

**CENTERVILLE PLANNING COMMISSION**  
**Regular Meeting**  
**Tuesday, February 13, 2001**

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

Attendance: Mr. James Durham; Mr. Patrick Hansford; Mr. Rand Oliver; Mr. James Briggs; Mr. Richard Pluckebaum. Absent: Mr. Jack Kindler; Mr. Joseph Weingarten. Also present: Mr. Steve Feverston, City Planner; Mr. Ryan Shrimplin, Planner; Mr. Scott Lieberman, Legal Counsel.

Motion to Excuse:

MOTION: Mr. Pluckebaum moved to excuse Mr. Kindler and Mr. Weingarten from the meeting as each gave prior notice to staff. Mr. Hansford seconded the motion. The motion was approved unanimously 5-0.

Approval of Minutes:

MOTION: Mr. Briggs moved to approve the Planning Commission minutes of January 30, 2001, as written. Mr. Hansford seconded the motion. The motion was approved 3-0-2 with Mr. Oliver and Mr. Pluckebaum abstaining.

COMMUNICATIONS

Mr. Feverston stated the APA Conference will be held in New Orleans this March and interested members need to inform staff as soon as possible to make arrangements since the program will be held in less than a month.

A Work Session was scheduled to discuss a Concept Plan for Yankee Trace Parcel 28 on February 27, 2001, at 6:30 PM prior to the Regular Meeting.

PUBLIC HEARINGS

Dunnington/Koepfer Builders - Variance of Rear Yard Setback Requirement

Mr. Feverston reviewed the Variance application submitted by Dunnington/Koepfer Builders for property located at 1235 Deer Run Road in the Forest Walk subdivision. The zoning on the property is R-1c, Single-Family Residential. The request is to reduce the required 25 foot rear yard setback to 22.5 feet to allow a deck which was constructed over the rear yard setback line by 2.5 feet. The deck is considered part of the principal structure as determined in the Zoning Ordinance as it is attached to the outside wall of the house and, therefore, must meet the setback standards.

Based on the following analysis, staff recommended the Variance be denied:

1. The property is a platted single-family lot; Lot 20 of Forest Walk, Section 1. A house is currently under construction on the property. The property slopes towards the east to a stream and wooded area behind the house. The stream and most of the woods are located on the single-family parcels east of this property in the Black Oak Forest subdivision.
2. The Zoning Plan (preliminary plat), submitted by Charles Simms Development Company, was approved by the Planning Commission as a Residential Cluster Development and affirmed by City Council upon Appeal. Lot sizes and building setbacks for every lot were reduced to cluster homes together preserving the wooded and stream valley areas of the development as well as the historic home. The subject property is labeled as Parcel 43 on the Zoning Plan.
3. The 25 foot building setback on the east property line proposed by the developer as the minimum rear yard necessary for Lots 17, 18, 19, 20 and 21. The developer stated to the Planning Commission that all lots proposed could be built upon without a variance and indicated to the City Council that no variances are being sought for this development.
4. The owner has stated that decks should not be considered as a part of the principal building when attached to the principal building and has requested the City re-evaluate the zoning code with regards to the setback of decks.
5. The owner states in the application that practical difficulties are created because any deck constructed within the required setback would not be wide enough for patio furniture. The deck has been constructed. A permit for a deck, dated November 21, 2000, was denied after the footers were dug in November, 2000. The deck was built in without a permit. No occupancy has been issued for this house.
6. The practical difficulties stated in the application are created by the owner.

Mr. Durham opened the public hearing.

Mr. Ed Koepfer, applicant, stated the slope of this lot will only allow a walk-out style of house to be built on it and, without a variance, the deck could only be 7 feet deep. This would not be practical for the use of patio furniture, etc. A variance of 2.5 feet for a deck structure would not be injurious to the properties located to the rear as it is not visible due to the vegetation in that area of the subdivision. He requested the City review their standards for setbacks for decks, porches, etc., as if they are not attached directly to the principal building, they are considered an accessory use and must only maintain the 5 foot setback. He stated this particular deck could be separated from the rear wall of the structure, 2 additional footers installed and the deck would

then comply with all zoning standards. Further, if the deck were 18 inches in height or less, a permit would not be required. He felt the standards should be consistent with the intent of the code.

Mr. Don Dunnington, applicant, stated they did not get the permit denied and construct the deck anyway. The deck was already constructed when the permit was sought. He stated it just did not make sense to disconnect the deck from the house by a minimal amount of space and install additional footers to satisfy the setback standard when the same situation will occur.

