

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, May 29, 1984

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

Attendance: Mr. Elmer C. Tate, Jr.; Mr. Brian Bergsten; Mr. Robert Looper; Mrs. Marian Simmons; Mr. Harry Williams. Absent: Mr. Robert Chappell; Mr. David Hall. Also present: Mr. Alan C. Schwab, City Planner; Mr. Robert N. Farquhar, City Attorney; Mr. Steve Feverston, Planner.

Approval of the minutes of April 24, 1984, Planning Commission Regular Meeting:

MOTION: Mr. Looper moved to approve the Planning Commission minutes of April 24, 1984, as written. Mr. Bergsten seconded the motion. The motion was approved 4-0-1 with Mrs. Simmons abstaining.

PUBLIC HEARINGS

An Ordinance Amending Ordinances 15-61 And 41-77 Relating To Sidewalk Sales In Business Districts.

Mr. Schwab explained that this new ordinance would allow five (5) sales per year rather than three (3) which is currently allowed. The ordinance would further regulate that the merchandise for sale would be merchandise normally offered for sale by the business owner or operator who is conducting the sale.

Mr. Tate opened the public hearing. There being no speakers, Mr. Tate closed the public hearing.

MOTION: Mrs. Simmons moved to recommend approval of the ordinance to Council. Mr. Looper seconded the motion. The motion was approved unanimously 5-0.

Leona M. King - Variance of Side Yard Requirement

Mr. Schwab reviewed the request by Leona M. King for a side yard variance of an existing accessory building located at 7185 West Von Dette. The property is located in the part of the City which was annexed from Washington Township and the zoning classification was retained as WT R-2. The side yard requirement in a WT R-2 district is 20 ft., and the applicant is requesting a 6-1/2 ft. setback. Mr. Schwab stated that the building is presently located at the requested setback due to an error of interpretation by the zoning inspector. He stated that the zoning inspector did review the location of the building as it was being constructed and confusion resulted based around the requirements of the City zoning ordinance. He determined improperly that the location was proper under the City's normal residential zoning requirements and did not realize that it was WT R-2 zoning which has different setbacks for accessory buildings. Based on the idea that the setbacks met the City requirements, the zoning inspector gave approval of the location. On further investigation after the building was constructed on the site at that location, it was determined that the location was in error and the building was not properly located.

Mr. Schwab made a slide presentation of the site. The building is located on the north side of the lot just off the driveway area. The owner has also installed a brick walk from the driveway to the accessory building. The back yard is covered with several mature trees which allowed fewer places of location possibilities for the building.

Staff recommends that the variance application be denied since it does not meet the guidelines for granting a variance. Staff did feel that the situation does not seem to be a serious violation, and felt that notwithstanding the fact that the City is somewhat at fault for giving misinformation to the owner, it does not warrant a variance.

Mr. Tate opened the public hearing.

Mr. Ben Wilbur, resident of 7155 West Von Dette, stated that he was a good friend of the developer of their subdivision and the intent of the developer was to maintain a high quality of the area and the buildings. Mr. Wilbur stated that the plat covenants restrict the construction and placement of tool sheds and accessory buildings of any kind on these lots. He stated that the applicant is now requesting approval for a variance to allow a tool shed. Mr. Wilbur stated that particular attention should be given to these situations if the standards of Centerville are to be maintained. He stated that the neighbor to the south of the applicant also constructed a tool shed and placed it in the same vicinity on the lot as the one in question. It was Mr. Wilbur's feeling that if this type of construction continues in Centerville, these shacks will soon be seen in the front yards. He stated that he and his wife enjoy sitting out in their back yard and since this shed was constructed, it blocks the view since it is almost directly in line with the rear of his home.

Mr. Wilbur stated that the architecture of the shed is not compatible with the type of house that they have, and is an old ugly barn that does not even have paint on it. He stated that soon there will be old wood piles, barrels, and bricks setting around the shed, and this does not seem to condone good standards. Mr. Wilbur stated the rules and regulations adopted by the City should be abided by. He stated that the time to apply for a variance of any kind should be done prior to the construction of the building, not after construction. He stated that the applicant has an area of approximately 110 ft. x 150 ft. in which he could locate his barn. He stated that he has always tried to be a good neighbor; but when someone puts up a monstrous looking building like that, not only one but two, and ask for approval, he feels that this is out of order. Mr. Wilbur stated that based on this logical reasoning, in his mind, the variance should be denied and both buildings should be moved.

Mr. Tate stated that for clarification, the only thing the Planning Commission can review is the setback requirements in the zoning ordinance. He stated that the Planning Commission cannot address the architecture or restrictions placed on the deed.

