

STRONGSVILLE PLANNING COMMISSION

MINUTES OF MEETING

JUNE 9, 2016

The Planning Commission of the City of Strongsville met at the City Council Chambers located at 18688 Royalton Road, on ***Thursday, June 9, 2016 at 7:30 p.m.***

Present: Planning Commission Members: Charlene Barth, Chairwoman, Gregory McDonald, Mary Jane Walker, Brian David and Thomas Stehman; Mayor Thomas P. Perciak; City Council Representative, Michael Daymut; Administration: Assistant Law Director, Daniel Kolick, Assistant City Engineer, Lori Daley, Assistant Building Commissioner, Keith Foulkes, and Fire Department Representative, Randy French.

The following was discussed:

BAR LOUIE: Mrs. Daley stated that this application is for a restaurant use at the Southpark Mall. They are taking over the Learning Express location in the front of the mall with a couple of outdoor seating areas. From the City Planner there were no zoning issues and he recommends approval of both Conditional Use Permits. From Engineering there is no report. Mr. Foulkes stated that from the Building Department there needed to be clarification of the bollards; there is a reference on the plan they can be planters but something that will withstand a vehicular impact for the patio areas. Mr. French stated that from the Fire Department the interior set of doors that would access this space, after hours when the Mall closes, would these doors also be locked? The applicant stated that was what he believed. Mr. French asked if they would still be allowed to use the interior doors for emergency access? The applicant stated that they would. Mr. French stated that other than that there was no report. The applicant stated that they were not going out further than the stamped concrete. Mr. Foulkes stated that whenever an outdoor eating area is put in that the Building Department wants that protection around the eating area. It does not necessarily have to be out by the curb or away from the walkway but just around the area where the patrons are. Mr. Kolick stated that the Commission could act on this matter, Item "b" would need to be made subject to the Building and Fire Department Reports.

SCANNELL PROPERTIES: Mrs. Daley stated that this application is for a lot split and consolidation of the rear portion, roughly 800 feet of the Poulsen property located at 22767 Royalton Road consisting of 4.4 acres to the Mills Movers property at 14720 Foltz. From the City Planner, both parcels are zoned General Industrial. The resulting parcels with both comply with all of the minimum requirements of the General Industrial District and approval is recommended. From the Engineering the plans are in approvable form. Mr. Foulkes stated that there was no report from the Building Department. Mr. French stated that there was no report from the Fire Department. Mr. Kolick stated that the Commission could act on this matter.

Planning Commission Minutes
June 9, 2016
Page 2

NICHOLAS JUDD: Mrs. Daley stated that this application is for the authorization to place an 8 foot by 12 foot storage shed in the existing 40 feet wide public conservation easement along the rear property line of the subject site. That was put in with the subdivision and that kind of buffers Creekside from the Breckenridge Subdivision. The only way according to the language that is on the plat that they can do anything within that conservation easement is to come to Planning Commission. This is the house we are talking about. Also contiguous with the conservation easement is a storm sewer easement back there. I will read the entire report from the City Planner on the floor. The City Planner does not recommend that Planning Commission approve this with that conservation easement there. It is going to open up other residents that will want to come in and the other adjacent parcels have already put in their fences, pools, everything outside of that conservation easement as well as the storm sewer easement. Again, he does not recommend approval of this. From Engineering there is no report. Mr. Foulkes stated that from the Building Department, we would like to let the Commission know that this application did come in and was approved in our department. I think that when they looked at the site plan, they did not see the note for the conservation easement that is on the plat record, so it was approved but then the applicant was contacted and told that there was an easement issue that they could not put the shed there. The cement contractor for the applicant submitted a plan that showed the shed in a different location which would have been in compliance and approvable. The applicant stated that he submitted that application and Mike Miller approved the plan and the conservation easement was clearly outlined within this area. The shed that I am requesting is 8 x 12 which is about 90 SF. The total conservation easement is about 3,200 SF so I am asking for about 3% of that area. I do have pictures of the sewer drains that are actually behind that easement. There are two open sewer drains there. I know that there is concern of drainage in that area but my lot does back up to an empty vacant lot which you can see on the plan there and the shed would be proposed to be about right there. Given the way that my property slopes, that is really that only spot that I could put that shed, I have pictures again of the sloping and the grading. My dilemma at this point is, I have purchased a shed after I got the approval from Mike Miller so I am out about \$1,100.00 at this time. Mrs. Barth asked if the applicant was aware of this conservation easement? The applicant stated that he was aware of it on this plat, yes. Mayor Perciak asked if he was the first homeowner of this property. The applicant stated that he had purchased it from the original homeowner. Mayor Perciak asked if when he went through his title company, did they give you a copy of the deed restrictions that apply back there? The applicant stated that he was not aware of it. Mayor Perciak asked who he had his mortgage with. The applicant stated it was with Fifth Third Bank. The applicant stated that his Homeowners Association did approve the plan after the City approval. They don't have a problem with it. Mayor Perciak asked if he had a place to put it on his property. The applicant stated that was his property, it is just within that easement but that his property backs up