Mr. Hansford reiterated his concern about the language of the Zoning Ordinance and the intent of the ordinance. He questioned whether the ordinance would allow the deck as an accessory building, as contended by the applicant, if it was detached from the house and additional support was provided. Mr. Hansford stated he understood the applicant's opinion that this would make the deck a freestanding built element and, therefore, an accessory building. However, Mr. Hansford stated he could not support the Variance as the ordinance is presently written because the final interpretation of the deck as an extension of the house or an accessory building was really a policy issue that needed to be addressed by City Council. However, Mr. Hansford stated if by simply detaching the deck from the house made it a legal accessory building, why not simply approve the Variance since the end result remained the same.

Mr. Durham stated setbacks were discussed extensively at the time the subdivision was reviewed and the developer assured the Planning Commission that all lots would be buildable without variances.

There being no other speakers, the public hearing was closed.

MOTION: Mr. Hansford moved to deny the Rear Yard Setback Variance submitted by Dunnington/Koepfer Builders, Inc., for property located at 1235 Deer Run Road. Mr. Briggs seconded the motion. The motion was approved unanimously 5-0.

The members of Planning Commission stated that should Council consider an Appeal of this application, they wanted their thoughts to be shared with Council.

Mr. Hansford reiterated his feeling that the deck could remain in its current location if it were detached from the house and two (2) additional footers installed to provide the proper support. It stated he could not support the Variance as this was a policy issue, however, he would support approval of the issue as an Appeal to Council.

Mr. Pluckebaum felt the requirements should not be changed in order to maintain separation between neighboring properties which is the purpose of the standard.

Mr. Durham stated setback in this particular subdivision were of great debate and those setbacks should be maintained as approved in the overall Record Plan unless a unique circumstance would warrant granting a variance. Even though in this particular case the encroachment involved a deck structure, the impact on the neighbors would remain the same. Further, Mr. Durham stated the situation was created by the applicant as the house was pushed back on the lot not allowing the appropriate area for the deck structure.

Mr. Oliver stated the neighboring property owners had requested 40 foot rear yard setbacks when the subdivision was being reviewed by the City. The City approved 25 foot setbacks and was assured by the developer that all lots were buildable and no variances would be required. He stated he could not support a variance which was self-created by the builder.

Mr. Briggs agreed the setback requirement should be maintained to protect the neighboring properties.

Should this issue go forward to Council, the Planning Commission concluded they would support their decision of denial of the Variance application by a 4-1 vote.

#### Jeffrey L. Craig - Variance of Rear Yard Setback Requirement

Mr. Feverston reviewed the Variance application submitted by Jeffrey L. Craig for property located at 395 Yankee Trace Drive requesting a Rear Yard Setback of 20 feet rather than 40 feet as required on the approved Residential Cluster Development Plan for Section 12 of Yankee Trace. At the time of Planning Commission review, the developer proposed the 40 foot setback on this lot in order to preserve as many of the trees as possible on this site. The zoning on this particular undeveloped lot is R-1c, Single-Family Residential. The purpose of the request is to preserve two (2) large trees on the lot.

Staff recommended denial of the Variance application based on the following analysis:

1. The property is a platted single-family lot; Lot 217 of Yankee Trace, Section 12. The lot is currently undeveloped and is wooded with trees ranging typically from approximately 6 inches to 2 feet in diameter. It appears to be an area that is undergoing reforestation.
2. The zoning plan (preliminary plat), submitted by Great Traditions was approved by the Planning Commission as a residential cluster development on January 28, 1997. This plan, labeled as Parcel 21, establishes lot sizes and building setbacks for every lot.
3. A 30 foot rear yard building setback was proposed by the developer for all lots except for the eastern rear yard of the lot where this variance is sought. The east rear yard setback is 40 feet and the north rear yard is 30 feet. The 40 foot building setback to the east property line was established by the developer to protect the stand of trees in that area.

4. There exists a 10 foot wide storm sewer easement along the west property line that does not impact the location of a house on this property.
5. It is possible to locate the house within the required setbacks while preserving one (1) or both trees on the lot that are the subject of this Variance.
6. The building floor plan could be modified slightly to assure the preservation of both trees.
7. The applicant has not demonstrated that the Variance would not be contrary to the public interest and that a practical difficulty would result if it is not granted.

Mr. Durham opened the public hearing.

Mr. Jeffrey Craig, applicant, stated he had consulted a landscape architect as to how to save the most significant and number of trees on the lot with the placement of the house design selected for the site. He stated he did not feel it should be necessary to redesign the house at this point as suggested by staff to preserve the trees rather than adjusting the setback. The other advantage to shifting the house is the storm pipe installed along the west property line. It appears as an indentation on the northwest corner of the lot which may result in an odor problem, mosquito problem, etc., which would be an advantage to moving the house away from that area as far as possible. Mr. Craig stated this will only be 1 of 4 houses being constructed in this area of Yankee Trace where trees would be located in the front yard and he would like to preserve the natural setting.