Mr. Ken Klepfer, attorney representing the applicant, stated that his clients did try to comply with the zoning ordinance by contacting the zoning inspector who came out to the property in question to review the plans and specifications for this particular building. The applicants showed the zoning inspector exactly where they intended to locate the

building and the zoning inspector personally measured the property lines and the distances, and personally approved not only this particular building, but also the other accessory building Mr. Wilbur mentioned is located to the south of the applicant's property. Both of those locations were reviewed, measured, and approved by the zoning inspector prior to any construction. Mr. Klepfer stated that Mr. Wilbur was personally notified prior to the construction of the building as to its location, and Mr. Wilbur's comment was that everyone else was doing it. In addition to that, Mr. Klepfer pointed out that everyone else in the neighborhood has done it. He stated that there are numerous other accessory buildings in the same neighborhood with the same zoning classification that are not within the 20 ft. setback requirement. He stated that the other neighbors informed the applicant that they did not contact the City to find out the requirements, they just put them up. Based on the approval given by the zoning inspector, the applicant went to great expense for construction, installed a brick walk to the building, and now the City is saying move the building because the zoning inspector made a mistake. Mr. Klepfer stated that to move the building at the applicant's own expense does not seem fair.

Pictures of the building were submitted to the Planning Commission members for their review of the construction and architecture.

Mr. Klepfer stated that the neighbors were notified of this public hearing which is a requirement of the City. He submitted signatures of 25 of the 31 residents stating that they would approve the variance as requested. He did point out that this building was constructed in the summer of 1983 and there were no complaints by anyone until March, 1984. Mr. Klepfer stated that Mr. Wilbur contests the visibility issue; and it is quite clear that in viewing lots 8 and 9, the only view it is blocking is the view of what is going on in his neighbor's house. He stated that he has listed several other reasons in the application as to why the variance should be approved and he rested his case on its contents.

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

Mr. Bergsten stated that it appears that the issue was a mistake of the zoning inspector and the City does not really have much of a case.

Mr. Looper agreed with Mr. Bergsten and stated that we have a formal obligation to the applicant.

Mr. Williams asked if a permit was obtained.

Mr. Klepfer stated that no permit was required since the building does not have a concrete slab.

Mr. Wilbur stated that when construction started, he contacted the zoning inspector to try to do something about it. He stated that he was informed that they were working on it, so he did do something about the situation before March.

Mrs. Simmons stated that she understood Mr. Wilbur's position because when they moved into their home they could go into their back yard and view the whole neighborhood. She stated that after more of the lots were developed, one of the neighbors installed a pool and a privacy fence according to code and they cannot see anything except a fence on that side. She stated that it was unfortunate, but no one guaranteed them that it would not be there at some point in time.

Mr. Williams stated that it seems that some of the variance guidelines would be justified based on the fact that the zoning inspector told the applicants that the location of the building met the City standards.

Mr. Bergsten agreed with Mr. Williams stating that it was a unique situation.

Mr. Tate stated that what bothers him is how many buildings existing in the City are in violation.

Mr. Schwab stated that it is not unusual to have a situation where a building appears during a weekend. Just from casual conversations with the inspectors, it would be very difficult to catch all the buildings that are in violation. This is an unusual situation where the applicants did contact the City and were given erroneous information.

MOTION: Mrs. Simmons moved to table the application in order to view the area. Mr. Williams seconded the motion. The motion was approved 4-0-1 with Mr. Looper abstaining.

NEW BUSINESS

Siva, Richard - New Building (Garage)

Mr. Schwab reviewed the application submitted by Richard Siva for approval to construct a new garage at 25 Weller Avenue in the APD. The proposed 24 ft. by 24 ft. garage would have access from the alley. The BAR has reviewed the architectural elements of the project and has approved it with some conditions.

Staff recommends approval of the application as submitted.

Mrs. Simmons asked if there would be any change in the drainage as a result of this construction.

Mr. Schwab stated that the City Engineer did review that issue and that basically the drainage would not substantially be affected since there was a concrete pad in that location originally. It was his feeling that that there is no change in the drainage and it would not require any different treatment.

MOTION: Mrs. Simmons moved to approve the application submitted by Richard Siva requesting new construction of a garage at 25 Weller Avenue. Mr. Looper seconded the motion. The motion was approved unanimously 5-0.

Kroger Store (Centerville Place Shopping Center) - Site Plan Amendment

Mr. Schwab reviewed the request for a site plan amendment submitted by the Kroger Store to expand the north side of the existing store space located at 1023 South Main Street in the Centerville Place Shopping Center. The zoning on the property is partially B-2, and B-3. The expansion to the building would provide approximately 14,875 sq. ft. of additional floor space. Fifty-nine (59) additional parking spaces have been proposed as a part of the expansion which would work out to a ratio of 3.3 parking spaces per 1,000 sq. ft. of floor area. Normally, staff recommends approximately 5.5 parking spaces per 1,000 sq. ft.; however, the existing shopping center was constructed with 7+ parking spaces per

1,000 sq. ft. and with this combination, the ratio would remain more than adequate. The same type of construction architecturally will be continued on the expansion which is a painted split faced brick.

