

BEREA MUNICIPAL PLANNING COMMISSION
October 16, 2014 – 7:30p.m.

The Berea Municipal Planning Commission met on October 16, 2014 and was called to order by Chairman Matthew Madzy at 7:34p.m. Present: Conrad Borowski, Leon Dozier, Andy Fay, Richard Koharik, Don Sawyer and Dan Smith. Tony Armagno, City Engineer, was 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. Koharik, seconded by Mr. Dozier, that the minutes from the October 2, 2014 Planning Commission meeting be approved. Vote on the motion was ayes: Borowski, Dozier, Koharik, Madzy, Sawyer and Smith. Nays: None. Mr. Fay abstained from the vote. The motion carried and the minutes were approved.

The witnesses were sworn in by Mr. Madzy.

REQUESTS FOR VARIANCES/APPEALS:

Application #14-10-05
Application for Garage Height Variance
101 W. Fifth Avenue, P.P. #362-10-004

Mr. Madzy 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, Michael Demonico, was present this evening along with the owner, Donald Cather. Mr. Demonico explained that the proposed height of 17.16 feet will accommodate a second floor for storage in the garage. Mr. Madzy questioned whether the intent is to utilize the second floor of the garage as a living space, and Mr. Demonico assured the Planning Commission that the garage will not be used as a living space or residence.

Mr. Sawyer inquired as to whether an attic truss was considered, but Mr. Demonico answered that his proposal is more cost efficient. Mr. Sawyer questioned whether any neighbors have expressed concern about the project, and Mr. Demonico said he was not aware of any issues.

Mr. Fay wondered if there was any way the height of the structure could be brought down to the 15 foot height restriction for accessory structures. Mr. Demonico responded that the requested height was necessary for the storage purposes that Mr. Cather desired.

Mr. Fay expressed his concern that this variance request stemmed from Mr. Cather's desire rather than necessity, and added that he felt the height would be inappropriate in this residential neighborhood.

Mr. Madzy asked for the total amount of rear lot coverage that will be occupied by accessory structures. In response, Mr. Demonico was unable to provide an exact figure for the rear lot coverage of accessory structures. After a brief discussion, Mr. Cather said that his small shed will be removed during the construction of the proposed garage, and it was determined that based on approximated calculations, Mr. Cather's sole accessory structure will comprise about 15% of his rear yard. This percentage is contingent upon a front yard setback of approximately 50 feet, and the removal of the small shed.

Mr. Fay reiterated his concern with the application, and expressed his opinion that, with the total square footage of the garage, a height variance was not necessary. Mr. Demonico countered that the size of the garage meets code, emphasizing that they are only before Planning Commission because of the height variance. He attested to the fact that even if the square footage of the garage was reduced, the pitch would remain the same.

Mr. Sawyer questioned how much additional storage space was necessary to accommodate the owner's needs. Mr. Cather explained that he is currently using off-site storage, and hopes this new garage will alleviate that necessity. He stated that he owns a camper, a boat, and 3 motorcycles, and is also a tool and dye maker who has accumulated a lot of storage. Mr. Madzy asked if the boat will be stored in the garage, and Mr. Delmonico responded in the affirmative.

Mr. Cather informed the Commission that the new garage is proposed to be setback further than the current garage, and will be a significant improvement since his current garage is not in good shape. He thought this proposal would be pleasing to the City.

Theresa Cillian, a member of the audience residing in the adjacent property, agreed that Mr. Cather needs a new garage, as his is falling apart. Her concern is the total size of the proposed structure and the affect it will have on her property. Ms. Cillian explained that she does quite a bit of entertaining at her residence, and is concerned that the placement of the new garage will render her fire pit useless and affect the ambiance of her backyard. Ms. Cillian declared that she has limited storage space as well, and utilizes off-site storage as a courtesy to her neighbors. She expressed concern that the new structure will decrease the value of her home, and that Mr. Cather will not take care of the new garage, as his property is normally in disarray.

Mr. Madzy questioned whether she was concerned about the square footage of the garage or the height of the structure. Ms. Cillian responded that she is worried about both the height and the square footage. She did not understand why the garage needed to be so large in a small residential neighborhood, adding that the garage will be the size of her house. Mr. Madzy informed her that the proposed lot coverage and garage setbacks are all code compliant. Mr. Cather is, he reminded her, before the Commission solely because of the height variance. Mr. Madzy continued by explaining that within the past year, two other

similar variances have been requested, so a height variance to accommodate additional storage is a common request.