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

Mr. Pluckebaum stated he walked this site and concluded that a number of trees would be removed along the east property line where the driveway would be located. He felt the intent of the setback should be maintained to preserve the trees along the east property line even though the 2 trees in question will have to be sacrificed.

Mr. Hansford stated there were no unique circumstances on this particular lot to warrant a variance.

Mr. Oliver stated that setbacks are in place to maintain integrity of the building confines and impose that separation.

MOTION: Mr. Pluckebaum moved to deny the Variance application submitted by Jeffrey L. Craig for property located at 395 Yankee Trace Drive. Mr. Oliver seconded the motion. The motion was approved unanimously 5-0.

UNFINISHED BUSINESSRitter's Frozen Custard - Planning Commission Special Approval

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

MOTION: Mr. Pluckebaum moved to remove the Special Approval application for Ritter's Frozen Custard from the table. Mr. Briggs seconded the motion. The motion was approved unanimously 4-0.

Mr. Feverston explained that this application was tabled at the last meeting at which time Mr. Scot Stone, Legal Counsel for the applicant, presented alternative architectural elevations for the building, as well as samples of red brick building material for Planning Commission's consideration. The architectural elevations proposed were labeled for use in Carmel, Indiana, and have now been submitted to the City. The revised elevations, with exception of the front elevation shown with a blue roof, are shown with a blue roof. The applicant, Mrs. Gayle Burtsfield, is requesting that the blue metal roof be approved for the building. The building is now octagonal in shape rather than round, as a porch area that expresses a rectangular shape towards SR 48 and helps break up the roundness of the building. The revised building architecture proposes the roof to be twice the pitch in height from the original proposal and will include a cupola. Mr. Feverston stated the building meets the architectural guidelines and standards as shown with the exception of the roof color which must be specifically approved by the Planning Commission.

Mr. Feverston stated at the time of the original review, Planning Commission expressed no other concern with the site plan layout as long as the conditions as suggested by staff were met.

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

1. The Planning Commission must approve the architectural design of the building to ensure that the form, massing, materials, and colors are compatible with the surrounding buildings and create a unified design on the premises. Specifically, the Planning Commission must approve the blue roof color.
2. The south driveway shall be shifted to the east a minimum of twenty (20) feet subject to approval by the City Engineering Department.
3. Vehicle access and circulation shall be refined by the applicant to address turning radii, driveway widths, and merger point subject to approval by the City Engineering Department.

4. A final grading and stormwater drainage plan shall be approved by the City Engineering Department showing stormwater drainage calculations and incorporating detention and/or retention and erosion control during construction in accordance with the provisions of the City Stormwater Drainage Control Ordinance.
5. A final landscape and screening plan shall be submitted and subject to approval by the City Planning Department. The plan shall identify existing trees to be preserved and a grading limit shall be established at the drip line of those trees. Trees preserved on site may be credited towards satisfying the landscape and screening requirements of the Zoning Ordinance.
6. A performance bond or other construction guarantee shall be posted by the developer for all landscape, screening, or bufferyard improvements required by the Zoning Ordinance subject to approval by the City Engineer. This bond or guarantee shall be in accordance to the Guarantee of Construction and Installation of Improvements; Inspections Section of Part Twelve, Title Four of the Code of Ordinances.
7. A final lighting plan shall be approved by the Planning Department.
8. The final design of the dumpster enclosure shall be subject to approval by the Planning Department.
9. No sign shall be approved as a part of this application.

Mr. Feverston stated that at the time of review for Goddard School, Planning Commission and the develop worked very hard to make sure that particular building fit the character of the surrounding neighborhood. One issue to which an agreement was made was a shingled roof rather than a metal roof as originally proposed for Goddard School. Through discussions with the Planning Commission, the roof design was ultimately changed to a shingled roof.

Mrs. Burtsfield stated they had gone to great expense to make this building all brick, adding the cupola, E.I.F.S., rearranging the signage, adding 3 bands of limestone around the entire building, etc., to make the architecture more compatible with what the Planning Commission seemed to be looking for in the appearance of the overall site. She stated the blue roof, as proposed, lends itself to a colonial look which seems to be what, she felt, they were looking for in this area. Also, the blue roof complimented the Red Patriot color brick selected to be used on the building and would, therefore, like the Planning Commission to approve it as proposed.

