up during prior meetings which primarily started with the Dollar General store. She found working with Planning very helpful as we are linked in so

many ways protecting the city, keeping our city beautiful and promoting businesses and, in her opinion, we need to work closely with each other. At the ABR meeting in June we had a representative from Pulte Homes that requested an informal discussion over housing plans, which we held, and during the course of the meeting since we have not seen a plot plan its hard to imagine where the houses are going to go and where the property is located because many people on the board were not aware of it. She stated that Section 1444.04 basically asks that the Commission send preliminary plat plans to ABR for comments or recommendations. The ABR then has 30 days to respond with recommendations but the power is the Commission's, we act as an advisory board in this circumstance. If we do not respond within 30 days the assumption is that it is accepted. It is also very helpful for our board to have the map of where things are going to be built. She thinks this is an oversight because our boards change so quickly and keeping us all aware of what our responsibilities are can be difficult.

She stated that in general 1444.04(r) states: ABR shall review and approve all exterior elevations plans relating to the construction or alteration of any commercial, industrial, multi-family or public or semi-public structure or any such property requiring a building permit. This is not an issue right now but is something she wants the Commission to be aware of. Mr. lafigliola indicated that this sounds like an incredibly broad power and would include virtually everything. Ms. Tomasch stated that this has nothing to do with the current project but rather is something she doesn't believe Planning is aware of. Mr. lafigliola stated that if we are going to enforce this it states everything requiring a building permit. Ms. Tomasch replied public buildings, it doesn't say any and all commercial, industrial, multi-family, public and semi-public buildings, for instance we reviewed the fire station. Mr. Bemer stated that he hears the concern when your identifying anything requiring a building permit and thinks that is unduly broad because we are excluding residential structures, additions, fences. Mr. Smerigan stated that we try to send everything that requires review by the board; obviously everything within the historic district goes to them regardless of what it is and under our current regulations even a residential PRD goes to the board for review and approval which is why Pulte Homes was there for the Western Reserve project because those are PRD's and obviously Dollar General. He stated that what does not go to the board are conventional subdivision plats and houses within a conventional subdivision that are not within the historic district. There are standards for what does and does not go. Mr. lafigliola stated that 1444.04(c) states the board shall make recommendations for a major residential subdivision required under section 1224.05. Mr. Smerigan replied that is a PRD.

Ms. Tomasch stated that 1444.06(a) states: "the board shall base its actions on a consideration of the impact of the proposed building or other feature upon the existing manmade or natural resources of the general area. The board shall consider its recommendation concerning land use on the consideration of the relationship of a use to the natural features of the land the aesthetics of building location and other factors it deems important. The board shall disapprove or recommend disapproval where the board has an advisory function of applicants it finds will not be compatible with the existing character of other properties in the city or if it finds that granting of such application will have an adverse effect on the tax values of such properties." She stated that this is broad. Again, she is just

telling the Commission what ABR's ordinances say. This is basically stating what we base our findings on and how to we take action.

Ms. Tomasch stated that 1444.06(b)(8) states: "Landscaping shall be appropriate for the size, scale and use of proposed structures and the existing or proposed development, and for the relationship between such proposed structures and existing structures and the existing or proposed development, public rights of way, parking areas, walks, grading and natural features. In addition landscaping shall be appropriately hardy according to accepted horticultural standards for Northeast Ohio." The reason she brings this up is because the development going in off of Columbia Road, Western Reserve Estates West, which is Pulte building the houses, and in talking with the city the board agreed that this is not in the historic district, and none of the houses being built are located in the historic district, however, the entranceway to this proposed development is off of Columbia Road it runs between two historic houses, which are in the National Register District. The question was raised at our last meeting as to what is being proposed for the landscaping to protect these two houses that have been so impacted. The representative from Pulte indicated that this was someone else's division and they don't do the landscaping. She hopes that the board will be involved in the landscaping for that entrance way. Her primary interest is to those two historic homes on Columbia Road.

