

RECORD OF PROCEEDINGS

Minutes of *COUNCIL MEETING*

Meeting

DAYTON LEGAL BLANK CO. FORM NO. 10148

Held October 13, 1997

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The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, October 13, 1997, at 8:00 p.m. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Councilmember James Singer, and the Pledge of Allegiance to the Flag, with Mayor Sally Beals presiding. Councilmembers and City Staff present were as follows:

Deputy Mayor	C. Mark Kingseed
Councilmembers	James Singer
	James Reppert
	Brooks Compton
	J.V. Stone
	Susan Lienesch
Clerk of Council	Marilyn McLaughlin
Assistant Clerk of Council	Peggy Whisman
City Manager	Gregory Horn
Assistant City Manager	Judith Gilleland
Assistant to the City Manager	Kelly Fackel
Public Works Director	Steve Weaver
City Planner	Steve Feverston
Acting Municipal Attorney	Robert Hunter

RICHARD, EVELYN, NEVIN, AND CELIA ELLIOTT APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Richard, Evelyn, Nevin, and Celia Elliott against a decision rendered by the Planning Commission during their meeting held August 26, 1997 to deny a Variance Application to permit the use of vinyl siding on the exterior of the building located at 60 South Main Street, in the Architectural Preservation District. Mr. Feverston located the property on a map and explained that the zoning for this property is APD - Architectural Preservation District. He pointed out that the use of vinyl siding on the exterior of a building in the Architectural Preservation District is prohibited. Mr. Feverston reviewed events which took place relative to the application of vinyl siding on this residence and the process followed to bring this Variance Application before City Council. The Variance Application was first sought through the Board of Architectural Review and was denied. Secondly, the decision of the Board of Architectural Review was appealed to the Planning Commission. The Planning Commission found no error in the decision rendered by the Board of Architectural Review and voted to uphold the Board's decision. However, the Board of Architectural Review forwarded the entire issue of vinyl siding being applied to buildings within the AP district to Council for their reconsideration of material standards.

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John Koverman, 120 West Second Street, Attorney representing the applicant, explained that Mrs. Laura Elliott, the occupant of the home, was the person who contracted with Lock Aluminum Products for the installation of the vinyl siding. Mrs. Elliott, nor her family were aware at any time that the siding was prohibited in the AP District. Mr. Koverman explained that this was an honest mistake, and that possibly the siding is the best way to preserve the home. Mr. Koverman reviewed the construction of the home, the deterioration of the wood siding, and the home having no insulation. Mrs. Laura Elliott was concerned with improving the appearance of her home and increasing the insulation factor. Mr. Koverman presented to Council a picture of the house with the vinyl siding applied, the proposal for its application which was executed between Lock Aluminum Products and Mrs. Elliott, an estimate for the removal of the siding, and documentation received from "Historic Restoration" relative to the use of vinyl siding in historic restoration. He emphasized that to remove the vinyl siding, have the wood siding scraped, caulked, cleaned and painted would create a great hardship for Mrs. Elliott financially.

Richard Elliott, 11 Martha Avenue, explained improvements made to the subject property. The appearance of the vinyl siding is the same as the wood siding that was deteriorating. He felt that Mrs. Laura Elliott should be permitted to improve the property within her financial means. He cited many properties in the AP District which have vinyl or aluminum siding. Mr. Elliott also presented a petition signed by residents within 500 feet of the subject property which read as follows: "We the residents of the neighborhood around 60 South Main Street have no objection to the vinyl siding on the Elliott home and consent to a Variance from the Historical Preservation Ordinance for this property". In addition, Mr. Elliott presented a list of the properties that have vinyl or aluminum siding in the AP District.

Celia Elliott, 19 Martha Avenue, questioned the use and abuse of local power exercised in this particular case; no consideration has been given to the human dimension and how rules and regulations effect individuals. She stated that the AP Ordinance was not intended to make ownership of historic buildings a liability. Mrs. Elliott explained that when paint no longer adheres to an historic building, the City makes no prevision in the Ordinance for new materials to be applied to properties. She asks City Council to consider this Variance on its own merits and to approve the improvement made to the property at 60 South Main Street.

Clyde Conn, 325 Cedar Leaf Court, Real Estate Appraiser, emphasized what a fine job the Elliott's have done with the subject property. He suggested that City Council re-evaluate the AP district regulations. Businesses no longer seek to locate nor desire to remain in the center of Centerville.

