

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, November 14, 2000

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

Attendance: Mr. Richard Pluckebaum; Mr. James Briggs; Mr. Joseph Weingarten; Mr. Rand Oliver; Mr. Jack Kindler. Absent: Mr. James Durham; Mr. Patrick Hansford. Also present: Mr. Steve Feverston, City Planner; Mr. Ryan Shrimplin, Planner; Mr. Robert N. Farquhar, City Attorney; Mr. Norbert Hoffman, City Engineer.

Excuse Absent Members:

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

Approval of Minutes:

MOTION: Mr. Weingarten moved to approve the Planning Commission minutes of October 24, 2000, subject to the following change:

On Page 3 under Yankee Trace, Sec 14, Lot 249, 4th paragraph, the word "agreed" shall be changed to "stated" and "and property across the street, which is similar, is maintained by the homeowners" shall be added so the entire sentence reads as follows: "Mr. Kindler and Mr. Weingarten stated the reconfiguration of Lot 249 creates a reserve area, Reserve R-BV, which increases the maintenance responsibility of the homeowners' association and the property across the street, which is similar, is maintained by the homeowners."

Mr. Briggs seconded the motion. The motion was approved unanimously 5-0.

COMMUNICATIONS

Mr. Feverston informed the members that a work session has been scheduled with representatives of Ameritech to discuss their needs and requirements for types of equipment cabinets and proposed locations throughout the City. The work session will be held on November 28th at 6:30 PM before the regular meeting.

The Ordinance necessary for the City to gain Certified Local Government status will be the subject of a public hearing on November 28, 2000.

PUBLIC HEARINGSGayle Burtsfield (dba Ritter's Frozen Custard) - Appeal of Decision of Administrative Official

Mr. Feverston reviewed the Appeal application submitted by Gayle Burtsfield seeking reversal of a staff decision to deny the use of Ritter's Frozen Custard to locate in a B-1, Neighborhood Business, zoning district. The proposed location is situated on Lot #4 of H. R. Office Park along the west side of Dayton-Lebanon Pike (SR 48) south of Sheehan Road. The information submitted to staff described the operation of the facility to be the outdoor sale of frozen custard as the building would provide no internal seating. Some outdoor seating would be available or after purchasing the frozen custard, customers could simply exit the site.

Mr. Feverston stated that Ms. Burtsfield requested a written interpretation by staff rendering the decision of whether their use would be permitted in a B-1 zoning district. Staff reviewed the request and determined that the use would be considered a B-2, General Business, use based on the interpretation of the requirements set forth in the Zoning Ordinance. Mr. Feverston stated the B-1 zoning district does specifically permit candy and ice cream stores. Such a store could either sell ice cream in a manner such as a grocery where it is packaged in a non-ready to consume state where customers purchase it inside the store and take it home. In this manner, a candy or ice cream store is a permitted use. Where it is sold to customers to eat on the premises, it also qualifies as a restaurant. Restaurants permitted in the B-1 zoning district allows table service or cafeteria style restaurants only. Fast food restaurants are specifically prohibited in a B-1 zoning district. He stated the B-2 and B-PD zoning districts permit a fast food restaurant.

Mr. Feverston stated the definition section of the Zoning Ordinance defines restaurant as one of two types--fast food, and table service or cafeteria style. Fast food is defined as an establishment whose principal business is the sale of food/beverages in a ready-to-consume state for consumption within a restaurant building, within a motor vehicle parked on the premises or off the premises as a carry-out order. Further, the principal method of operation includes food/beverage served in disposal containers. Table service or cafeteria style restaurants are defined as an establishment whose principal business is to sell food/beverages to consumers in a ready-to-consume state by providing customers with individual menus, orders and food/beverages served by employees of the facility at the same table/counter at which food/beverage are consumed within the building itself.

Based on the way the Zoning Ordinance is written, it is staff's opinion that the proposed type of restaurant is a fast food restaurant because it meets the qualifications and tests for a fast food restaurant not a store.

Mr. Pluckebaum opened the public hearing.