Mr. Durham stated that at the time Goddard School was reviewed, it was the feeling of the Planning Commission that the surrounding area was primarily residential is character and that character of our Washington Township neighbors should be protected. For that reason, Mr. Durham stated he would favor a shingled roof.

Mr. Oliver asked if, and Mrs. Burtsfield confirmed that, the blue roof is part of the corporate image of Ritter's Frozen Custard. Mr. Oliver stated he would not want to take away that image from the applicant, however, he felt it was important to maintain the residential character on this site.

Mr. Briggs suggested the corporate image could possibly be satisfied by using the blue color on the cupola and a shingled roof on the building itself.

Mr. Pluckebaum stated he felt a shingled roof was appropriate for this site and could not support any portion of the roof structure being blue in color.

Ms. Burtsfield stated she felt they had come more than half way in changing the architecture and increasing the cost of the project by approximately \$25,000. Mr. Lemke, who attended the previous meeting, has indicated that the project may not be done without the blue roof. Mrs. Burtsfield stated she did not understand why there seemed to be a line south of Spring Valley Road where businesses had to conform to the way Goddard School was designed.

MOTION: Mr. Pluckebaum moved to approve the Special Approval application for Ritter's Frozen Custard, 9605 Dayton-Lebanon Pike, subject to all conditions and additionally, the roof structure shall be a brown shingled roof. Mr. Briggs seconded the motion. The vote resulted in a 2-2 tie with Mr. Briggs and Mr. Oliver voting no.

Mr. Lieberman explained that the tie vote resulted in a negative to the motion so, therefore, the Special Approval application was denied. An appeal of this decision could be made to City Council.

After additional discussion, Mrs. Burtsfield requested Planning Commission reconsider the Special Approval application.

MOTION: Mr. Briggs moved to reconsider the Special Approval application for Ritter's Frozen Custard. Mr. Oliver seconded the motion. The motion was approved unanimously 4-0.

FINAL MOTION: Mr. Pluckebaum moved to approve the Special Approval application submitted for Ritter's Frozen Custard, 9605 Dayton-Lebanon Pike, subject to the following conditions:

- 1 The roof shall be a shingled roof compatible in color with the surrounding buildings subject to approval by the Planning Department.
2. The south driveway shall be shifted to the east a minimum of twenty (20) feet subject to approval by the City Engineering Department.



3. Vehicle access and circulation shall be refined by the applicant to address turning radii, driveway widths, and merger point subject to approval by the City Engineering Department.
4. A final grading and stormwater drainage plan shall be approved by the City Engineering Department showing stormwater drainage calculations and incorporating detention and/or retention and erosion control during construction in accordance with the provisions of the City Stormwater Drainage Control Ordinance.
5. A final landscape and screening plan shall be submitted and subject to approval by the City Planning Department. The plan shall identify existing trees to be preserved and a grading limit shall be established at the drip line of those trees. Trees preserved on site may be credited towards satisfying the landscape and screening requirements of the Zoning Ordinance.
6. A performance bond or other construction guarantee shall be posted by the developer for all landscape, screening, or bufferyard improvements required by the Zoning Ordinance subject to approval by the City Engineer. This bond or guarantee shall be in accordance to the Guarantee of Construction and Installation of Improvements; Inspections Section of Part Twelve, Title Four of the Code of Ordinances.
7. A final lighting plan shall be approved by the Planning Department.
8. The final design of the dumpster enclosure shall be subject to approval by the Planning Department.
9. No sign shall be approved as a part of this application.

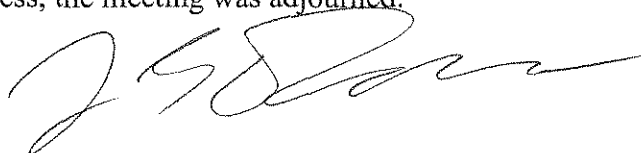
Mr. Durham seconded the motion. The motion was approved unanimously 4-0.

Mr. Oliver stated should the applicant decide to appeal the issue of the blue roof to Council, he would support that appeal as the design of the building has improved greatly and the applicant has worked very hard to satisfy the architectural standards.

Mr. Durham stated he thanked the applicant for working with the Planning Commission on an improved building design, however, he felt the roof color should be reflective of the residential character area it will impact. He indicated he would prefer a shingle roof, but would support Council if they chose to allow a metal roof.

Mr. Pluckebaum stated he would ask the Council to support the Planning Commission decision to require a shingled roof of a compatible color to the surrounding residential area.

There being no further business, the meeting was adjourned.

A handwritten signature in black ink, appearing to be "J. S. [unclear]", written in a cursive style.