Ms. Cillian reiterated that she lives in a fairly compact neighborhood, and out of respect for her neighbors, utilizes off-site storage facilities. She furthermore explained that Mr. Cather's runoff gathers in her yard and was concerned the large structure might increase the danger of flooding. She stated that she left her vacation so she could attend this meeting and ask the Commission to consider her plight. The addition of such a large garage will, she adamantly declared, render her backyard useless. She asked the Commission to take this factor in to consideration.

Mr. Cather made a few comments that seemed to imply that he and Ms. Cillian do not have an altogether hospitable relationship. He expressed his hope that tearing down the dilapidated garage would be pleasing to his neighbors.

Mr. Smith wondered if Ms. Cillian was requesting that Mr. Cather alter the positioning of his garage, and place it nearer to the existing footprint instead. Ms. Cillian answered in the affirmative. General discussion commenced concerning whether changing the location of the garage was even possible. Mr. Demonico did not feel it was doable, because of the required approach.

Mr. Madzy questioned where Ms. Cillian's fire pit is currently placed, and Ms. Cillian responded that it is to the rear of Mr. Cather's current garage. Mr. Madzy then asked Mr. Cather if he has any drainage problems toward the rear of his yard. Mr. Cather responded in the negative. Mr. Madzy next addressed the distance between the house and the current garage. It was determined that the distance is approximately 25 feet.

Following a brief discussion about alternate truss systems, Mr. Cather stated that he would reduce the height of the proposed garage to the maximum height allowed by the Zoning Code.

Ms. Cillian stated that even though she was in attendance at the meeting "it's not making any difference." In response, Mr. Madzy expressed his opinion that it was important for Ms. Cillian to participate in the discussion; however, the sole issue before the Planning Commission was the height of the proposed garage. Ms. Cillian left the meeting.

At this point, Mr. Madzy returned to Mr. Cather and Mr. Demonico and inquired about Mr. Cather's previous statement that he would reduce the height of the garage to the maximum allowed by the Zoning Code and thus waive the variance request. Mr. Demonico replied that Mr. Cather would still like to pursue the variance request.

Mr. Demonico reminded the Commission that Mr. Cather's house is only 1,000 square feet, and thus additional storage is not only appropriate, it is absolutely necessary. Mr. Madzy questioned whether the requested height is the minimum necessary, and Mr. Demonico stated that it is a standard height, rated, and most affordable. He offered that the placement of the garage will actually afford Ms. Cillian the privacy she desires.

General discussion commenced concerning whether or not Ms. Cillian's fire pit will be rendered useless once the new garage is constructed. Mr. Armagno clarified that the Berea Fire Code mandates that recreational fires be placed at least 15 feet from any structure. Mr. Sawyer suggested that, once the garage is built, Ms. Cillian move her fire pit back to its original location, and closer to her house. Due to the shape of her property, this may actually allow her to utilize a larger section of her yard. Mr. Dozier was appreciative of Mr. Sawyer's comments, adding that he felt a larger garage would help Mr. Cather with the upkeep of his property. He also emphasized that Mr. Cather's proposal is code compliant in all aspects, save the height.

Mr. Smith concluded that Mr. Cather did not seem very willing to compromise on certain aspects of the garage, even though he was asking the Commission to compromise on the height.

Moved by Mr. Fay, seconded by Mr. Sawyer, that the garage height variance be approved. Vote on the motion was ayes: Dozier and Madzy. Nays: Borowski, Fay, Koharik, Sawyer and Smith. The motion failed, and thus the variance was not approved.

Mr. Madzy informed Mr. Cather and Mr. Demonico that the height of the proposed garage would need to be amended so that it meets the Zoning Code requirement of 15 feet.

Application #14-10-06

Application for Lot Width Variances; Lot Consolidation & Split 480 W. Bagley Road, P.P. #361-10-007 & 006

Mr. Madzy 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, Brett Davis, was present this evening. He began by reminding the Commission that about a year ago, they divided this land in to 3 parcels. The AutoZone parcel was made in the exact likeness of their demised premises. The Arby's parcel was slightly larger than their demised premises, due to the triangular portion, referred to in this application as Parcel 1A. The hope was that Arby's would amend their lease to include Parcel 1A as a part of their demised premises, but they refused.