Ann Antenen, Hamilton, Ohio, member of the Board of Preservation Alliance, member of the Board of the Ohio Historical Society, and a contractor to restore old buildings for sixteen years, commented that if there is a dampness problem in the wood, rotting will develop under the vinyl siding; if the wood is too dry, dry rotting will result.

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Martha Boice, 7712 Eagle Creek Drive, Landmark Chairman for the Centerville Washington Township Historical Society and Chairman of the Landmark Foundation pointed out that in 1966 the National Historic Act established the National Register to recognize common historic homes; and in 1977 Guidelines for Restoration were set forth by the Secretary of the Interior. She reviewed the Guidelines for Restoration for City Council, particularly those issues which relate to this issue. She pointed out that the purpose of Centerville's AP District Ordinance is to maintain the integrity of buildings in the APD. Mrs. Boice showed slides of some historic properties in our Community that have been altered and have lost their original heritage.

Glenn Harper, Architectural Historian, and Regional Coordinator for the Ohio Historic Preservation Office located at Wright State University, urged Council to deny the Appeal for a Variance in this case. He cited four primary reasons for this request: 1. It is a definite violation of Centerville's AP District Ordinance. 2. The property owner, family and contractor should have been aware of the Ordinance as it has been in effect since 1986. The contractor bears some responsibility for the installation of the vinyl siding in an historic district. 3. Vinyl siding damages, destroys and obscures historic materials and features, and it diminishes the architectural character of the historic building. 4. The application questions the City's design guidelines and design review process, and sets a precedent for anyone else that cares to ignore the Ordinance.

Patricia Aldrich, 1355 Fenway Court, President of the Centerville Washington Township Historical Society, commented that compromising the AP District Ordinance would cause Centerville to lose the AP District as it is known today. Mrs. Aldrich requested that Council uphold the AP District Ordinance.

Mr. Bob Bowser, Lock Aluminum Products, representing the contractor that installed the vinyl siding on the subject property stated that in his 44 years of experience, he has never seen any damage done to a structure due to siding. He explained the construction and installation of the siding applied to the home at 60 South Main Street.

Brenda Badgley, 6935 Abington Green Court, Trustee of the Centerville Washington Township Landmark Foundation identified what she felt was the real issue being considered during this Public Hearing: to respect the Ordinance passed to preserve the historic character of buildings in the Architectural Preservation District.

Mr. Koverman pointed out that the majority of the people who spoke in opposition to the use of vinyl siding are not APD residents. Residents of the AP District have submitted a petition in favor of granting the Variance.

Upon question of Mayor Beals, Mr. Bowser advised that he was not at anytime aware that this property was in the AP District. He was not aware that he was breaking the law.

Upon question of Mr. Compton, Ms. Ankenen advised that she personally used vinyl siding only once, and did not like it. She explained that she is not aware of any historic district in the State of Ohio that permits the use of vinyl siding.

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Mr. Reppert recognized the statement made against the use of vinyl siding as being greatly overstated. However, he took an Oath to enforce Ordinances of the City of Centerville.

Mr. Kingseed, while expressing sympathy for the Elliott family, pointed out that the Ordinance is very clear and has been in place for a very long time, he did not feel that a Variance could be granted in this case, the Ordinance should be upheld.

Mr. Stone expressed difficulty understanding that the Elliott family was not aware that this 1986 Ordinance existed. Mr. Richard Elliott stated that they were not aware of any law prohibiting the use of vinyl siding in the AP district.

Upon question of Mrs. Lienesch, Mr. Feverston explained that variances are considered on a case by case basis to determine hardship for a specific individual property, and generally are not precedent setting.

Mr. Compton pointed out that Council has a responsibility to the community to interpret Ordinances as they see them to be interpreted.

Mr. Singer commented that he felt contractors who install materials of this type should be held responsible for situations of this type. He suggested that consideration be given to amending the Ordinance to make contractors accountable at least by 50%.

Mr. Kingseed moved that the Appeal filed by Richard, Evelyn, Nevin and Cecil Elliott against the Planning Commission's decision to deny the Variance for the use of vinyl siding on the exterior of the home located at 60 South Main Street, be denied. Mr. Reppert seconded the motion. A roll call vote resulted in six ayes in favor of the motion, with Mr. Lienesch voting no.

