

**BEREA MUNICIPAL PLANNING COMMISSION**  
**September 5, 2013 – 7:30p.m.**

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The Berea Municipal Planning Commission met on September 5, 2013 and was called to order by Chairman James N. Walters III at 7:30p.m. Present: Conrad Borowski, Leon Dozier, Andy Fay, Richard Koharik, Don Sawyer and Dan Smith. Absent: None. Also present were Tony Armagno, City Engineer, Matthew Madzy, Director of Building, Planning, Zoning, and Engineering, and Marvin MacDonald, Exterior Maintenance Inspector.

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.

Mr. Walters introduced himself, explaining that he is the Director of Law for the City of Berea, and is chairing the meeting as the Mayor's designee.

Moved by Mr. Fay, seconded by Mr. Koharik, that the minutes from the August 1, 2013 Planning Commission meeting be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

The witnesses were sworn in by Mr. Walters.

**REQUESTS FOR VARIANCE/APPEALS:**

**Application #13-08-01**  
**Appeal of Zoning Code Enforcement**  
**168 The Mall, P.P. #361-18-023**

Mr. Walters read the Administrative Review, adding that this application had been tabled at the August 1, 2013 Planning Commission meeting. Due notification was made on this application pursuant to Section 102.04 of the City of Berea Zoning Code.

Mr. Madzy explained that on August 1, 2013, the intention was to table this application until such time as former Exterior Maintenance Officer Jamie Pochatek was able to attend. While the City has been in contact with Officer Pochatek, he is not able to attend tonight's meeting due to training, and is also unable to attend the meeting on September 19, 2013. For this reason, Mr. Madzy encouraged the Commission to move forward with the appeal, understanding that it would be difficult for the Commission to uphold the order of the Building Department without Officer Pochatek's testimony. Should the Commission wish to overturn the ruling, Mr. Madzy requested that a few facts

be noted in the record. The record should first note that the carport in question was installed prior to the adoption of the current Zoning Code. The Gonzalez's also installed it with the belief that they had received approval from the City of Berea. By declaring these facts, a precedent will thus be set, and this application will be easily distinguishable from other similar ones which may arise in the future.

Mr. Fay questioned the use of the carport. Mr. Gonzalez stated that it is utilized to store his racing car, acknowledging that several other cars do exist on the property, all of which have current plates and are family owned. Mr. Fay emphatically declared that the area should not be utilized to repair cars that do not belong to family members.

Mr. Koharik felt that an affirmative vote would set a poor precedence. Mr. Madzy disagreed, stating that if facts are appropriately stated for the record, this application will be distinguishable from others that may arise. Mr. Sawyer agreed, acknowledging that mistakes had been made and while the City's citation should be rescinded, it is important for both the City and the Commission to learn from this application so that similar confusion is not created in the future.

Moved by Mr. Sawyer, seconded by Mr. Dozier, that the City's order be rescinded on the grounds that it was installed prior to the adoption of the current Zoning Code, by owners who believed they had received approval from City officials, and with the condition that the carport be removed once it begins to deteriorate, and not replaced from thence onward. Vote on the motion was ayes: Borowski, Dozier, Sawyer, Smith, and Walters. Nays: Fay and Koharik. The motion carried and City's order was rescinded.

**Application #13-09-01**  
**Application for Side Setback Variance**  
**409 West Street, P.P. #363-27-004**

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

The applicant, Mr. Birchenough, was present this evening. He began by noting that his current garage is set 3 feet off the property line, and so are several others in the surrounding area. While he does need a variance in order to proceed with the garage addition, he feels the requested setback does reasonably comply with the spirit and intent of the Zoning Code as it allows for more green space and is consistent with other structures in the neighborhood.

Mr. Smith asked if the addition will be flush with the existing garage, and Mr. Birchenough answered in the affirmative. Mr. Smith felt that a consistent 3 foot setback would be more visually appealing than part of the garage having a 3 foot setback, and the other part being setback 5 feet from the property line.

Mr. Walters questioned the distance between the garage in question and the neighbor's garage. Mr. Birchenough said that his neighbor's garage also sits 3 feet off the property line, and thus there is 6 feet of space between the structures.

Mr. Sawyer questioned what Mr. Birchenough would do about the driveway, and Mr. Birchenough responded that his intention is to extend the driveway to the garage door. He added that his immediate neighbors know of the proposal and have no objection to the addition.

Mr. Koharik asked about the roofline, and Mr. Birchenough said that the rooflines will be tied together and run perpendicular to one another.

General discussion commenced concerning the materials that will be utilized to complete the addition. In response to an inquiry from Mr. Fay, Mr. Birchenough informed the Commission that no new exterior lighting will be added.

Moved by Mr. Fay, seconded by Mr. Sawyer, that the side setback variance be approved, as submitted. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer, Smith, and Walters. Nays: None. The motion carried and the variance was approved.