Mr. Davis next declared that both Arby's and AutoZone perform all maintenance themselves. The ground lease grants tenants the right to self-perform this work. If however, the tenants would fail to maintain the land, the landlord has the obligation to perform all necessary work, and receive reimbursement from the tenants.

Mr. Davis continue by explaining that this project has only been in the works for 5 years, so the asphalt remains in good condition and all underground work is performing well. The intent of this application is to split Parcel 1A from Arby's demised premises, and,

therefore, mandate that Berea Crossings, as Declarant, will be on the hook to resolve any maintenance, landscape, or underground utility issues.

Mr. Madzy felt this proposal made sense, as Berea Crossings would be responsible for the main entrance to the site, which would maintain the marketability of the parcel that is yet to be developed. Mr. Davis added that the parcel referred to by Mr. Madzy is being actively marketed, and confirmed that while Cavanaugh Berea currently owns the triangular portion of land, should this lot split be approved, they would quick claim it back to Berea Crossings.

General discussion commenced concerning the possibility of developing parcel 1A. Mr. Davis stated that it is unlikely this parcel could ever be developed, even without a minimum lot size requirement. Until such time as the lease with Arby's expires, and the site is redeveloped, he felt this area would remain greenspace.

Mr. Smith questioned why Berea Crossings would be willing to maintain Parcel 1A as a liability without any economic interest once the middle parcel sells. He was concerned that Berea Crossings would simply abandon their duties and vacate their shares.

Mr. Davis declared that he is an honorable businessman and would take care of his obligations. Sam Barnes, a partner in the ownership, felt that the triangular piece – Parcel 1 A – would have to be packaged in to the deal for the middle parcel, so that Berea Crossings does not have to continue with the ownership of a liability. He further acknowledged that there is a good change that Berea Crossings will retain ownership of the middle parcel, and if they do not, they will sell it as a part of the deal for Parcel 2. He emphasized that Parcel 1 A is not developable, save for signage use or additional parking space.

Mr. Madzy summarized that while Berea Crossings sold the Arby's parcel, they are still the Declarant on the Declaration. They may have sold their rights, but they maintain their responsibilities and are tied in to the Arby's lease. Mr. Davis confirmed Mr. Madzy's comments, noting that they are a party to the Declaration and can still receive reimbursement for the maintenance of common areas.

Mr. Smith wondered who is responsible for plowing the main entrance, and Mr. Davis explained that both tenants currently opt to maintain their premises, including the plowing of the driveway, seal-coating, and stripping.

Mr. Sawyer wondered if the Declaration could be restructured, should Arby's lease expire. Mr. Davis answered that the Declaration can be amended by the unanimous consent of all parties which are a part of the Declaration.

Mr. Koharik expressed some reservations with burdening a future owner of Parcel 2 with Parcel 1A. Mr. Barnes stated that this is not uncommon when dealing with parcels that contain a shared driveway and common space.

Mr. Koharik also expressed concern about the maintenance of the area, and Mr. Davis assured him that, pursuant to their legal obligations, they have to maintain the area if the tenant fails to do so. They can also seek reimbursement for any services rendered.

Moved by Mr. Fay, seconded by Mr. Sawyer, that the 35 foot lot width variance on Parcel 1A be approved, as submitted. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Madzy, Sawyer and Smith. Nays: None. The motion carried and the variance on Parcel 1A was approved.

Moved by Mr. Fay, seconded by Mr. Sawyer, that the 65 foot lot width variance on Parcel 1B be approved. Vote on the motion was ayes: Borowski, Dozier, Fay, Koharik, Madzy, Sawyer and Smith. Nays: None. The motion carried and the variance on Parcel 1B was approved.

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

Mr. Madzy reminded Mr. Davis that, due to the variance, there is a 20 day wait before the mylar can be signed. Mr. Madzy asked if the mylar had been submitted to the City, and Mr. Davis responded in the negative. Mr. Armagno suggested that the mylar be submitted before the 20 days expire, so it can be reviewed.

NEW BUSINESS – GENERAL PLANNING MATTERS: None

OLD BUSINESS: None

OTHER BUSINESS: None

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 8:59p.m.

Matthew Madzy, Chairman

Attest: _____
Alycia Esson, Secretary

CERTIFICATE OF COMPLIANCE

The meeting of the Municipal Planning Commission held this 16th day of October, 2014, 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