YANKEE TRACE SECTION FOURTEEN RECORD PLAN

Mr. Feverston reviewed a Record Plan for the development of a 8.69 acre parcel of land, zoned R-1c, in Yankee Trace into 20 single family residential lots and one reserve area. He located the subject property on a map, being situated just north of Social Row Road and located on the west side of Yankee Trace Drive. He outlined the zone classifications and land uses of adjacent properties. The Planning Commission by unanimous vote, recommended approval of this Record Plan to City Council, subject to the following conditions:

PLANNING COMMISSION:

1. The minimum building setback shall be in accordance to the Residential Cluster Development Plan for Parcel 16 approved by the Planning Commission on July 29, 1997. Additionally, a 40 foot rear yard setback shall be established at the southwest corner of Lot 257.
2. A covenant shall be placed on the Record Plan that prohibits vehicular access to Yankee Trace Drive from Lots 249, 266, 267 and 268 subject to approval by the City Attorney.
3. Detailed design of the stormwater drainage system for this plat including grading shall be approved by the City Engineer.
4. In lieu of completion of the required improvements prior to the recording

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of the plat, a Performance Bond in an amount acceptable to the City Engineer shall be posted by the developer with the City of Centerville and a Subdivider's Agreement entered into with the City by the developer.

5. The area be created as reserve area off of Lot 266 and including that the triangular piece of land be added to that reserve area.
6. Mounding be installed along all four (4) lots on Yankee Trace Drive where practical (meaning line of sight and access to the lots).

CITY ENGINEER:

1. Acceptable Subdivider's Agreements.
2. Performance Bond to assure the completion of the public improvements (grading, drainage, curbs, pavement, etc.) in the amount of \$105,000.00 of which no sidewalks were required in this section. Please note the original bond estimate of \$137,756.54 has been reduced to \$105,000.00 to reflect work already completed.
3. Inspection fee in the amount of \$518.00.

A one year Maintenance Bond will be required when the public improvements are completed and the Performance Bond released. The amount of the Maintenance Bond will be determined at that time.

Upon question of Mr. Reppert, Mr. Horn outlined issues discussed with the developer in relation to the development of this particular parcel and its take down out of sequence. In order for this parcel to be taken down out of sequence various issues have been agreed to by Great Traditions. Mr Horn advised that the mylar for this Record Plan will not be signed until all issues have been satisfied.

Mr. Stone moved that the Record Plan for Yankee Trace, Section Fourteen, be approved as recommended by the Planning Commission and City Engineer, and including the following recommendations by Mr. Horn:

1. The formalization of the deed of the Swim/Tennis Center to the Home Owners Association.
2. The dedication of the spine road to the north take place.
3. That the City's second mortgage position on this piece of ground for any deferred payments was only subordinate to a first mortgage which is strictly for the improvements of this particular property.

Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council.

**RESOLUTION NUMBER 70-97 DESIGNATE PUBLIC DEPOSITORY
KEY BANK, NA OF MONTGOMERY COUNTY, OHIO**

Mr. Horn explained that the Ohio Revised Code requires municipalities to execute depository agreements with financial institutions for the deposit of public monies in the form of active deposits, interim deposits and inactive deposits for a period of two years. Proposals have been received from several financial institutions, one being received from Key Bank, NA of Montgomery County, Ohio. Mr. Singer sponsored Resolution Number 70-97, A Resolution Designating A Public Depository And Awarding Public Monies,

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and moved that it be passed. Mr. Compton seconded the motion. The motion passed by unanimous vote of City Council.

YANKEE TRACE COMFORT STATION

Mr. Horn reviewed the following bids that were received for the construction of the Comfort Station at Yankee Trace:

Joe Becks & Associates		\$81,206.00
Dayton, Ohio	Alternate	+ 6,770.00
Calvery Contracting		\$95,850.00
Huber Heights, Ohio	Alternate	101,950.00

Mr. Horn explained that all of the bids received were well above City Staff estimates, he suggested that Staff review other options and report back to Council with a recommendation. Mr. Stone moved to reject all bids for the Yankee Trace Comfort Station. Mr. Kingseed seconded the motion. The motion passed unanimously.

Mrs. Lienesch reminded everyone that the Aircraft Noise Task Force would be meeting on Tuesday, October 14, 1997, at 7:30 p.m. at the Washington Township Government Center.

Mr. Horn announced the Planning Commission Work Session Meeting scheduled for October 14, 1997 to begin at 6:30 p.m., with their regular meeting starting at 7:30 p.m. The major item to be discussed during the Work Session is the review of a revised Master Plan for The Franciscan at St. Leonards and a proposed cottage development plan.

There being no further business, the meeting was adjourned.

Approved: Sally D. Buak
Mayor

ATTEST: Maurel J. McLaughlin
Clerk of Council