Planning Commission Minutes
June 9, 2016
Page 3

to the back of the tree lawn. Mayor Perciak asked if there was anything that could be done. Mr. Kolick stated that we have received letters from at least one individual opposing it. This goes back to the original litigation. We denied this subdivision, they went to court, part of the agreement to settle it was that we would have to leave a buffer there for those homes on Creekside because they were really squawking at the meeting. The plat says specifically that nothing goes in there, no fences, no sheds, nothing should go in there. Mayor Perciak asked how many members are in this Homeowners Association? Mr. Kolick stated that he thought around 30. Mayor Perciak asked if there was any way that we could get a letter from all of these members to authorizing him to install this shed, I am trying to find a way. The applicant stated that he understood and the President of the HOA did sign. Mr. McDonald stated that he did not think that the issue was with Breckenridge. The issue is with Creekside. Mr. Kolick stated that those were the people that were going to complain because everybody else we made put their structure outside of the conservation easement. He just didn't catch it. Mayor Perciak stated that Creekside is the one that also runs off Prospect. If I remember, that guy was difficult. Mr. Kolick stated that area was at one time set aside for a street. Then we had to split that off so it is not that it is a vacant lot back there, it is part of two people's parcels. We "z'd" out that lot line. Mayor Perciak asked what could be done legally to help him so that we don't have to deny him? Mr. Kolick stated that the Commission has authority to grant it but the problem is going to be from a policy standpoint we've told everyone else back there that they had to comply with it. If we allow this one I don't know how you aren't going to allow any other back there. There is nothing special with this one as opposed to any of those other lots. Mr. Stehman asked why the applicant had to go into the easement. The applicant replied that the way the grading is to the lot, everything slopes within that 15 foot swale, you have the swale and then you have everything from my backyard immediately starts to slope to that swale. In accordance with the instructions on the prefab kit that I purchased, they do not recommend anything higher than 2 leveling blocks above grade. Mr. Kolick asked Mrs. Daley what the distance was between the house and the swale. Mr. Stehman asked the applicant if he was saying that the kit was not able to be used but that another kit might be able to. The applicant said perhaps. Mr. Stehman stated that was the problem when he bought the kit. The applicant stated that he purchased the kit after he got the approval. Mr. Kolick stated that it appears that there is still around 50 feet from the back of the house to the beginning of the swale to put that shed into. This is not something where the house is right on top of the swale. The next door neighbor and the next neighbor over has a swimming pool between the house and they are not in the conservation easement. The applicant stated that he purchased the shed after the approved permit with the intent of putting it there and only there otherwise I would have come up with another solution. Mr. Kolick stated that he had not looked at the grade back there but I don't know of any reason why it could not be put between the house and the easement, it isn't like it is right up against there, or there was nowhere else to

Planning Commission Minutes
June 9, 2016
Page 4

put the shed. It may save more of your yard, I understand, I am not criticizing you. You probably could put it in the exact smack middle of my property but you can see if I wanted to put it more toward the edges or the outside boundaries, you can see the slope is pretty significant at that point. Mayor Perciak asked if there was anything that we could do. Mrs. Daley stated that they had the room but they had requested to put the shed back there and like we pointed out, the neighbors had enough room to put in a swimming pool. I don't have a copy of the grading plan so I can't comment on the grade changes. From the topo it doesn't look like it is a severe grade change but that is the original topo. Mr. Daymut asked if this would need to go to Council. Mr. Kolick stated that if you deny it he would have the right to take it to Council. If it is approved Council will not get it. Mr. McDonald asked where the neighbor, Ed Ranaldi lived. Mr. Kolick stated that he lived on Creekside and they were promised a 40 foot buffer and why should someone be able to build into that area now. Mayor Perciak asked on the Creekside HOA, how many people are in the HOA? Mr. Kolick stated that it was about the same number, 30 or 35. Mayor Perciak stated that he hated not to do this. Mr. Kolick asked if he wanted to table it so that Engineering could go out and see if there is sufficient property. Mayor Perciak stated that he did not want to table it if we know that there isn't any solution to this. If we can get something from the HOA's where they at least agree to this. Mr. Kolick stated that he did not anticipate any problems from Breckenridge because all those property owners would like to do it, but I don't think you are going to get Creekside. I think you are wasting your time going to Creekside because those people were all promised this buffer when we settled the litigation. Mayor Perciak stated that his question is that was done in the '90's if I remember and how many times have those properties turned over already, those are not the original owners, in a lot of those cases. When was that dedicated? Mr. Kolick stated that it was dedicated in 2004. Mr. McDonald stated that the letter from Mr. Ranaldi doesn't state that whether or not he is the original homeowner, just that he bought on Creekside. I bought this property because I expected there to be an easement behind me. The applicant stated that the only thing that is wrong with this is this (he pointed to the approved building permit). The applicant stated that the only other Two points that he wanted to make is that his next door neighbor, he has completely regraded that conservation easement, it is flat as a pancake and there is natural grass growing in there. He has torn down trees in that easement and I am not asking to tear down any trees, I am asking to build within 3% of that easement. It is a vacant lot behind me, there are two sewer grates going into it, there were plans for it to be a road through there, it is not directly behind anyone's home. The adjacent home, there is a giant blue spruce behind it, there is his shed and it is all about accountability at the end of the day. Mayor Perciak asked Mr. Kolick, because this is a kit, would this be considered a permanent structure. Mr. Kolick stated that it would, even though it is built with a kit, they are structures under our Building Code, it does not matter if it comes in a kit or whatever but the language of the easement . . . Mayor Perciak asked if there were

