

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, August 31, 2010

Mr. Clark called the meeting to order at 7:30 P.M.

Attendance: Mr. Paul Clark, Chair; Mr. Jim Briggs, Mr. John Palcher, Mr. Jeff Gammell, Mr. Jim Durham, and Mr. Bill Etson. Absent: Mr. Jim Brunner. Also present: Mr. Steve Feverston, City Planner, and Mr. Scott Liberman, City Attorney.

Excuse Absent Members:

MOTION: Mr. Briggs moved to excuse Mr. Brunner from the meeting as he gave prior notice to staff of his absence. Mr. Gammell seconded the motion. The motion was approved unanimously 6-0.

Approval of Minutes:

MOTION: Mr. Briggs moved to approve the Planning Commission Regular Meeting minutes of July 27, 2010, subject to the following changes:

Page 3, 4th paragraph from the bottom of the page, "if all the owners of the legal interests were not in agreement could the PC approve it.

Page 4, 5th paragraph the word "owner" changed to "and".

Page 5, 3rd paragraph, the word "stated" should be added immediately after "Mr. Feverston".

Mr. Durham seconded the motion. The motion was approved 5-0-1 with Mr. Clark abstaining and Mr. Gammell abstaining on the portion of the meeting where he recues himself.

PUBLIC HEARINGS

Duane E. Wright - Variance

Mr. Feverston reviewed the Variance application requesting approval to permit the parking of a recreational vehicle (RV) in the front yard located at 7023 Marwyck Drive and to waive the requirement to screen the side lot line on the single-family residential R-1a zoned property. The Unified Development Ordinance (UDO) requires recreational vehicles to be parked in a side yard as well as the installation of 3 conifers, 2 understory trees and 2 shrubs or a fence of sufficient size and mass to provide buffering greater than or equal to the landscaping in the side yard to provide the minimum of screening of the RV.

Based on the following points, staff recommended denial of these variance requests:

1. A recreational vehicle may only be parked or stored in the side yard of a residence with a minimum setback of 5 feet from the lot line.

2. The subject property is a corner lot. A corner lot does not create a practical difficulty or hardship for a property owner to locate a recreational vehicle (RV). The side yard of a corner lot is generally larger than a traditional lot giving the homeowner greater opportunity and flexibility to conform to the location requirements of the UDO.
3. The R-1a zoning district provides for a minimum lot area of 40,000 square feet. There exist ample side yards where a RV may be parked or stored.
4. The UDO does not take into account whether a RV is permanently or temporarily parked or stored on a premises.
5. There is no other practical difficulty that exists on the subject property that deprives the owner reasonable ability to park or store a RV in the side yard as required by the UDO.
6. All non-conformities "grandfathering" related to the parking or storage of a RV expired on July 15, 2010.
7. An analysis of the property shows the existing trees and shrubbery on the property are sufficient in quantity and size to satisfy the minimum screening requirement in the UDO and no variance is necessary.

Mr. Clark opened the public hearing.

Mr. Duane Wright, applicant, stated he resided at this property for over 30 years of which 25+ years have had a RV of some kind parked in that location on a pad that was required by the City at this time. He stated he was not requesting a permanent variance, but rather a temporary variance which would allow parking of the RV beginning May 1st through September 30th of each year. The RV is stored the remaining months offsite at a location approximately 1 hour away which would be very inconvenient for its use throughout the summer months. The side yard area in which staff suggested the RV be parked involves a swale, and a gravel or concrete pad could prove to be very difficult to store the unit based on its weight. Mr. Wright stated he understood the reasons for an ordinance for houses that are situated directly next to each other, however, their house is in more of a country-like setting with a horse farm with 2 barns abutting their property. In speaking with the surrounding neighbors, he stated they have no objection to the continued parking situation on his property.

Mr. Clark asked Mr. Wright about the issue of screening as the RV remains in full view from East Alex-Bell Road.

Mr. Wright stated the side yard screening requirement is satisfied with what is existing and front yard screening is not a requirement, therefore, the only variance being requested is that of front yard parking.

Mr. Feverston stated the screening along the existing side yard lot line meets the minimum screening requirement.

Mr. Briggs asked if the swale extended west to east and south of the existing house on the property and where on the property.

Mr. Wright stated that location Mr. Briggs described was correct and it ran between the existing row of trees and the property line.

