

BEREA MUNICIPAL PLANNING COMMISSION
February 19, 2015 – 7:30p.m.

The Berea Municipal Planning Commission met on February 19, 2015 and was called to order by Chairman Donald Sawyer at 7:43p.m. Present: Conrad Borowski, Leon Dozier, Andy Fay, Richard Koharik, and Dan Smith. Absent: Jim Walters. Matt Madzy, Director of Planning, Engineering and Zoning, Tony Armagno, City Engineer, and Ryan Theberge, Assistant City Engineer, were also present.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea.

Moved by Mr. Fay, seconded by Mr. Dozier, that the minutes from the February 5, 2015 Planning Commission meeting be approved. Vote on the motion was all ayes and no nays. Mr. Koharik abstained from the vote. The motion carried and the minutes were approved.

Moved by Mr. Smith, seconded by Mr. Fay, that the order of the agenda be amended so that “New Business” be placed before “Requests for Variance/Appeals”. Vote on the motion was all ayes and no nays. The motion carried.

Mr. Sawyer swore in the witnesses.

NEW BUSINESS – GENERAL PLANNING MATTERS:

Application #15-02-02

**Application for Conditional Use: Automobile Repair Facility; Various Modifications
430 W. Bagley Road, P.P. #361-10-006**

Mr. Sawyer read the Administrative Review. Due notification was made on this application pursuant to Section 102.04 of the City of Berea Zoning Code.

The agent, Robert Orovets, was present this evening along with Conrad’s President and CEO, John Turk, and Conrad’s Group Business Unit Leader, Dominic Umek. Mr. Orovets began by explaining that the site in question is located on the narrow parcel between AutoZone and Arby’s. The store will be similar in size to Conrad’s prototype, even though the lot is small. He explained that the existing landscaping will remain, and noted that they will return before Planning Commission for signage approval. Mr. Orovets noted that tonight, they are simply requesting a Conditional Use approval, site plan approval, and various landscaping, parking and architectural modifications.

Mr. Orovets showed the Commission a mock-up of their typical prototype and a sample of the brick that will be utilized in construction. He stated that the windows will be comprised of finished aluminum, a tire and trash enclosure shall be located behind the building, a glass faced showroom will be visible from the street, and the building will contain typical service bays with glass doors. Mr. Orovets added that the landscape waiver would allow the building to keep a setback consistent with AutoZone. He concluded his initial comments by stating that the height of the building is merely decorative, hence the reason no second story windows will be featured on the building.

Mr. Smith questioned if there will be adequate space between Conrad's and AutoZone. Mr. Orovets stated that there will be a 6 to 8 inch gap, but this gap will not be visible from the street. In addition, the roof is equipped with overflow scuppers, and the gutter in between the buildings will have no trouble maintaining proper drainage.

Mr. Sawyer inquired about the need for the architectural design modification, and Mr. Orovets replied that the front roof structure does extend to a higher elevation, but this is simply a decorative feature and will not be utilized, even for storage. He continued by explaining that the building will be a one floor facility, but the additional height is necessary because vehicles will have to be lifted for maintenance purposes.

Mr. Sawyer questioned whether there would be any overnight parking available in the lot. Mr. Turk stated that any car that remains overnight will be stored inside the building.

Mr. Sawyer then asked why additional landscaping could not be added. Mr. Turk responded that additional landscaping would obstruct the current easement and access way.

Mr. Fay inquired as to who is responsible for maintaining the treelawn area, and both Mr. Turk and Mr. Umek answered that it will be Conrad's responsibility to maintain their section of the treelawn. Mr. Fay wondered if low shrubs could be added for aesthetic purposes, and Mr. Orovets, Mr. Turk and Mr. Umek committed to planting additional shrubbery.

Mr. Madzy referenced the criteria for conditional use approval, noting that Conrad's meets the specified requirements.

Moved by Mr. Dozier, seconded by Mr. Borowski, that the architectural design modification be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the architectural design modification was approved.

Moved by Mr. Smith, seconded by Mr. Dozier, that the parking modification be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the parking modification was approved.