Planning Commission Minutes
June 9, 2016
Page 5

going to be footers? The applicant stated that there was not. Mr. Kolick stated that the language in the easement goes beyond that, it says you cannot take down trees and you cannot do anything else, that was supposed to be left natural. If his neighbor did that then they did that contrary to the easement. Mr. Foulkes stated that there was a concrete pad proposed for the base of the shed. The applicant stated that it would be at existing grade and there would not be any trenching or excavation. Mayor Perciak asked if he was buying a prefab pad? Or you are going to pour concrete? The applicant stated that he contracted that out. Mayor Perciak stated that he was looking for a way. Mrs. Walker stated that if you allow one, you would have to allow everyone. Mayor Perciak stated that was correct. He stated that it was going to have to be a no, I just can't find any way to get around this for you.

The meeting was called to order at 8:00 PM by the Chairman, Mrs. Barth.

Roll Call:

Members Present:

Mrs. Barth
Mrs. Walker
Mr. McDonald
Mr. Stehman
Mr. Daymut
Mr. David
Mayor Perciak

Also Present:

Mr. Foulkes, Asst Bldg. Com.
Mrs. Daley, Asst. Engineer
Mr. Kolick, Asst. Law Dir.
Mr. French, Fire Dept. Rep,

Carol Oprea, Recording Secy.

REVISED AGENDA

Mr. McDonald – Mrs. Chairwoman.

Mrs. Barth – Mr. McDonald.

Mr. McDonald – I move to use the Revised Agenda for this evening.

Mrs. Walker – Second.

Mrs. Barth – Secretary please call the roll.

Roll Call:

All Ayes

APPROVED

APPROVAL OF MINUTES

Mrs. Barth – You have had a chance to review the minutes of May 26, 2016. If there are no additions or corrections they will stand as submitted.

PUBLIC HEARINGS:

BAR LOUIE/ David Djukis, Agent

a) Conditional Use Permit pursuant to Codified Ordinance Sections 1258.04(a) and 1242.07 to allow Bar Louie to utilize approximately 2,645 SF of space in an approved, designated area for interior eating and having a maximum seating capacity of 204 seats for property located at South Park Center PPN 396-22-001 zoned Shopping Center.

b) Conditional Use Permit pursuant to Codified Ordinance Sections 1258.04(c)(4) and 1242.07 to allow Bar Louie to utilize approximately 663 SF as an outdoor patio with a maximum seating of 58 for property located at South Park Center, PPN 396-22-001 zoned Shopping Center.

Mrs. Barth – Item Number One, Bar Louie, anyone wishing to speak in favor, please step forward and state your name and address for the record.

Mr. Remie – Chuck Remie, 801 W. Cherry St., Sunbury, Ohio 43074. I am in favor of this project.

Mrs. Barth – Thank you, is there anyone else who would like to speak in favor or against? Seeing and hearing none I declare the Public Hearing closed and we will listen to the Administrative Reports, Mrs. Daley.

Mrs. Daley – Thank you Mrs. Chairwoman. From the City Planner, there are no zoning issues and approval of both conditional use permits is recommended. From Engineering there is no report. Thank you.

Mrs. Barth – Thank you, Mr. Foulkes.

Mr. Foulkes – Thank you Mrs. Chairwoman. From the Building Department, there is no report on Item “a” and on Item “b”, it is approvable subject to bollards or other sufficient vehicular protection around the patio area and a plan review in accordance with the Ohio Building Code. Thank you.

Mrs. Barth – Mr. French.

Planning Commission Minutes
June 9, 2016
Page 7

Mr. French – Thank you Mrs. Chairwoman. From the Fire Department, will the applicant state that as we discussed in Caucus, the control of the interior access door, at what hours would it be secured so that no one can enter that door from in the mall but you would still use the door as an emergency exit into the Mall.