A retention basin will be created to the west of the building and the drainage will be a defined swale that will run further to the north than it does presently. The City Engineer feels that the drainage plan submitted is acceptable in concept with a few minor details that will need to be addressed in terms of erosion control during and after construction.

Staff recommends approval of the site plan amendment with the following condition:

1. Require 60 ft. of right-of-way from centerline along SR 48 to be dedicated to the City.
2. Delete the proposed right-in only curb cut shown on SR 48 south of the signalized main entrance to Centerville Place.
3. The exit road to Spring Valley Road shall be realigned so that its intersection with the drive along the north property line occurs at a right angle.
4. The drive along the north side of the property shall have vehicular access restricted by raised curbing and planters. The drive in front of the building, the center drive next to the planters, and the drive along SR 48 shall be the only drives which have access to the drive along the north property line.
5. The sidewalk and planter in front of the existing Kroger Store shall be extended in front of the building addition and along the north side of the addition to the northeast corner of the addition.
6. No parking shall be allowed in the area directly north of the proposed addition.
7. Any proposed exterior lighting must be approved by the City Planner.
8. The City Engineer shall approve the design of the storm water drainage plan for the addition.
9. The Washington Township Fire Department must approve the location of fire hydrants for the addition.
10. The City Planner must approve a revised site plan incorporating all of the above conditions.

Mr. Richard Hulswood, Real Estate Manager for the Kroger Food Stores, and Mr. Abe Bodenstein, Tri-City Engineering, were present to discuss the proposed project.

Mr. Bergsten asked if there were any staff conditions that would be unacceptable.

Mr. Hulswood stated that the two conditions that should be given consideration of future development were the suggestion of the concrete barrier along the north edge of the parking area, and the sidewalk and planter

along the north side of the store. He stated these items would have to be removed the next time the shopping center is expanded, which is the intent of the developers, and this would be wasteful.

Mr. Tate asked how the additional roof area and asphalt would affect the area.

Mr. Schwab stated that as a part of this application, a storm water drainage plan has been submitted which would include retention or detention constructed on the site that will address the increase in runoff.

Mr. Bodenstein stated that the storm water drainage plan proposes improvements to the area so that much less water will be running off from that area than what presently exists.

Mr. Bodenstein stated that the suggestion to require a concrete barrier on the north property line to restrict vehicular traffic would defeat the idea of continuing the parking area to the north as the shopping center expands. He stated that they would also have to look at the drainage situation if a barrier were constructed, however, some type of compromise should be possible with staff. Mr. Bodenstein pointed out that the intent is to continue the planter along the front of the addition, although there is some hesitation of constructing the planter along the north side and rear of the building. He stated this would not seem necessary since the plan is to stripe the part of the lot for parking to allow cars to locate against the building.

Mr. Schwab stated that parking will probably be restricted along the north side of the building by the Fire Department which will require a fire lane.

Mr. Bodenstein indicated that the other conditions suggested by staff would represent no objections from them.

Mr. Tate asked what the involvement of Beerman Realty was.

Mr. Bodenstein stated that Beerman Realty has the right to full review of the plans, however, the cost of the project is that of the Kroger Company.

Mr. Looper asked what the timetable was for the entire expansion of the shopping center to be completed.

Mr. Bodenstein stated that the project has been discussed many times, however, nothing is being done at this time.

Mrs. Simmons stated that the planter along the north side of the building would protect the area from becoming a raceway.

Mr. Schwab stated that the feeling was that when the shopping center expands, this area potentially makes a break in the buildings for either a vehicular access or, at minimum, a pedestrian access.

Mr. Bodenstein stated that if the parking were located on the extreme north side of the paved area, this would interrupt the traffic flow.

Mr. Williams pointed out that staff has proposed no parking along the north side of the addition.