Ms. Mary Griffith, 1836 East Alex-Bell Road, stated she had no objection to the request to park the RV in Mr. Wright's existing driveway. She stated the property has never been a maintenance problem and is well-cared for. She stated the only problem is the existing ditch all the neighbors have along the front of the properties.

There being no other speakers, Mr. Clark closed the public hearing.

Mr. Durham stated that in his opinion, the Planning Commission's role in variance cases is limited to upholding the requirements of Ordinances passed by City Council. The Commission must apply the legal tests of a variance and base their decision upon those tests regardless of whether they personally or a neighbor may think it is otherwise okay. He told Mr. Wright that he would be voting no on the variance because it did not meet the test for a variance as outlined in the staff report and recommendation. He concluded by telling Mr. Wright that if the Commission denied the variance, he could appeal it to City Council and the City Council could consider others things such as how well he maintained his property or that he is a long-time resident.

MOTION: Mr. Durham moved to approve the requested Variance application submitted by Duane E. Wright for property located at 7023 Marwyck Drive concerning front yard parking of a recreational vehicle (RV). Mr. Briggs seconded the motion. The motion was denied 0-6.

Mr. Clark advised the applicant of his right to appeal the decision of the Planning Commission to Council.

The Gardenland – Variance

Mr. Feverston reviewed the Variance application submitted by Thomas Bednarczyk for The Gardenland currently located in the south parking lot area of the Centerville Square Shopping Center, South Main Street and West Spring Valley Road. The request is to extend the permitted 3 month operation of a temporary garden center for an additional month until October 31st. Article 9.05 A 8 of the Unified Development Ordinance (UDO) reads as follows:

8. Temporary seasonal outdoor retail sale of garden and landscaping plants and materials including bagged soil, fertilizer, and mulch. Natural holiday decorations such as Christmas trees are included in this use. The sale may be conducted on a premises for a period of time not to exceed 3 months per evenly divided half of a calendar year.

The request for a 30 day extension violates the spirit and intent of the requirement that regulate a temporary garden center use. The use opened in April and has operated to date using the last 3 months of the first half of the year and can continue to operate through September using the first

3 months of the second half. In essence, this temporary use will have been open for business for 7 consecutive months, a majority of the year and would be, in Staff's opinion, a permanent use. As a permanent use, it must be located in a permanent building, and adhere to all applicable zoning and building code regulations.

Based on staff's analysis, it was recommended the Variance request be denied.

Mr. Clark opened the public hearing.

Mr. Thomas Bednarczyk, owner of The Gardenland, agreed a 6 month time period for the temporary use of a garden center is a reasonable amount of time. He stated, however, he opened his business on May 1st and his experience has been to avoid opening in April due to the questionable weather conditions. He stated he, therefore, is not asking for an additional month of time, but asking for the time period to be adjusted to allow him to remain open through the end of October. He stated throughout this first year of their operation at this location, they have received many compliments from customers concerning the appearance and professional operation of the garden center compared to the previous occupant.

There being no other speakers, Mr. Clark closed the public hearing.

Mr. Durham stated the Planning Commission has a limited role in varying the standards of the UDO as variances have to satisfy certain guidelines in order to approve those requests. In this case, there is no hardship to enable the Planning Commission to vary the standards Council has adopted. He suggested Mr. Bednarczyk appeal the decision of the Planning Commission, if the variance is denied, as Council has the ability to change their policies.

MOTION: Mr. Briggs moved to approve the requested Variance for The Gardenland located in the Centerville Square Shopping Centerville situated on South Main Street at West Spring Valley Road. Mr. Durham seconded the motion. The motion was denied 0-6.

Mr. Clark advised the applicant of his right to appeal the decision of the Planning Commission to Council.

UNFINISHED BUSINESS

Mr. Durham asked for an update on the Chardonnay Valley project.

Mr. Liberman stated in speaking with the applicants, they understand the legal issues involved with the project must be resolved before moving forward with a final development plan.

NEW BUSINESS

Hidy and Hidy, LLC – Minor Amendment

Mr. Feverston stated Hidy and Hidy, LLC has purchased the previous Bob Ross Used Car Sales facility located at 2 Loop Road as well as the adjacent Acura dealership. The existing facility is

a red brick building with a concrete block addition. The new ownership is requesting approval to paint the brick exterior of the principal building an off-white color matching the rear portion of the building and other buildings along Loop Road. The applicant has indicated another reason for their request to paint the building is due to leaks as a result of broken seals in the mortar. Those areas will be sealed and then painted to help solve the moisture problem.

