

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, June 24, 2003

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

Attendance: Mr. James Durham, Chairman; Mr. Patrick Hansford; Mr. Joe Weingarten; Mr. Jim Briggs; Mr. Robert St. Pierre; Mr. Paul Clark. Also present: Mr. Steve Feverston, City Planner; Mr. Robert N. Farquhar, City Attorney. There is currently one (1) vacancy on the Commission.

Mr. Durham stated he wanted to extend his appreciation to Mr. Rand Oliver as he submitted his resignation from the Planning Commission last week.

MOTION: Mr. Briggs moved to extend to Mr. Oliver the Planning Commission member's appreciation for his many years of dedicated service to the City of Centerville Planning Commission. Mr. Weingarten seconded the motion. The motion was approved unanimously 6-0.

Approval of Minutes:

MOTION: Mr. Briggs moved to approve the Planning Commission minutes of May 13, 2003, as written. Mr. St. Pierre seconded the motion. The motion was approved unanimously 6-0.

MOTION: Mr. Clark moved to approve the Planning Commission Work Session minutes of June 10, 2003, as written. Mr. Weingarten seconded the motion. The motion was approved 5-0-1 with Mr. Briggs abstaining.

PUBLIC HEARINGS

Friends of Benham's Grove - Variance of Front Yard Setback

Mr. Feverston reviewed the Variance application submitted by the Friends of Benham's Grove requesting an accessory building to be located within the front yard setback of the property at 166 North Main Street. The zoning on the 8.55 acre parcel is Architectural Preservation District (APD) and is owned by the City of Centerville. The Gerber House at Benham's Grove has a front setback of approximately forty (40) feet from North Main Street which defines the required front yard setback and the applicant is proposing a ten (10) foot setback.

The construction of the pergola would consist of a brick paver system underneath, with stone columns supporting the wood posts and benches placed within the building.

Mr. Feverston reviewed the following staff analysis:

1. The site is 8.55 acres in size, is relatively flat and has no physical limitations. There are no unique circumstances or conditions applicable to the land that would deprive the owner reasonable use of the property.

2. The proposed Arbor at Benham's Grove includes gardens, walkway, benches, a lattice arbor, and a pergola having no walls or roof. The pergola is the only structure that is the subject of this variance request. All other elements of this project are permitted by the Zoning Ordinance may be installed without a variance.
3. The question of whether or not the pergola is considered an accessory building was discussed extensively by City Staff. The definitions of Accessory Use or Structure, Building and Structure are key in determining what a pergola is according to the Centerville Zoning Ordinance.

Accessory Use or Structure - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Building - A structure designed for the support, enclosure, shelter, or protection of persons, animals, chattel (an item of tangible movable or immovable property), or property.

Structure - A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water including, but not limited to, buildings, mobile homes, walls, fences, and ground signs.

4. An accessory use or structure is permitted in the front yard of a premises unless it is specifically prohibited elsewhere in the Zoning Ordinance. For example, a light post, fence, sculpture, or bench is permitted in a front yard. A swimming pool is prohibited.
5. The definition of a building places the test of whether an accessory structure is a building upon its function. A structure is a building when at least one or the criteria stated in the definition is met. It must either enclose, support, shelter or protect people (a pool house), animals (a barn), chattel or property (a garage, carport or storage shed). The question is whether a pergola meets this test and if so, it cannot be located in a front yard. It is the conclusion of City Staff that the proposed pergola is an accessory building.
6. There are no practical difficulties associated with the property as outlined in the variance checklist that precludes placing the pergola within the required setbacks.

Based on the staff analysis, the Planning Department recommended denial of the Variance request.

The members had a lengthy discussion as to whether the proposed project should be defined as a building or a structure in order to determine if the Variance application was the proper procedure. They determined the proposed pergola was a building and, therefore, the Variance application was proper.

Mr. Durham opened the public hearing.

Mrs. Anita Besco, representing the Friends of Benham's Grove, stated the project design was selected based on the feedback received from clients that have held functions at the facility. The issue was primarily that of noise from North Main Street. The applicants felt if a garden feature was installed in the proposed location it would help the situation with a visual component to mask the source of the vehicular noise.

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

Mr. Hansford stated there is no hardship which would allow the Planning Commission to approve the request.

MOTION: Mr. Hansford moved to approve the application submitted by the Friends of Benham's Grove requesting a front yard setback variance for property located at 166 North Main Street. Mr. Briggs seconded the motion. The motion was denied unanimously 6-0.

Mr. Durham informed the applicants of their right to appeal the decision to City Council.

NEW BUSINESS

Beerman Realty Company (Centerville Place, Phase 2) - Planning Commission Special Approval

Mr. St. Pierre left the meeting at this time due to a possible conflict of interest.