Mr. Don Hine, 1730 Parkcreek, stated he had visited Ritter's Custard at their Beavercreek location and could not compare it to a fast food restaurant. He stated the establishment creates a family-type atmosphere and is a very clean, quiet place.

Ms. Gayle Burtsfield, applicant, disagreed with staff's decision that her proposed business is being classified as a fast food restaurant. She stated their business is 99.2% custard sales which has a much higher percentage of egg yolk. The remainder of sales is beverages. She stated that they sell no food at all and are simply an ice cream store. She stated they are a neighborhood business because the locate next to neighborhoods and schools so people can walk, ride bikes or drive vehicles to their facility. Ms. Burtsfield stated that her attorney, Scot Stone, had written a letter outlining the lack of a clear definition of an ice cream store. She stated they are an ice cream store and definitely not a fast food restaurant.

Mr. Vic Green, listing agent for the sale of the property in question, stated the proposed frozen custard establishment would be a great asset to the community. This facility would create a meeting place for family and recreational teams that is missing in our community. He stated the way the Zoning Ordinance is written, ice cream and candy stores are specifically permitted in a B-1 zoning district.

Mr. Jim Brian, CPA for the applicant, stated that the applicant's existing facility is financially solid so the business would stay in the area. The facility has also created employment for many high school students at the Beavercreek location.

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

Mr. Briggs stated the use is clearly that of an ice cream store and, therefore, the Zoning Ordinance considers it a permitted use in a B-1 zoning district.

Mr. Kindler agreed stating that if the sale of food took place at the establishment, it would be a different situation. He asked Mr. Farquhar for his legal opinion regarding this matter.

Mr. Farquhar stated the issue is a determination that would have to be made by each member of the Planning Commission based on the factual information provided.

MOTION: Mr. Briggs moved to reverse the decision of staff and permit the use of Ritter's Custard at the proposed location along the west side of Dayton-Lebanon Pike south of Sheehan Road currently zoned B-1, Neighborhood Business. Mr. Kindler seconded the motion. The motion was approved unanimously 5-0.

NEW BUSINESSCenterville Creative Arts Center - Planning Commission Special Approval

Mr. Feverston reviewed the Special Approval application submitted for Centerville Creative Arts Center requesting approval to construct a new art school, gallery and related uses at 7300 Far Hills Avenue. The zoning on the 0.498 acre parcel is O-S, Office-Service. The applicant, Mrs. Kee Hee Lee Butterworth, currently owns and operates the Wind Gallery at 7266 Far Hills Avenue which is the property adjoining the proposed site along the northern property line. The proposed site requires 23 parking spaces. The applicant is proposing 21 parking spaces on the new site and modifying the existing parking area at 7266 Far Hills Avenue to allow 2 off-site spaces, therefore, satisfying the parking requirement. Both properties will share the existing curb cut for access. Mr. Feverston stated that although the vacant property appears to be heavily wooded it, in fact, has only significant trees along the south property line. The remaining vegetation on the lot is mostly overgrown honeysuckle.

The proposed architecture for the building is colonial in design with brick the dominant building material and a hip roof. The front portico projects out from the building and a traditional window pattern is used on the front elevation which is indicative of some of the early architecture used in the City.

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

1. Prior to issuance of any permit by the City, the property owner(s) shall submit a legal agreement, approved by the Law Director, guaranteeing that a minimum of two (2) parking spaces shall be provided and maintained on the property located at 7266 Far Hills Avenue for the exclusive use by Centerville Creative Arts Center or its successors as long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of the Zoning Ordinance. Such instrument shall be recorded by the property owner in the office of the Montgomery County Recorder and a copy filed with the Planning Department.
2. The entry drive from Far Hills Avenue shall be widened to a minimum width of 20 feet with the final design being subject to approval by the City Engineering Department.
3. 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. This plan shall be modified to reduce the amount of grading, reconfigure the storm detention basin, and shift the proposed storm sewer away from the south property line to preserve, to the greatest extent practical, trees in this area subject to approval by the City.