Mr. Iafigliola asked Mr. Smerigan if the developer had all the approvals they needed from planning. Mr. Smerigan replied that Planning has granted approval of the plat. Mr. Bemer stated that the developer is moving along with their project, and are doing the infrastructure on the west side. Mr. Iafigliola stated that Ms. Tomasch is asking if the landscaping has been approved and if its approved where can she see the plans. Mr. Bemer indicated that the Shade Tree Commission reviewed and made recommendations. Mr. Smerigan stated that the street trees within the public right of way always go to Shade Tree and they comment on all the landscaping within public right of way and buffers. If there is an issue with the entrance either with the signage or landscaping, he can review and if we need to have something before ABR we can, he does have an issue with that. He does not recall the specifics from Shade Tree but, as Mr. Bemer indicated, they did review and comment. Ms. Tomasch stated that in the past when a development, of any kind has come in part of their plans are for landscaping and in the case of historic property, her understanding, is that ABR has final say over landscaping in historic districts. As she said this project is not in a historic district but the entrance is and because it impacts these two houses she is hoping that ABR has a chance to review it but we have seen no plans or submittal of plans for landscaping. Mr. Iafigliola asked the Clerk to pull the final plans and send over to ABR. He does not remember what is on the plans as it relates to landscaping and if more action needs to be taken, we can discuss at that time. Ms. Tomasch stated that she thinks it is truly important and does not like to see the historic district so disrupted, she understands that the developer has a right to develop this land but she thinks the city needs to take great care to protect the outside of this in the historic district. Mr. Iafigliola requested that Ms. Tomasch send the Commission a map of where the historic district is.

Mr. Iafigliola stated that what he thinks Ms. Tomasch is saying is that landscaping is an important feature of any development particularly in the historic district and ABR needs to be involved in that process. Ms. Tomasch replied yes.

Ms. Tomasch stated that 1206.04(b)(1) states: "To review plats required under 1224.05 for major residential subdivisions according to the provisions and criteria stated in this Planning and Zoning Code and make a recommendation to the Planning Commission." Which really goes back to the first item on the list the 1444.04(c). Mr. lafigliola stated that 1224.05 is the procedure for preliminary plat approval and that is what Mr. Smerigan indicated was a PRD.

Ms. Tomasch stated that 1206.04(b)(4) goes back to the landscaping and states: "To review landscape plans and screening plans for all development plans and to make recommendations to Planning Commission. The focus of the ABR is overall aesthetics, including the effective utilization of special elements such as walls, fencing, and trellises in the landscaping, and the choice of plant species to meet the requirements of this Code, with special attention to the common areas (see also 1232.06(f)(2). ABR has final authority in request to Landscape and Screening Plans for development plans of proposals within the historic district as authorized either by this planning and zoning Code or Chapter 1444 of this Codified Ordinances (see also 1232.06(f)(2)."

Mr. lafigliola stated as a summary wrap up he thinks what Ms. Tomasch is saying is ABR may or may not have been included in some of the items they think they should have been included in. Ms. Tomasch replied yes. Mr. lafigliola stated going forward the board would like to be involved in the future in this regard. Ms. Tomasch replied that is fair to say.

Ms. Piterans stated that she wanted to thank the Commission for listening. It is not just that we would like to be included but it is part of the ordinances under which we are asked to make decisions and it's important for us to have all the information we need as we have to provide a report on a regular basis to the state and she would just like to know that we are getting the information we are required to have.

Mr. Martin stated that under duties and powers in if look under item C it says that the board shall review and make recommendations to the Planning Commission on preliminary plats for major residential subdivisions required under section 1224.05, new professional, commercial and industrial developments and conditional uses. It goes on to say that said plats and development plans are to be reviewed regardless of whether the properties are outside or within the historic district. He believes to look at that aspect he would ask should the ABR be reviewing both the historical end of the Western Reserve Lane and is this in relationship to the guy on Brookside in terms of the fact that these are conditional uses and the residential planned development is a conditional use. Mr. Smerigan stated that there is no question that the Brookside project needs to go to the ABR for review, and we also informed Kolar that the houses on the Western Reserve West had to go in front of the board as well as the houses on East, as the East is in the historic district, the West is out of the historic district except for the entrance as Ms. Tomasch noted. We sent them to the board because those houses, in our opinion, have to be reviewed and approved and the landscaping company on Brookside will go before the board as well. Mr. Martin stated that during that time someone asked how many houses were on the street and then a site plan was produced so obviously ABR never saw it. The question is should ABR review preliminary plats. Mr. Smerigan replied not preliminary plats but PRD's as there is a difference. Mr. Martin replied that it is a conditional use. Mr. Smerigan replied that a PRD