Mr. Walters reminded Mr. Birchenough that, because of the variance, a 20-day waiting period exists before he can receive his building permit.

## **NEW BUSINESS – GENERAL PLANNING MATTERS:**

### **Application #13-09-02**

### **Application for Signage**

### **44 Front Street, P.P. #364-11-021**

Mr. Walters read the Administrative Review, noting that the Heritage Architectural Review Board (H.A.R.B.) did recommend a modified version of the original proposal, and this approved sign has been included as part of the application.

The agent, Richard Stump, was present this evening. He explained their intention to create a flat panel wall sign, complete with raised lettering. White vinyl letters will also be placed on the current awning.

Mr. Walters wondered if the sign would require lighting, and Mr. Stump stated that it would be non-illuminated.

Mr. Fay wondered if there currently exists a particular pallet of colors that is required to be utilized in the Historic District. Mr. Sawyer said that a pallet does exist, but it includes over 80 various colors.

Mr. Dozier questioned if and when the owners plan to change the awning, and Mr. Stump explained that while the owners hope to eventually install a blue awning, for the time being they will simply modify the current black awning.

Mr. Smith asked if the company was obligated to utilize the displayed font and colors, and Mr. Stump answered in the affirmative, adding that it is a franchised company.

Both Mr. Smith and Mr. Walters stated their preference for a softer white on the sign, and Mr. Koharik noted that while the penguin is cute, it is not appropriate for the middle of the Berea triangle.

Moved by Mr. Borowski, seconded by Mr. Dozier, that the agent's original proposal, which is attached to the conclusion of these minutes, be approved with the condition that the white color be softened, the lettering be recessed, and the wall sign be boarded in black. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer, Smith, and Walters. Nays: None. The motion carried and the sign was approved.

**Application #13-09-03**  
**Application for Driveway Widening**  
**61 Adelbert Street, P.P. #362-10-022**

Mr. Walters read the Administrative Review.

The owner, Anthony Matusicky, was present this evening. He began by explaining his request for a driveway extension. He also stated that he hopes to eventually replace the entire driveway.

General discussion commenced concerning whether or not the property would be able to adequately accommodate six vehicles, should the extension be approved. Mr. Matusicky explained the submitted drawing, and showcased how all vehicles would fit.

Mr. Sawyer questioned if, should the extension be approved, proper drainage would be possible. Mr. Armagno asked which way the concrete would

slope, and Mr. Matusicky stated that he is willing to work with the City to ensure proper drainage. His hope is to eventually replace the entire driveway and slope it so that water runs down and out in to the street.

Mr. Walters confirmed that, if looking at the property, a driveway would solely exist to the right of the house. Mr. Matusicky declared that Mr. Walters was correct.

Mr. Fay questioned why gravel had been added to both sides of the apron. Mr. Matusicky explained that Church patrons utilize his driveway as a turnaround point, and while he has covered these areas with dirt before, the dirt eventually turns to mud, and the gravel has been placed simply as a way of keeping the area neat and clean.

Mike Kozar, Mr. Matusicky's brother-in-law, questioned how wide the apron area can be, and Mr. Armagno stated that any proposed curb cut must be approved by the Service Director. Mr. Kozar thought that, perhaps, an extension of the apron would give motorists adequate room to turn around, thus alleviating the need for gravel or fear of mud. Mr. Armagno stated that the apron can be as wide as the garage, and reiterated that curb cut requests must be approved by the Director of Public Service.

Mr. Madzy asked for clarification on which part of the driveway is being widened. Mr. Matusicky responded that the driveway sits on the property line, and can proceed no further to the west. A possibility exists that the owners will request a curb cut, in order to extend the apron to the east.

General discussion commenced about altering the apron. No definitive conclusions were drawn.

Mr. Walters questioned the distance between the garage and the rear property line. Mr. Matusicky responded that the property is very deep and would estimate the distance to be around 120 feet.

Mr. Madzy asked if all the current gravel, both to the front and the rear of the house, will be removed. Mr. Matusicky affirmed that all the gravel will be removed.

Mr. Fay questioned the timeframe for project completion. Mr. Matusicky was hesitant to give a definitive answer, as he hoped to pour all concrete at once, rather than complete the project piece by piece. Mr. Walters wondered if the driveway would be completed by the end of this construction season. Mr. Matusicky declared that the driveway widening would be completed by the end of this construction season.

Mr. Fay asked if the owners would be willing to plant trees and or bushes, should Church patrons complain about the excessive concrete. Mr. Matusicky responded in the affirmative. Mr. Fay also questioned whether all gravel will be removed. Mr. Matusicky, once again, responded affirmatively.