4. 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.
5. 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.
6. The Planning Commission shall approve the design of the proposed building to assure the form, mass, materials, and colors create a unified design on the premises and are visually compatible with the surrounding buildings. The proposed building shall include a base that is distinguishable from the body through changes in color, material, pattern, profile, or texture subject to approval by the Planning Department.
7. A detailed lighting plan shall be subject to approval by the Planning Department.

Mr. Mike Joly, contractor of the project, stated that the architecture changed slightly from the original submittal. The base of the building will be a stone face block to keep the basement area disguised. Brick will be used with wood clad windows, limestone surrounds with a key block on the lower portion of the building. The portico will have round columns and the hip roof, constructed with a dimensional shingle, will extend up to a flat portion in order to maintain the proper building height requirement. He asked if the landscaping and lighting plans were required prior to the issuance of a building permit.

Mr. Feverston stated all conditions of approval would have to be satisfied prior to the issuance of a building permit.

Mr. Oliver asked where the HVAC equipment would be located on the site.

Mr. Joly indicated it would be on the south side of the building.

Mr. Pluckebaum asked if that equipment could be placed within the side yard setback as it appears on the plan.

Mr. Feverston stated that equipment of that type could be placed within the setback requirement, although he felt there was ample room for the equipment so it would not encroach the setback.

Mr. Pluckebaum asked about a dumpster as a location was not indicated on the plan.

Mr. Joly stated a dumpster will not be required for this facility as the business does not generate enough waste that cannot be handled within the building.

Mr. Pluckebaum stated he would request that the applicant maintain as many of the existing trees on the site as possible. He also stated that the existing Wind Gallery is attractive with its green space in front of the building and asked Mr. Joly is all the parking proposed was necessary.

Mr. Joly stated the proposed number of parking spaces is necessary based on the possible future use of the building.

Mr. Weingarten stated he felt a dumpster would be necessary for an art school simply by the amount of paper generated by that type of use.

Mr. Feverston stated that a dumpster is not a requirement.

Mrs. Butterworth stated her existing facility does not have a dumpster as it is not needed.

Mr. Oliver stated that the concern of the members is not necessarily for the art gallery use, but for a future user. He suggested the applicant work with staff to determine a location for a dumpster be identified and incorporated into the plan so there would no confusion should a different owner take control of the property.

MOTION: Mr. Weingarten moved to approve the Special Approval application submitted for Centerville Creative Arts Center, 7300 Far Hills Avenue, subject to the following conditions:

1. Prior to issuance of any permit by the City, the property owner(s) shall submit a legal agreement, approved by the Law Director, guaranteeing that a minimum of two (2) parking spaces shall be provided and maintained on the property located at 7266 Far Hills Avenue for the exclusive use by Centerville Creative Arts Center or its successors as long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of the Zoning Ordinance. Such instrument shall be recorded by the property owner in the office of the Montgomery County Recorder and a copy filed with the Planning Department.
2. The entry drive from Far Hills Avenue shall be widened to a minimum width of 20 feet with the final design being subject to approval by the City Engineering Department.
3. 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. This plan shall be modified to reduce the amount of grading, reconfigure the storm detention basin, and shift the proposed storm sewer away from the south property line to preserve, to the greatest extent practical, trees in this area subject to approval by the City.

4. 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.
5. 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.
6. A detailed lighting plan shall be subject to approval by the Planning Department.
7. The applicant shall work with staff to determine a possible dumpster location for the
5. A performance bond or other construction guarantee shall be posted by the developer for facility.

Further, the Planning Commission approved the design of the proposed building to assure the form, mass, materials, and colors would create a unified design on the premises and would be visually compatible with the surrounding buildings. The proposed building shall include a base that is distinguishable from the body through changes in color, material, pattern, profile, or texture.

Mr. Briggs seconded the motion. The motion was approved unanimously 5-0.