Moved by Mr. Fay, seconded by Mr. Borowski, that the landscape modification be approved with the condition that low shrubbery be planted amongst the treelawn area. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the landscape modification was approved.

Moved by Mr. Koharik, seconded by Mr. Fay, that the Conditional Use be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the Conditional Use was approved.

Moved by Mr. Koharik, seconded by Mr. Fay, that the site plan be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the site plan was approved.

REQUESTS FOR VARIANCES/APPEALS:**Application #14-11-01****Application for Fence Height and Open Space Variance****212 Wyleswood Drive, P.P. #363-31-032**

Mr. Sawyer read the Administrative Review. Due notification was made on this application pursuant to Section 102.04 of the City of Berea Zoning Code.

The owner, Patrick Leahy, was present this evening. He stated that over three years ago he approached the Building Department with a variety of home improvement plans, but never applied for a permit for the fence he purchased and constructed. He acknowledged that he put the fence up in error, but explained that he is before the Commission requesting permission to keep the fence in its current location, even though appropriate setbacks are not being met.

Mr. Koharik inquired about the pictures that were submitted with this particular application, and Mrs. Esson clarified that the pictures were taken by the City's Building Inspector. Mr. Leahy confirmed the location of both Wyleswood and Glenwood in the photos, thus orienting everyone with what they were viewing. Mr. Koharik noted that the fence behind Mr. Leahy's house is also a stockade style fence, and Mr. Leahy said that is one of the reasons he selected this particular type of fence.

Mr. Leahy stated that his neighbor wrote a letter in support of the application, citing that he has no issues with the current fence.

General discussion commenced concerning the location of the fence. Mr. Madzy explained that Mr. Leahy's property has two frontages, one along Wyleswood and the other along Glenwood, even though Glenwood is a dedicated, unmaintained, dead end street. He stated that this lot is unusual in that it sits on the corner of one utilized street and another dead end street not accessible to thru traffic. This property, therefore, does have unique characteristics that distinguish it from other corner lots in the City. Mr. Koharik concurred.

Mr. Smith verified that the neighbor who submitted the letter in support of the application was the property owner, and not simply a tenant. Mr. Leahy confirmed that the letter was from the owners of the property next door.

Mr. Fay believed the fence to be rather unattractive, especially since the area is not properly adorned with decorative landscaping. Mr. Sawyer questioned if landscaping could be added to obstruct the view of the fence from the Wyleswood side. Mr. Leahy said that he was going to add landscaping anyway, but stopped once he received word that his fence was in violation of City code. He agreed to add landscaping, but asked the Commission for ideas on how best to obscure the fence.

General discussion commenced concerning the appropriateness of the stockade style fence in Berea, and Mr. Madzy reminded the Commission that this type of fence is permitted in Berea, it simply requires a setback off the property line. If Mr. Leahy agreed to move the fence to the appropriate setback, the fence would not need Planning Commission approval, and the appearance would remain the same.

The discussion about landscaping commenced once again, and Mr. Leahy agreed to return before the Commission with an appropriate landscaping plan.

Moved by Mr. Koharik, seconded by Mr. Dozier, that the fence height variance be approved. Vote on the motion was ayes: Borowski, Dozier, Koharik, Sawyer and Smith. Nays: Fay. The motion carried and the fence height variance was thus approved.

Moved by Mr. Fay, seconded by Mr. Koharik, that the application be tabled to a date certain of March 19, 2015. Vote on the motion was all ayes and no nays. The motion carried and the application was thus tabled.

Application #15-02-01
Appeal of Notice of Violation
203 Dorland Avenue, P.P. #363-39-096

Mr. Sawyer read the Administrative Review, as well as the Notice of Violation that was sent to Mr. Bockmiller and a letter of appeal from Mr. Bockmiller. Due notification was made on this application pursuant to Section 102.04 of the City of Berea Zoning Code.

Gerald Bockmiller explained that he was shocked to receive a Notice of Violation from the Assistant City Engineer. He made his case, with the assistance of a PowerPoint presentation. He noted that the property behind him belongs to 185 Ellen Drive, and pointed out that no trees exist on his property, and all leaves can be attributed to the wooded lot behind him.

