

**CITY OF CIRCLEVILLE
PLANNING AND ZONING COMMISSION
104 EAST FRANKLIN STREET
CIRCLEVILLE, OH 43113
(740) 477-8224**

**Wednesday, August 6, 2014
Meeting Minutes**

Members Present

Al Sedlak
Don McIlroy
Mike Combs
Terry Leasure
John Ankrom
Marsha Griebel Graham
Bob McCrady
Valerie Goeller, Clerk

Visitors Present

Beverly Martin
Ellen Harden
Cindi & Scot Burbacher
Patty Rothe
Robert Johnson
Tim McCord
Logan Dills
Bob Morgan

Chairman Al Sedlak called the meeting to order at 6:00 p.m.

The first item of business was approval of the July Meeting Minutes. Don McIlroy motioned to approve, seconded by Terry Leasure. All in favor, motion carried.

The next item on the agenda was Conditional Use Permit #4-14, as requested by Brenda Ellen Harden, 148 West High Street, to operate a used car lot to the rear of her residence, in an area zoned R-5, Two-Family Residential District.

Brenda Harden was sworn in and stated I have been in business since 1997. I would like to maintain a small car lot on the back half of my property.

Al Sedlak stated will this be operated out of the garage and on the cement section on the back part of your lot?

Ms. Harden stated on the cement part on the back half. It has a Water Street address even though my house has a High Street address.

Al Sedlak stated is this one lot all the way from High Street to Water Street?

Ms. Harden replied it is a double lot.

Al Sedlak stated do you get one or two tax bills?

Ms. Harden replied one.

Al Sedlak stated apparently it has been consolidated to one lot. This property is zoned R-5, Two-Family Residential District which has certain limitations and allowable uses.

Terry Leasure stated what are your proposed hours of operation?

Ms. Harden stated I am thinking Noon to 4p.m., Monday – Friday, no weekends. I am not planning on walk in traffic. My target is internet sales.

John Ankrom stated what is your plan for a sign?

Ms. Harden stated I will comply with what is allowed.

John Ankrom stated you are limited to one, non-illuminated sign, no more than 4 square feet, and fixed to the principal structure. The principal structure would be your home.

Don McIlroy stated who do you think your market is?

Ms. Harden stated whoever would be interested in what I have for sale on the internet. I am not gearing up for street traffic.

Marsha Griebel Graham stated are you buying cars from auto auctions?

Ms. Harden stated I typically buy from individuals.

John Ankrom stated how many cars at one time do you think you would have in inventory?

Ms. Harden stated three at the most and an average of two.

John Ankrom stated if someone comes to look at a car, you will operate it off the Water Street side?

Ms. Harden replied yes. Everything will happen from the Water Street side.

John Ankrom stated if someone comes to look at a car. Where will they park and how would you know they are out there?

Ms. Harden stated I have a large area, there is plenty of room for someone to pull in there and park.

Don McIlroy stated today, how many vehicles are on that lot now.

Ms. Harden stated three and that includes the vehicle I drive.

Don McIlroy stated will you have room for three more?

Ms. Harden replied there is plenty of room.

John Ankrom stated whose fence is to the east of you and what type of lighting will you have on the site?

Ms. Harden stated the fence is mine and there is lighting on the lot. I don't plan to change the lighting. There is a security light that is on the building that comes on at dark.

John Ankrom stated the garage in the back is an accessory structure and cannot be used for your business or to work on the cars for sale.

Ms. Harden replied the garage is for my personal storage.

John Ankrom stated the property to the immediate east of her is zoned DB, Downtown Business District. She would have the ability to rezone it. I am not sure if the DB District allows for car sales.

Don McIlroy stated I really went through the code trying to figure how to fit this into our code and I couldn't do it.

Ms. Harden stated I just want to do this temporarily. I don't want this location permanently. It is to maintain my dealership until the economy gets better and I can get back on my feet. Then I would prefer to move it to a more desirable location.

John Ankrom stated how would you define temporary?

Ms. Harden stated when we have a new president.

Terry Leasure stated the three cars that are yours, can you make room for them in your garage?

Ms. Harden replied yes or park them in the front.

Don McIlroy stated have you spoken with your neighbors about this?

Ms. Harden replied yes and none object.

John Ankrom stated Valerie, did you get any response from neighbors?

Valerie Goeller replied I had one letter returned and did not receive any correspondence from the neighbors.