Staff recommended approval of the request as the proposed paint color will be complimentary to surrounding buildings.

MOTION: Mr. Durham moved to approve the request by Hidy and Hidy, LLC to paint the building located at 2 Loop Road an off-white color as requested. Mr. Briggs seconded the motion. The motion was approved unanimously.

Jerry Cornett – Major Accessory Building

Mr. Feverston reviewed the application submitted by Jerry Cornett requesting approval to construct a 13 ft., 4 in. detached garage in the rear yard of his property located at 91 Goldengate Drive and to approve a 12-month delay period to install the driveway. He stated the Unified Development Ordinance (UDO) places a 12 ft. cap on the height of an accessory building, however, the Planning Commission can approve additional height to a building provided it does not exceed 16 ft. or the height of the principal building whichever is less.

The proposed garage is 720 sq. ft. in area which meets the standard in the UDO and will maintain a 5 ft. setback outside of any easements from the property line. The building height of the house on the lot is almost 14 ft., therefore, the building height meets the standard should the Planning Commission approve the additional height as proposed by the applicant. For financial reasons, the applicant is also requesting the required driveway to the detached garage be given a 12-month delay for installation. The architecture of the proposed garage is compatible with the principal building on the property as it will have a pitched roof, gabled ends, and a shingled roof.

Staff recommended approval of the application subject to the following conditions:

1. Construction of the driveway shall be complete by August 31, 2011.
2. Final design of the driveway including any required stormwater detention shall be subject to approval by the City Engineer prior to issuance of the zoning certificate.

Mr. Durham asked what action could be taken if the homeowner does not have the driveway installed within the 1 year period.

Mr. Liberman stated a zoning violation for failure to comply would be filed with the Kettering Municipal Court. If necessary, a motion could be filed with the Commons Plea Court.

Mr. Jerry Cornett, applicant, stated the purpose of the garage is to store a boat he is constructing. He stated he expects some additional funds to be available to him this November with will be earmarked for the driveway construction. Based on the time of year, pouring the driveway will

most likely have to be delayed until Spring. He stated he had every intention of installing the driveway as the garage would be of no value to him without it.

Mr. Clark asked what would be done to maintain the property during the construction process.

Mr. Feverston stated there should be measures to maintain the erosion control on the property. Rutting or weed issues associated with the project would be addressed through the property maintenance process.

Mr. Palcher asked if the neighbors had been advised of the project.

Mr. Cornett stated he spoke with the neighbors and there was no objection voiced at that time.

MOTION: Mr. Gammell moved to approve the application for a Major Accessory Building submitted by Jerry Cornett, 91 Goldengate Drive, subject to the following conditions:

1. Construction of the driveway shall be complete by August 31, 2011.
2. Final design of the driveway including any required stormwater detention shall be subject to approval by the City Engineer prior to issuance of the zoning certificate.
3. The height of the detached garage shall not exceed 13 ft, 4 in.

Mr. Briggs seconded the motion. The motion was approved unanimously 6-0.

OTHER NEW BUSINESS

Mr. Feverston stated an amendment to the Unified Development Ordinance (UDO) is being prepared to address some minor issues. One (1) of the 2 primary changes will be concerning Residential Family Homes which is direct conflict with the Federal Housing Law as well as State Law. The other is the parking table which did not incorporate requirements for all uses as a part of the UDO. Other issues will be that of building setback in a Residential Planned Development, R-PD, districts which is currently 100 ft., recreational vehicle requirements to be referenced from 1 section of the UDO to another, intersection sight distance standards, swimming pool locations, street trees, etc.

COMMUNICATIONS

Correspondence was received from the Centerville-Washington Park District concerning parking to be installed on the property they purchased on Centerville-Station Road. Their feeling is that they should not be required to be responsible for public improvements along Centerville Station Road. Mr. Feverston stated he informed Mr. Bob Feldman of the Park District that as part of the UDO, public improvements will be required and the Park District will be responsible for those improvements as part of their property development project.

There being no other business, the meeting was adjourned.