During his presentation, Mr. Bockmiller presented several questions to the Assistant City Engineer. He asked how it was possible to prove that he dumped organic materials in the drainage ditch, when the surrounding trees could have done the same. He asked if the Assistant City Engineer tested the drain for pollutants. He inquired as to whether the City is required to notify him when a drainage ditch is dug, if a permit is required to dig a ditch, and if the owner of the property on which the ditch resides was made aware of the ditch or of this hearing. Mr. Bockmiller questioned who is required to clean a drainage ditch, and wondered if it is possible that his accusers could have actually been the ones to pollute the ditch.

Mr. Bockmiller presented photos of an unidentifiable person behind his house, close to the drainage ditch. He then emphatically stated that he does not contribute to water quality standards or interfere with watercourse protection.

Mr. Smith asked if Mr. Bockmiller ever dumped grass clippings or leaves in the drainage ditch. Mr. Bockmiller said no.

Mr. Sawyer wondered if the neighbors to the north ever rake their leaves near the drainage ditch. Mr. Bockmiller said that he has never noticed them doing so.

Mr. Sawyer then inquired as to whether this is a manmade swale, or a natural swale. Mr. Bockmiller stated that the swale has not always been there, but said he did view someone digging the ditch this past summer.

Mr. Armagno clarified that the swale does go in to large cauldron that drains under Ellen Drive, and eventually out to the east branch of the Rocky River.

Mr. Bockmiller concluded his presentation by asking the Commission to reverse the notice of violation against him.

Mr. Armagno stated that this issue was brought to the attention of his office by the Director of Public Service, Barb Jones, and Councilman Dale Lange, in response to a complaint received from a neighboring property owner. The City was asked to investigate whether the dumping could be a violation of the City's Stormwater Ordinance. The Engineering Department followed up with the property owners who made the complaint.

In response to a few of Mr. Bockmiller's questions, Mr. Armagno stated that no pollutant testing was conducted on the materials in the drainage ditch because Chapter 319 of the City's Codified Ordinances defines "pollutant" to include yard waste. Since the yard waste was visible, no testing was necessary.

Mr. Armagno then addressed the issue of whether this is a watercourse or not, and Mr. Armagno showed an address map of the City that contained a blue line taken from the County's typography map, which identifies the watercourse that drains across the property. This drainage ditch was naturally occurring before any development took place.

Mr. Theberge explained that he followed up with the property owners at 217 Dorland Avenue. They complained that Mr. Bockmiller was dumping lawn debris in the drainage ditch, which was causing flooding. Mr. Theberge stated that he examined the drainage ditch and also took pictures. He verified that the ditch was naturally occurring and noticed that grass clippings, leaves, and other materials were being mulched up and thrown in the ditch.

Mr. Theberge stated that the property owners at 217 Dorland told him that they spoke with the Chens, owners of 185 Ellen, and received permission to go on their property to periodically clean out the drainage ditch. Mr. Armagno verified with Mrs. Esson that the owners of 185 Ellen did receive notification of this hearing.

In response to a question from Mr. Smith, Mr. Armagno stated that while the City did not witness Mr. Bockmiller dumping anything in the ditch, neighboring property owners claimed to have witnessed him dumping debris on several occasions. Mr. Armagno stated that the reason for the notice of violation was because the City viewed an excessive amount of waste in the drainage ditch, and this type of waste would certainly cause flooding concerns and water pollution.

Mrs. Esson read an email in to the record. The email was from Robert Cupo, a resident on Dorland Avenue. He was unable to attend the meeting, but did present his thoughts and opinions. A copy of this letter is attached at the conclusion of these minutes.

Mr. Smith expressed skepticism concerning the City's case, and Mr. Sawyer did as well.

Gene Siodla, and his wife Lesley, owners of 217 Dorland, were present this evening. Mr. Siodla began by stating that he has lived on Dorland for decades and has personally

witnessed Mr. Bockmiller dumping things on Mr. Chen's property for years. He declared himself to be an eyewitness, and swore that what he spoke was the truth. He explained that there is a natural swale from the Metroparks that runs through this drainage ditch. The ditch was not dug by hand. It may give the appearance that it is manmade because, for the last 40 years, he has been keeping it clear with shovels and rakes. Mr. Siodla said that he and his wife have tried their best to keep the drainage ditch clear, and have even paid someone to clear it for them. When the ditch is blocked, several surrounding property owners feel the effects.