Mr. Feverston reviewed the Special Approval application submitted by the Beerman Realty Company for the final phase of the Centerville Place Shopping Center located on South Main Street north of SteinMart and south of the Centerville Municipal Building. The zoning on the 21.037 acre property is Business Planned Development, B-PD. Phase 1 of this portion of the shopping center was recently constructed with 36,000 square feet devoted to the SteinMart retail space and 16,000 square feet of additional retail space. This final Phase 2 is proposed to provide an additional 13,858 square feet of retail space. This proposed expansion conforms with the overall Special Approval Plan approved by the Planning Commission in April, 2002.

The northern tenant space will utilize a siding material which is a stone-type material on the end and will occupy approximately 40% of the SteinMart wall. The proposed architecture and materials are consistent with those existing. All other required elements of the overall center have been completed which include parking, landscaping, mounding and buffering, and stormwater drainage.

Staff recommended approval of the Special Approval application as submitted.

The members of Planning Commission were concerned with the architectural design of the end unit.

Mr. Feverston stated although the design is more of a retro design, it blends well with the existing center as the same building materials are used.

Mr. Will Kaly, architect for the project, stated the end cap has some unique aspects to it such as visibility, access, etc., that the design is trying to reflect. The design attempts to enhance the visibility from Spring Valley Road as well as create an anchor for the center as it moves to the north. The materials are the same as used on SteinMart as well as the architecture which incorporates specific elements into the entrance of the northern tenant space. For example, the canopy used, although not exact styles, compliment one another as well as the existing arch element to be used on the northern tenant space. Mr. Kaly stated the proposed design is sympathetic to the surrounding elements and enhances the architectural and visual creativity within the center.

Mr. Hansford stated the traditional forms on the building and fragmenting those elements to be used on the north end does not fit in with the rest of the center. The design has no relationship with the rest of the building simply using the same materials. He stated he understood the need to articulate the end space, however, the design should be done with traditional forms and not with fragments of those forms.

The members agreed the end tenant space should be reworked to continue the traditional form throughout the remainder of the center.

Mr. Durham suggested the application be tabled until revised architectural elevations are submitted for review.

Mr. Kaly requested the application be tabled until revisions are made to the architecture.

MOTION: Mr. Briggs moved to table the Special Approval application submitted by Beerman Realty Company for Centerville Place Shopping Center, Phase 2, pending revised building elevations for the northern tenant space. Mr. Hansford seconded the motion. The motion was approved unanimously 5-0.

Mr. St. Pierre returned to the meeting at this time.

Centerville Aaron Nutt Plat, Sec. 1 - Record Plan

Mr. Feverston reviewed the Record Plan for the Centerville Aaron Nutt Plat located on the northeast corner of Main and Franklin Streets. Three (3) lots are proposed on the 0.9436 acre parcel which is zoned Architectural Preservation District (APD). Lot #1 will be owned by Hammerhead-Centerville, LLC, for the purpose of constructing a restaurant; Lot #2 will be owned by the City for public parking; and Lot #3, will be the location of the Asahel Wright Historic House also owned by the City.

The City and the Montgomery County Engineering Office have been working for several years to overcome several major issues regarding the original platting of downtown Centerville, particularly the original Aaron Nutt Plat. The original plat was recorded in 1817 and later replatted in 1839 to include additional property. The original plat showed bearings only for the west and south property lines (North Main Street and East Franklin Street). The individual lots were numbered with the owners name on a few. Lots did not have dimensions or bearings. The 1839 replat showed Dayton Road (North Main Street) and Waynesville Road (East Franklin Street). Like the first, this plat did not provide dimension or bearing information for any lot.

Mr. Feverston stated sometime around 1940, an unknown entity amended the plat to include dimension, distance and bearing information for each lot. The lots were given a new numbering system which do not tie back into the deed records. The City has no record of approving this plat amendment. It has been reported that the amendment most likely originated in the County Auditor's Office. The lack of information on the first two plats and information provided on the third has led to difficulties in property transfer and subdivision as well as ownership disputes.

To alleviate the aforementioned difficulties, the City had a Surveyors Plat prepared and recorded for the entire Aaron Nutt Plat. This establishes a record of survey that may be referenced by all property owners. The Surveyors Plat was recorded the first week of June, 2003. The Asahel Wright lot is included in this plat, as well, to correct its lot dimensions.

Staff recommended approval of the Record Plan for the Centerville Aaron Nutt Plat as submitted.

The Planning Commission agreed the Record Plan should be approved to avoid any question in the future regarding property lines.

MOTION: Mr. Briggs moved to recommend approval of the Record Plan for Centerville Aaron Nutt Plat, Section 1, to Council. Mr. Weingarten seconded the motion. The motion was approved unanimously 6-0.

There being no further business, the meeting was adjourned.

Paul Clark