Al Sedlak stated looking at Section 17.04 of our code, a used car lot is not one of the Conditional Uses that can be made in an R-5 District. (Mr. Sedlak read the allowable Conditional Uses in an R-5 District.) When we talk about home occupations it is typically a personal service nature that is run out of the home. I have been on this board for a little over 10 years now and I don't believe we have ever approved a retail type of business in a residential district. That is a pretty radical step. For that I have a lot of problems with your request. Other board members might feel differently, but I think it is a pretty dangerous precedence by allowing a retail business in what is zoned a residential neighborhood. I understand it is on the border of the DB District, but both Water and High Streets are primarily residential.

Ms. Harden replied for 17 years I have maintained my own business and generated a lot of sales tax for the county and I would like to continue to do that. I am not asking for this to be done on a permanent basis. Would you consider a variance for temporary use?

Marsha Griebel Graham motioned to approve, seconded by Mike Combs. VOTE ON MOTION: AL SEDLAK, NAY; DON MCILROY, NAY; MIKE COMBS, NAY; TERRY LEASURE, NAY; JOHN ANKROM, NAY; MARSHA GRIEBEL GRAHAM, NAY; AND BOB MCCRADY, NAY. 0 YEAS, 7 NAYS, MOTION DENIED.

The next item on the agenda was Variance #5-14, as requested by Mike Farrell, 22858 State Route 104, Circleville for Scot and Cindi Burbacher, 240 East Mound Street (corner lot,) to erect a privacy fence on the Washington Street side and to vary the maximum height allowed for a fence in a front yard from 4' to 6'11" and the minimum front yard setback for a fence from the required 3' to 0', in an area zoned R-4, Historic Neighborhood Single-Family Residential District.

Al Sedlak stated for clarity, our code recognizes corner lots to have two front yards on both streets.

Scot Burbacher and Mike Farrell were both sworn in.

Scot Burbacher stated my wife, Cindi and I purchased this property several months ago. We are asking to put up a 6' privacy fence with the top foot being see through cross lattice. The property is elevated approximately 11" and bordered by a cement retaining wall. That is the reason for the variance for 6' 11". (Scot passed around pictures of other 6' fences in the same neighborhood.)

Al Sedlak stated where will the new fence be installed on the west, north or just along the east side, along Washington Street?

Mike Farrell stated on Washington Street and along the back of the lot.

Scot Burbacher stated there is only one, six foot section that is left in the driveway from the old fence.

Al Sedlak stated along Washington Street in relation to the retaining wall, where will the fence be located?

Mr. Farrell stated where that fence starts on the east side it travels north all along the back there and down to the tree. It will be all along the north, east and west sides of the property.

Al Sedlak stated will it be between the retaining wall and sidewalk or inside the retaining wall?

Mr. Burbacher replied inside the retaining wall. The fence will be right inside of the retaining so the landscaping will be inside. One of the pictures I passed around you can see where the fence is actually sitting on the retaining wall and it is two doors down.

John Ankrom stated is the retaining wall the property line?

Mr. Burbacher replied correct. The fence is not just for privacy. Prior to us moving in our neighbor told us there were two men sitting on our back porch at 2:30 a.m. so it is also needed for security reasons.

Terry Leasure stated it is already a nice property and I am sure it will just add to it.

Mike Combs motioned to approve, seconded by Terry Leasure. VOTE ON MOTION: DON MCILROY, YEA; MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, NAY; AL SEDLAK, YEA. 6 YEAS, 1 NAY, MOTION CARRIED.

The next item on the agenda was Variance #6-14, as requested by Robert Morgan, 290 Meadow Drive (corner lot,) to install a 10' x 12' shed on the Juhl Road side and to vary the allowable use of an accessory structure in a front yard and the minimum front yard setback from 25' to approximately 7', in an area zoned R-3, Single-Family Residential District.

Robert Morgan was sworn in and stated I want to put up a storage shed to get some of the stuff out of my garage. Mostly I want to get the combustible equipment that takes gasoline. My wife is handicapped in a wheelchair so if the garage catches on fire I would have a chance to get her out a little faster if that equipment was out of the garage. The storage shed is common in our neighborhood. My plan is to clean out the garage enough to be able to park a car in it.

Al Sedlak stated will the storage shed be inside the fence or outside of it?

Mr. Morgan replied inside.

Al Sedlak stated looking at the property I had a hard time telling where the property lines are located. The aerial does help to clarify it.

Valerie Goeller passed around pictures Mr. Morgan submitted with his request.

Don McIlroy stated how long has Juhl Road been a dead end?

Mr. Morgan replied I don't know. As long as I have been servicing appliances around the neighborhood I have never known it to be anything than what it is now.