Mr. Siodla explained that he tried speaking with Mr. Bockmiller about this issue, but received little more than profanity. He noted that another resident, John Balus, also witnessed Mr. Bockmiller dumping yard waste in to the ditch. Mr. Siodla noted that he finally reached his breaking point and contacted the Assistant City Engineer. Mr. Theberge came out to the property and took pictures.

Mr. Siodla concluded his initial comments by stating that Mr. Bockmiller is guilty of violating City law, as well as the rights of the property owner behind him.

Mrs. Siodla stated that the picture Mr. Bockmiller presented during his presentation was of her raking out the drainage ditch. Mr. Fay inquired as to whether she ever saw anyone else dumping things in to the drainage ditch, and she responded in the negative. She went on to state that a new neighbor attempted to dump yard waste in the ditch, but she asked him politely to refrain from doing so, and explained the situation to him politely. She stated that the man immediately cleared out the ditch and has never since attempted to utilize the ditch for his own use. The only person who is guilty of polluting the drainage ditch is Mr. Bockmiller.

Mr. Siodla explained that he loves living in Berea, and appreciates that the City collects yard waste. He simply asked that Mr. Bockmiller refrain from dumping things in the drainage ditch that does not belong to him, and instead utilize the City's yard waste service like all others in the neighborhood.

Moved by Mr. Sawyer, seconded by Mr. Fay, that the Municipal Planning Commission uphold the notice of violation. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the Notice of Violation was upheld.

OLD BUSINESS:

Application #15-01-01 Application for Signage 786 Front Street, P.P. #362-02-007

Mr. Sawyer read the Administrative Review.

The agent, Frank Dachtler, was present this evening. He stated that Lake City Tavern originally received signage approval, but then purchased a larger sign from the business next store. Appropriate changes were made to enhance the appearance and visibility of the sign, but he learned that this change required additional City approval.

Mr. Sawyer asked if the foundation was to the frost line, and Mr. Dachtler responded in the affirmative. Mr. Fay questioned the landscaping plan. Mr. Dachtler said that, regardless of how the drawing appears, there is only a gradual grade to the mound. He added that landscaping already exists, but larger boulders will be placed as well.

Mr. Sawyer asked if the foliage would obscure the sign, and Mr. Dachtler responded in the negative.

Mr. Smith cautioned that plantings should not be tall, as the sign already blocks the site line to Thacker Street. He emphasized that, for safety reasons, all foliage should be low to the ground.

Mr. Koharik asked if the wall sign would be illuminated, and Mr. Dachtler stated that it was originally set up with LED lighting, but he did not like the appearance. He added that they will probably return before the Planning Commission with a proposal for gooseneck lighting that will present a more rustic appearance.

Mr. Smith asked that, if Mr. Dachtler does reappear before the Commission, he make every effort to actually appear when scheduled. General discussion commenced concerning Mr. Dachtler's lack of appearance at two previous Planning Commission meetings. Mr. Dachtler apologized.

Moved by Mr. Smith, seconded by Mr. Fay, that the ground sign design, base and landscaping be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried.

Moved by Mr. Dozier, seconded by Mr. Fay, that the wall sign design be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer and Smith. Nays: None. The motion carried and the wall sign was thus approved.

Mr. Madzy reminded Mr. Dachtler to pick up his permits in the Building Department as soon as possible. Mr. Fay encouraged expediency as well.

OTHER BUSINESS: None

Having no further business before the Commission, adjournment was moved by Mr. Fay and seconded by Mr. Koharik. With no opposition, the meeting adjourned at 9:31p.m.

Matthew Madzy, Chairman

Attest: _____
Alycia Esson, Secretary

CERTIFICATE OF COMPLIANCE

The meeting of the Municipal Planning Commission held this 19th day of February, 2015, has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

Alycia Esson, Secretary