Mr. Matusicky clarified that solely the new area must be installed by November 1, 2013. Mr. Walters responded that the requested driveway extension must be completed by November 1, 2013, and added that all gravel must also be removed by this date. Mr. Matusicky stated his understanding.

Moved by Mr. Fay, seconded by Mr. Sawyer, that the application be approved with the condition that the driveway extension be completed, and the gravel be removed, by November 1, 2013. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer, Smith, and Walters. Nays: None. The motion carried and the application was approved.

**Application #13-09-04**  
**Application for Driveway Widening**  
**480 Crescent Drive, P.P. #363-01-041**

Mr. Walters read the Administrative Review, noting that the agent, Dominic Florio, is here representing both this application, as well as the following. While the Commission will act on both applications separately, it would be appropriate to discuss them together.

Mr. Florio explained that the two driveways in question run side by side and were separated by a large patch of gravel. The intent is to replace the gravel with concrete, and run an expansion joint down the property line so that each driveway is distinguishable. To ensure proper drainage, each driveway will pitch toward the center and drain out in to the street.

Mr. Walters questioned what would happen if the phone pole needs to be replaced. Mr. Florio stated that there is an expansion around the pole, and concrete could also be cut out, if necessary.

Mr. Armagno asked if the sidewalk runs behind the utility pole, and Mr. Florio responded in the affirmative. Mr. Armagno questioned if any thought had been given to protection for this pole, and Mr. Florio said that he suggested to the homeowners that reflectors be installed.

Mr. Walters asked if the entire area between the two driveways was gravel, and Mr. Florio answered in the affirmative, adding that the area was approximately 10 feet wide.

Mr. Sawyer asked if the concrete was poured without a permit. Mr. Florio explained that his father had submitted and received a permit, and he was the point man on the job. The original drawing did not include the gravel section, but once on the job the understanding was that everything should be replaced, and he did not know that driveway expansion required the approval of the Planning Commission. Mr. Florio said that they tore up both driveways, placed wire mesh, and then received notification that the project had been red tagged. He made the decision to pour the concrete so that the wire mesh was not left exposed, whereby becoming a certain safety hazard.

Mr. Borowski and Mr. Sawyer were concerned about the gas line which runs beneath the apron, and if proper ventilation could be attained. Mr. Armagno stated that while the concern is valid, the situation is common throughout the City. General discussion commenced concerning how to properly vent the gas line. Mr. Borowski suggested adding a few plastic vents. Mr. Smith recommended that the Commission add the consent of the gas company as a condition of approval.

Mr. Fay expressed his vehement disapproval of the entire project. He refused to support a concrete connection between the two driveways. Mr. Madzy reminded the Commission that they have the authority to approve one application, but deny the other.

General discussion commenced concerning viable options and possible alternatives. The consensus seemed to be that some sort of separation exist between the two driveways, but it was unknown if the original intent of creating two double car driveways could be achieved without completely covering the area with concrete.

Mr. Madzy suggested tabling the application and allowing Mr. Florio the opportunity to meet with the homeowners and revise his plans. Mr. Armagno offered to meet with Mr. Florio on the properties to discuss adequate venting of the gas line.

Moved by Mr. Sawyer, seconded by Mr. Borowski, that the application be tabled until the next regular meeting of the Planning Commission. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Sawyer, Smith, and Walters. Nays: None. The motion carried and the application was tabled.

**Application #13-09-05**  
**Application for Driveway Widening**  
**486 Crescent Drive, P.P. #363-01-040**

Moved by Mr. Fay, seconded by Mr. Smith, that the application be tabled until the next regular meeting of the Planning Commission. Vote on the motion was all ayes and no nays. The motion carried and the application was tabled.

**OLD BUSINESS:**                    **NONE**

**OTHER BUSINESS:**

Mr. Walters announced that the owner of 604 Concord Circle did remove her dirt pile by the deadline established by the Planning Commission.

Mr. Madzy informed the Commission that the owner of Georgio's Pizza did submit an appropriate landscape plan, and the approved signage is now on display.

Mr. Fay inquired about the demolition of the house on Adams Street, and Mr. Madzy noted that the agent had planned to begin work on the house in the fall.

Mr. Dozier questioned whether or not a citation will be issued to Florio Brothers Cement for pouring concrete without the appropriate permit or approval. Mr. Walters stated that the issuance of a citation is at the discretion of the Building Department, and Mr. Madzy added that it would be premature to make a determination at present, as the issue remains before the Planning Commission.

Having no further business before the Commission, adjournment was moved by Mr. Fay and seconded by Mr. Borowski. With no opposition, the meeting adjourned at 9:02p.m.

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James N. Walters III, Chairman

Attest: \_\_\_\_\_  
Alycia Esson, Secretary

**CERTIFICATE OF COMPLIANCE**

The meeting of the Municipal Planning Commission held this 5th day of September, 2013 has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

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Alycia Esson, Secretary