Al Sedlak stated for several years there were proposals for the Marshall Addition and the land in between by Mr. Morgan's property to be annexed and developed with that road being extended. There was opposition from the residents in Marshall Addition. This property has set for 10 to 15 years with no talk of activity.

John Ankrom stated if that road is ever developed he would be located on a corner lot and the accessory use he wants would be sitting in the front yard setback. Do you have any other accessory structures on the lot?

Mr. Morgan replied no.

John Ankrom stated where did you come up with the 7'?

Mr. Morgan stated there is already a chain link fence around that edge of the property and the way I understand it is from the road back to the property there has to be so much right-of-way for sidewalks. The fence is 9' to 10' off the road and then 6' to 7' more on the other side of the fence. I want to keep some yard space.

Don McIlroy motioned to approve as requested, seconded Terry Leasure. VOTE ON MOTION: MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, NAY; DON MCILROY, YEA; AND AL SEDLAK, YEA. 6 YEAS, 1 NAY, MOTION CARRIED.

The next item on the agenda was Variance #7-14, as requested by Robert Neal, P.O. Box 160, Circleville, for Susan Diltz, 1039 Lynwood Drive, to construct an attached garage and to vary the minimum side yard from 6' to 4', in an area zoned R-3, Single-Family Residential District.

Steve Marshall of the Home Center was sworn in and stated we are going to attach a garage to the house on an existing concrete pad. It will be the same depth as the house, 24' x 14' which leaves 3.5' of existing concrete on the side.

Al Sedlak stated how much yard is there between the concrete and the neighbor's house to the right?

Steve Marshall stated at least 5' because I have a 54" John Deere that I mow her yard with and I can pass through there. The structure will match the house gable. This will be a totally enclosed garage and semi-finished inside, with siding on the front to match the existing siding on the ends of the house and part of the front. The house is part brick and siding. We will side the whole garage.

Bob McCrady stated will the shed in the back remain?

Mr. Marshall replied it is a 6' x 8' shed, I assume it will stay.

Don McIlroy motioned to approve as requested, seconded by Bob McCrady. VOTE ON MOTION: TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA; DON MCILROY, YEA; MIKE COMBS, YEA. 7 YEAS, 0 NAYS, MOTION CARRIED.

The next item on the agenda was an amended request - Variance #8-14, as requested by Paul Johnson, P.O. Box 657, Circleville, for The Savings Bank, 201 North Court Street, to install signage for their new location and to vary the maximum amount of signage allowed from 60 square feet to 524.87 feet and the number of signs allowed on one side from 2 to 4, in an area zoned DB, Downtown Business District.

Beverly Martin of The Savings Bank and Logan Diltz of Danite Sign Company were sworn in.

Beverly Martin stated as you are all aware we are constructing a new bank and we are looking to have signage approved for it. Everyone one should have a copy of our proposal. We have three signs on the main building located on the corner of Pinckney and Court Streets. There will be a sign on the east side and a sign on the south side of the building. On the last page we are requesting signage on the drive thru canopy's along Pinckney Street.

Al Sedlak stated the additional signs on Pinckney Street side for the drive thru was the reason for the amendment to the original application.

Don McIlroy stated it goes without question that the community is extremely excited about this project. We thank The Savings Bank for the economic development and new look!

John Ankrom stated did you say something about changing the number of signs to four. It will be in excess of four with the request.

Valerie Goeller stated they are allowed two per frontage and they have four on one side. Looking at the layout it appears to be four signs on the Pinckney Street side.

John Ankrom stated the total number of signs will be six and they are allowed four.

Valerie Goeller stated they are allowed two signs on both Pinckney and Court Streets for a total of four. The one on the corner I gave the allowance on Court Street because they only had one other sign.

John Ankrom stated the request should be amended to vary the number of signs allowed from four to six.

Valerie Goeller stated if they weren't on a corner lot, they could only have two signs. I don't think it matters one way or the other how it is varied.

Al Sedlak stated it is all semantics, it's the same thing just how you word it.

John Ankrom stated are there other signs that need addressed, like the drive thru, entrance, etc.?

Beverly Martin stated they will be on the lot and not legible from the street.

Al Sedlak stated I would assume they haven't addressed that yet and we can do that in the future.

Beverly Martin stated the signs on the building will be illuminated. The lights are backlit and not obtrusive.