MOTION: Mr. Bergsten moved to recommend approval to Council of the site plan amendment for Kroger's with the following conditions:

1. Require 60 feet of right-of-way from centerline along SR 48 to be dedicated to the City.
2. Delete the proposed right-in only curb cut shown on SR 48 south of the signalized main entrance to Centerville Place.
3. The exit road to Spring Valley Road shall be realigned so that its intersection with the drive along the north property line occurs at a right angle.
4. The drive along the north side of the property shall have vehicular access restricted by raised curbing and planters. The drive in front of the building, the center drive next to the planters, and the drive along SR 48 shall be the only drives which have access to the drive along the north property line.
5. The sidewalk and planter in front of the existing Kroger Store shall be extended in front of the building addition.
6. No parking shall be allowed in the area directly north of the proposed addition.
7. Any proposed exterior lighting must be approved by the City Planner.
8. The City Engineer shall approve the design of the storm water drainage plan for the addition.
9. The Washington Township Fire Department must approve the location of fire hydrants for the addition.
10. The City Planner must approve a revised site plan incorporating all of the above conditions.

Mrs. Simmons seconded the motion. The motion was approved unanimously 5-0.

D'Amico & Manzo's Restaurant - Additional Parking

Mr. Schwab stated that the revised plan for D'Amico & Manzo's Restaurant was received this afternoon and, therefore, staff did not have adequate time to review the plan in detail or to take slides for a presentation.

Staff recommends to deny the application based on the fact the request is for side and front yard parking which is not permitted in the APD.

Mr. Tate asked what other sites in the APD exist currently with side and front yard parking.

Mr. Feverston stated that one (1) instance with side yard parking exists at Angels Camp located at 10 West Franklin Street. He explained that a variance was granted for that facility based on the fact that there were existing buildings located on the property and this did not allow rear yard parking. There are some other properties in the APD that do have front and side yard parking; however, it was installed prior to the adoption of the AP Ordinance.

Mr. Feverston stated that the intent of the AP Ordinance in emphasizing rear parking is that the buildings and landscaping should be emphasized in order to maintain the residential character of the district.

Mr. Tate asked if the parking is required then what would make the difference if there were one (1) more row of cars which would be adjacent to the front yard parking at Independence Square.

Mr. Schwab stated that most, if not all, businesses in the APD need more parking. What has to be considered is the basic intent of the AP Ordinance.

Mr. Looper asked how the Dentist Office at 2 East Franklin Street got front yard parking and the City is recommending denial of the front yard parking for this application.

Mr. Schwab stated that the Dentist Office which was the original Shell Service Station, was constructed prior to the AP Ordinance. In fact, he stated, the Shell Station is what prompted the adoption of the AP Ordinance. At that time, there was public outcry because an historic building was torn down to make room for the Shell Station that had a sea of asphalt out in front of it. Mr. Schwab stated that the characteristic of the APD is that it is unique. It does not look like every other commercial area in the City because the concept is to protect the unique character of the downtown area.

Mr. Bergsten stated that the problem seems to be solved because the people are presently parking in the grass area as well as the Independence Square lot when needed. He stated that he sees no reason to have that area paved for use two (2) hours a day so that we have to look at it 24 hours a day. The additional parking spaces proposed will not make that much difference anyway.

Mr. Williams stated that the grass area would get very muddy especially this time during the year.

Mr. Schwab stated that in looking at the drawings, the additional parking spaces would only be 4 or 5.

Mr. Bergsten stated that it would bother him to approve this concept because it would set a precedent. He stated if we do not agree with the provisions in the AP Ordinance, it should be changed. As long as the Ordinance is written with these certain provisions and requirements, the additional erosion of green space in the APD should not be permitted.

Mr. Feverston stated that the applicant intends to construct steel posts spaced 5 ft. on center along the north property line separating his property from the Independence Square shopping center and to loop a chain between the concrete filled steel posts. This would keep the traffic from coming onto this property from the Independence Square shopping center.

Mr. Feverston stated that another point that should be brought out is that the owner is intending to come in to the BAR within the next month with a concept plan to expand his existing business on that site. The intent of that concept is to expand to the east which is the front yard area.

Mr. Tate stated that if that is the intent, he would rather see the whole plan at one time.

Mr. John Reese, Reese Paving, stated that the owner wants to have his own parking area that would be separate from Independence Square and have his customers park on his own property. The owner is willing to put in a planting area along the additional parking to screen that area from South Main Street. Mr. Reese indicated that he was not aware that the owner was proposing any expansion to his building. He stated that if this is the case, the parking could be laid out differently.

MOTION: Mr. Bergsten moved to table the application for additional parking submitted by D'Amico & Manzo's Restaurant. Mr. Williams seconded the motion. The motion was approved 5-0.

Additional Discussion

Mrs. Simmons asked if Mr. Schwab had discussed the problem of mud on Alex-Bell Road from the new shopping center.

Mr. Schwab indicated that he did speak with the inspectors, and they did contact Pyper Construction and the Linclay Corporation to remind them that it will require maintenance. He further stated that fill is being taken from north of Alex-Bell and Clyo Roads to the construction site.

There being no further business, the meeting was adjourned.

6/26/84