is a conditional use; a preliminary plat is not necessarily a conditional use it is a subdivision approval. He indicated that Mr. Martin is talking about two different things. To the extent that it is a PRD then it needs to go the board, if it is simply a subdivision plat under the subdivision regulations and not a PRD its not a conditional use so it does not have a requirement to go to the board. Mr. Martin replied that he would have to read further. He would ask that Mr. Smerigan review it again at and say what it truly reads. Mr. Smerigan replied that he will take another look.

Mr. Martin stated that ABR's structure goes when the plans are submitted to the city, the items listed in 1206 and in 1444.04 kind of say what needs to be done and it has to be done in a judicious time period of 30 days. He feels that there is a certain lack of connection between what the Planning Commission does what ABR does. How does one make that connect, shouldn't Planning Commission receive these plans and then say we are going to send them to the planner, ABR, and all of the places they have to go?

Ms. Tomasch stated that is actually the reason for starting this whole conversation. She has a history and in the past when plans came before planning they would forward a set to ABR strictly for review and recommendations and ABR had 30 days to respond and send them back to the Commission, if we didn't the Commission could assume that ABR had approved the plans and that step seems to be missing. The same is true with landscaping plans that use to be presented when the housing plans were presented, we had already reviewed the plot plan now we are looking at new houses and the landscaping. It took us aback when we asked the representative from Pulte about the landscaping on the driveway and he indicated that it was not his job but somebody else's. We have never seen what's being proposed for landscaping and it is so very important both within the development and for the street scape.

Mr. Thompson stated that when they brought the plans back his understanding was that the back and forth was done many years ago because there were no changes in the plans other than they deleted the other street off of the main road. The landscaping was in the original plans and he asked if anything had changed and the only change was the additional road. They brought back the same plans that were done many years ago for basic reapproval because all of that had been vetted years prior. He remembers sitting as a Council Liaison and discussing the caliper of trees. All of this had been vetted out by ABR and the Commission many years ago.

Mr. Smerigan stated that we did some research and everything had been reviewed and approved previously so we were only dealing with the modifications. The reason this was sent to Shade Tree was because if you recall the Commission requested that the street be changed from a private street to a public street and as soon as it was changed to a public street Shade Tree had an obligation to comment on the trees. He believes that part of the disconnect may not be that something didn't go where it was supposed to go so much as this was a project that drug out over a 10-year period and some things happened a long time ago and people either don't recall or were not on the board at the time. This has been an elongated process and that has been part of the difficulty. If there is any confusion, he apologizes for that, and we will certainly try to make sure everything stays straight going forward.

Ms. Tomach stated that this project either began in 2006 or 2007 and she doesn't have the records so this is based on her member but ABR had not approved a single house plan during that period and then economics took over and this didn't move forward. Regardless, it has been such a long period of time it would have been helpful to see the approved plat or landscaping plan which we did not have. Mr. Smerigan stated that when they came to you for those approvals they should have included that as part of their submission and we will make sure this gets straightened out in the future.

**APPROVAL OF MINUTES** – Mr. Iafigliola moved to **approve** the minutes of September 2, 2020, as amended; Mr. Munteanu **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

Mr. Thompson stated that the Peto property the Commission tabled has had some activity. A couple of weeks ago there was a backhoe there and they dug a few holes, he does not know what they found but today there was a drilling rig there that drilled some holes much closer to the bank, not sure what they found, so at some point this should come back before the Commission.

He stated that the Dollar General is open and looks good. They finished putting the fence up today which was the last piece that needed to be done and looks nice. The fact that it does come forward helps screen the Kohler home from the store. He thinks ABR did a good job on the aesthetics with the building as it does seem to fit in. He has also received unsolicited comments from different people who say it fits in with everything there so he thinks it turned out nice.

**ADJOURNMENT:** Mr. Iafigliola moved to **adjourn**; Mr. Thompson **seconded**. Voice vote: 5 ayes; 0 nays. **Motion carried**.

Meeting adjourned at 9:59 p.m.

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Planning & Zoning Commission Clerk

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Date