Don McIlroy motioned to amend the request to vary the number of signs allowed from four to six and to approve the remaining request as requested, seconded by Bob McCrady. VOTE ON MOTION: JOHN ANKROM, ABSTAIN; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA; DON MCILROY, YEA; MIKE COMBS, YEA; TERRY LEASURE, YEA. 6 YEAS, 0 NAYS, 1 ABSTENTION, MOTION CARRIED.

The next item on the agenda was Final Plat, as requested by the City of Circleville, 104 East Franklin Street, for Kevin Steward of Berry Leaf Holdings, 6790 Brooksmiller Road, for approval of Progress Parkway, in an area zoned GE, General Employment District.

John Ankrom stated this is the portion of Progress Parkway that was constructed last fall. This was a County project funded by a grant and administered by the County to connect Progress Parkway to Town Street. Mr. Steward donated right-of-way to the City to allow this to happen and everything is done and completed to the city's satisfaction.

Al Sedlak stated we are approving the plat and accepting the new street. This street still extend out into the township.

Marsha Griebel Graham stated do they have a legal description for this also?

John Ankrom stated I think he is planning on the plat being the legal description.

Marsha Griebel Graham stated I think you need a legal description for that 1.274 acres because Mr. Steward (Berryleaf Holdings) has a mortgage on that property. I think the bank should do a partial release to take it off.

John Ankrom stated what about the .434 acres on Town Street?

Ms. Griebel Graham stated both of them. I think the legal needs to be embodied. It could be submitted to the bank and they can partially release it. His description of the balance of what he has left was not surveyed. That is neither here nor there, but he doesn't have a good legal description for the balance.

John Ankrom stated you have an official record of the 9.24 acres, right?

Ms. Griebel Graham replied yes.

John Ankrom stated the parcel is noted.

Ms. Griebel Graham stated that 9.24 acres is several parcels.

John Ankrom stated as far as the County, the plat is approved.

Ms. Griebel Graham stated they didn't request a legal description?

John Ankrom stated I can see where a bank might want something to release their interest in it, but as far as the County and recording the plat, they are alright with it.

Marsha Griebel Graham stated does Mr. Steward need to request this from his surveyor?

Mr. Ankrom stated I can make him aware of it. I don't know if that effects this body in terms of accepting and approving this plat? The engineer is okay accepting this as a recorded plat.

Ms. Griebel Graham stated I am just surprised they approved it without a legal description. Does that surprise you?

John Ankrom stated the plat pretty much lays it out. It's possible to record something without a legal, right?

Marsha Griebel Graham stated maybe there is one and we don't have a copy of it.

Al Sedlak stated I would think there has to be a legal somewhere because they have all the calls on it.

John Ankrom stated Valerie, do you recall getting a copy of the legal?

Valerie Goeller replied I do not. Is this the same property that was rezoned?

John Ankrom stated it wouldn't have the right-of-way included in that legal.

Don McIlroy stated do we need a legal description to approve this plat?

Marsha Griebel Graham replied probably not.

Al Sedlak stated will the recorder record this without a legal?

John Ankrom stated if the plat has a stamp and signature, I would say she would. I don't think there is any big time push, it's just something that needs done.

Marsha Griebel Graham stated I know it needs done. The only way I know this is because we did a title search on this and it became an issue because we couldn't find the plat. We found the plat for the County, but not for the City. We were hoping it would get done before he put the mortgage on there. The problem is that this will become Mr. Steward's problem. He will have to go back to the surveyor and pay him to get the legal description to straighten out his property issues. That is unless it has been done and we just don't have a copy of it.

John Ankrom stated I will make Craig Stevenson or Kevin Steward aware of the issue. My question is do we need to table it or can we take action tonight?

Al Sedlak stated they are conveying this in fee to the City. They are dedicating right-of-way. They still own the property, it's just subject to the City's right-of-way. This might be a concern to the lender.

John Ankrom stated he still owns to the center of Town Street.

Marsha Griebel Graham stated it's not like a subdivision plat where the streets are dedicated and they don't pay tax on it. If you have a platted subdivision and the streets are dedicated in the subdivision the right-of-way is taken out and the people don't pay taxes on the roads. So if this is part of his legal description then it will still be part of his taxes.

Al Sedlak stated I would think it would be the same as any other subdivision. That acreage will come off the tax duplicate. Before that I would think they need a legal description.

John Ankrom stated they have the balance acreage there.

Marsha Griebel Graham stated they have the balance acreage. Not necessarily will they need the legal description because the plat describes the acreage amount and it shows each amount that comes off each tax parcel. But once it comes off each tax parcel he no longer owns it and won't be paying taxes on it either.

Al Sedlak stated I think he owns it, doesn't it come off the parcel?