Rindler Landscaping - Planning Commission Special Approval

Mr. Feverston reviewed the Special Approval application submitted for Rindler Landscaping to be located on South Metro Parkway in the South Metro Industrial Park east of Bigger Road and north of Thomas Paine Parkway. The zoning on the 2.39 acre parcel is I-PD, Industrial Planned Development. There is a very small portion of the property zoned B-PD, Business Planned Development, however, it is located in the buffer strip and will not have the facility located on that portion of the site.

The request is to construct a new 15,000 sq. ft. landscaping facility with a combination of office and warehouse uses. The applicant has proposed 32 parking spaces to satisfy the parking requirement. The architecture of the building is primarily painted split face block with a base. The site and rear elevations will be constructed with metal panels. The front portion of the building will be an office use to be occupied by another user. Mr. Feverston stated there is a 100 ft. buffer strip required since this land abuts residential land. This buffer strip is already in place as part of the South Metro Industrial Park plat.

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

1. The Planning Commission 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 use of metal siding and painted concrete block on the building.
2. The final design of the dumpster and, mulch and salt storage area shall be subject to approval by the Planning Department.
3. A hard surface roadway capable of providing emergency vehicle access and support at all times for emergency purposes shall be provided during construction.
4. The final grading and final stormwater drainage plan shall be approved by the City Engineering Department.
5. The final lighting plan shall be approved by the Planning Department.
6. The final landscaping plan shall be subject to approval by the Planning Department. Additional landscape island(s), approximately 490 sq. ft. in area, shall be installed within the parking lot area subject to approval by the Planning Department.
7. 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.

Mr. Ed Groh, architect for the project, stated they had a change in the architectural elevations of the building and he distributed that information to the members of Planning Commission and staff.

Mr. Weingarten stated that the amended building elevations show no vertical columns providing a visual break to the building mass.

Mr. Oliver stated that based on the new information by the architect, the application should be tabled to allow staff to review the new proposal.

Mr. Feverston stated that should the project be tabled, the applicant would have to agree since the application would exceed the 30 day time period in which the City must take action.

Mr. Dan Rindler, applicant, stated that the new metal panels proposed would create a sound building in comparison to the construction of the original proposal.

Mr. Oliver stated that based on the new information distributed to the Planning Commission and staff, he did not feel he could make an informed decision.

Mr. Rindler agreed to waive the time period restriction.

The members directed staff to work with the applicant on the revised application so that it could be reviewed at the next meeting.

MOTION: Mr. Weingarten moved to table the Special Approval application for Rindler Landscape to be located in South Metro Industrial Park. Mr. Briggs seconded the motion. The motion was approved unanimously 5-0.

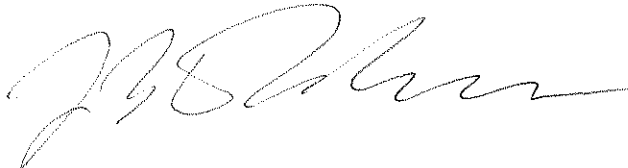
City of Centerville - Landmark Designation

Mr. Shrimplin reviewed the Nomination for a Landmark Designation for property located at 650 East Alexandersville-Bellbrook Road. Known as the Aaron Nut, Jr., House, it is currently owned by Edward and Nadine McCalley who have no objection to landmark status for the structure. The structure is the subject of the landmark designation excluding all accessory buildings on the .84 acre parcel. The zoning on the property is R-PD, Residential Planned Development, and is currently being used as a single-family residential dwelling.

The Aaron Nutt, Jr., House is a fine historical and architectural example of the homes lived in by early residents of Centerville and Washington Township. This small cottage is associated with several historical trades. Its construction represents the stone quarry industry that was the backbone of the local economy for many years. The intricate woodworking reflects a time when such a trade relied solely upon hand craftsmanship. The man for whom the house was named was the son of one of Centerville's founders.

MOTION: Mr. Kindler moved to recommend approval that the Aaron Nutt, Jr., House be granted Landmark Status to the Board of Architectural Review. Mr. Briggs seconded the motion. The motion was approved unanimously 5-0.

There being no further business, the meeting was adjourned.

A handwritten signature in black ink, appearing to be 'J. B. ...', written in a cursive style.