John Ankrom stated that is like the people out on Route 22. They own to the center of the road, but they don't pay taxes on it.

Marsha Griebel Graham stated they do.

John Ankrom stated they aren't supposed to.

Marsha Griebel Graham stated they own to the center of the road and it's on their tax bill. It's just like a meets and bounds description. With a meets and bounds descriptions people own to the center of the road and that is in their tax bills. The public has a right to use it because it is dedicated right-of-way, but in a platted subdivision in the city they don't own to the center of the street. In this case you are saying he is going to own to the center of the street. So he is dedicating it in right-of-way. It is right-of-way that he will still be taxed on, correct?

John Ankrom replied I don't know.

Terry Leasure motioned to approve as requested, seconded by Bob McCrady. VOTE ON MOTION: MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA; DON MCILROY, ABSTAIN; MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM, ABSTAIN. 5 YEAS, 0 NAYS, 2 ABSTENTIONS, MOTION CARRIED.

The last item on the agenda was an informal request as requested by Four J Properties, P.O. Box 657, Circleville, to vary the minimum distance for a curb cut from a street right-of-way line from 35' to 25' at 579 North Pickaway Street, in an area zoned R-3, Single-Family Residential District.

Bob Johnson stated we originally wanted to put the house on the north side of the driveway and our last appearance before this group it was suggested we move the driveway to the south away from Sharon Road and Montclair Avenue. We thought the request was reasonable. So we flipped the house plan and put the drive on the south side. Between the edge of Johnson Drive and the house there is about 39.6' so there is plenty of clearance and no interference in the line of sight.

John Ankrom stated we have a zoning regulation that states the curb cut has to be 35' away from the right-of-way line. In the final analysis Mr. Johnson's driveway will be somewhat less than 25' away from the right-of-way line of Johnson Drive. That is why he is here tonight. They have already cut the curb.

Bob Johnson stated there was no curb there so we just scalped the topsoil off so we can stake it out and it has been staked.

John Ankrom stated they are ready to start on the foundation.

Bob Johnson stated they want to start the first of next week. We should have realized it was a corner lot where we have two frontages.

John Ankrom stated on his north property line he has a 10.8' setback to the house. Shoving the house to the north to increase that distance doesn't make a whole lot of sense. Given the activity on Johnson Drive at this point I don't see it being a big issue. I thought it would be good to get it in here and get a feel from the board because they don't want to lose a month of construction time at this time of year.

Bob Johnson stated our construction time is about four months. If we get into another month beyond, we will be getting into some bad weather.

Al Sedlak stated this is probably the most logical place to put the driveway.

Terry Leasure stated I have no problem with his request.

Bob McCrady stated I don't have a problem with it.

John Ankrom stated I have another item I would like to discuss. Jim Hartzler is the consultant who wrote our Zoning Code. The last update was a pretty comprehensive completed in 2009. Typically every five to six years you want to try to do this and we would like to engage Jim to review our Zoning Code and bring it up to speed with some of the new changes law wise and any other changes we might want to entertain. We would like to do that next year. So by the end of 2015 I would like to have a new updated Zoning Code and updated map. We have had significant annexations and changes. He has a proposal here and I have a copy for each of you. His fee is around \$6,000.00. It will take five to six months to complete and then through the legislation to get it adopted. It will take nearly the whole year to complete.

Al Sedlak stated the last time we did this we had a subcommittee that was made up of Bill Mosher, myself, Valerie, the Service Director and Mayor. It was not the whole commission. What we did was take our code in sections and Jim Hartzler would have some proposed changes that he would forward to us and we would study those. We would meet once a month and go over each line by line. We worked our way through the code over a period of five or six months. Once we were finally done and put it together we presented it to the commission.

While doing that we went back through and amended the Zoning Map. We made some non-conforming uses actually uses as what they were being used for. We presented that to the commission and the commission as a whole we talked about it and reviewed it over a few months. The whole process took nine to ten months.

John Ankrom stated I want everyone to start thinking about issues that come up that can be better handled in the future by making changes to our Zoning Code. For an example, we have vacant lots in the downtown area that are gravel. We want them to be used in some manner. Digital Signs need to be addressed, bring things up to the times. Swimming pools that are the inflatable pools coming from Wal-Mart is a problem. We are

going to ad OCU. Washington Township has crafted a campus district that I want to incorporate in our code. If you have made any notations, write them down so we can discuss it when comes to the review.

Marsha Griebel Graham motioned to adjourn, seconded by Terry Leasure. All in favor, meeting adjourned.