Mr. Remie – That is correct.

Mr. French – Do you know the approximate hours that would be secured, because I heard your hours are going to be till 2:30 a.m.

Mr. Remie - That is true. When the Mall closes, access will be denied but egress will be permitted.

Mr. French - That is all. Thank you.

Mrs. Barth – Thank you, Mr. Kolick.

Mr. Kolick – Thank you Mrs. Chairwoman. We can act on Item “a” and Item “b” if approved needs to be made subject to the Building and Fire Department reports read here this evening. Thank you.

Mrs. Barth – Are there any questions or comments? Hearing none, I would entertain a motion for Bar Louie.

Mr. McDonald – Mrs. Chairwoman.

Mrs. Barth – Mr. McDonald.

Mr. McDonald – I move to give favorable consideration for Conditional Use Permit pursuant to Codified Ordinance Sections 1258.04(a) and 1242.07 to allow Bar Louie to utilize approximately 2,645 SF of space in an approved, designated area for interior eating and having a maximum seating capacity of 204 seats for property located at South Park Center PPN 396-22-001 zoned Shopping Center.

Mrs. Walker – Second.

Mrs. Barth – Secretary please call the roll.

Roll Called

All Ayes

APPROVED

Mr. McDonald – Mrs. Chairwoman.

Planning Commission Minutes
June 9, 2016
Page 8

Mrs. Barth – Mr. McDonald.

Mr. McDonald – I move to give favorable consideration for Conditional Use Permit pursuant to Codified Ordinance Sections 1258.04(c)(4) and 1242.07 to allow Bar Louie to utilize approximately 663 SF as an outdoor patio with a maximum seating of 58 for property located at South Park Center, PPN 396-22-001 zoned Shopping Center subject to the reports of the Building and Fire Departments as read this evening.

Mrs. Walker – Second.

Mrs. Barth – Secretary please call the roll.

Roll Called

All Ayes

APPROVED

NEW APPLICATIONS:

SCANNELL PROPERTIES/ Christopher Dempsey, Agent

Parcel Split and Consolidation of PPN's 393-01-008 and 010 for property located at 22767 Royalton Road and 14720 Foltz Parkway, zoned General Industrial.

Mrs. Barth – Item Number Two, Scannell Properties, please step forward and state your name and address for the record.

Mr. Dempsey – Chris Dempsey, 12815 Detroit Ave., Lakewood, Ohio 44107.

Mrs. Barth – Thank you, we will now listen to the Administrative Reports, Mrs. Daley.

Mrs. Daley – Thank you Mrs. Chairwoman. From the City Planner, both parcels are zoned General Industrial and will comply with all the minimum requirements and approval is recommended. From Engineering the plat is in approvable form. Thank you.

Mrs. Barth – Thank you, Mr. Foulkes.

Mr. Foulkes – Thank you Mrs. Chairwoman. From the Building Department, there is no report. Thank you.

Mrs. Barth – Mr. French.

Planning Commission Minutes
June 9, 2016
Page 9

Mr. French – Thank you Mrs. Chairwoman. From the Fire Department, there is no report. Thank you.

Mrs. Barth – Thank you, Mr. Kolick.

Mr. Kolick – Thank you Mrs. Chairwoman. We are in a position to act on this matter this evening. Thank you.

Mrs. Barth – Are there any questions or comments? Hearing none, I would entertain a motion for Scannell Properties.

Mr. McDonald – Mrs. Chairwoman.

Mrs. Barth – Mr. McDonald.

Mr. McDonald – I move to give favorable consideration for Parcel Split and Consolidation of PPN's 393-01-008 and 010 for property located at 22767 Royalton Road and 14720 Foltz Parkway, zoned General Industrial.

Mrs. Walker – Second.

Mrs. Barth – Secretary please call the roll.

Roll Called

All Ayes

APPROVED

NICHOLAS JUDD, Principal

Request to modify the subdivision plat of the Breckenridge Subdivision to permit an 8' x 12' shed for PPN 391-14-059, also known as subplot 5, within the Conservation Easement.

Mrs. Barth – Item Number Three, Nicholas Judd, please step forward and state your name and address for the record.

Mr. Judd – Nicholas Judd, 21205 Breckenridge Dr., Strongsville, Ohio 44149. The only thing I will say is, I purchased the shed the day after the approved permit was confirmed. It is all about accountability, if I make an error at work, I am accountable for it. Now I am on the hook for \$1,100.00. When the permit office told me about this, there was absolutely no empathy, no one said I am sorry. No one said, here is your permit money back. That is all I have to say.

Planning Commission Minutes
June 9, 2016
Page 10

Mr. Kolick – Madam Chairwoman, Mr. Judd, there is maybe two things we can do for you, I don't know if they would help you. We can certainly give you a letter to see if you can return the shed from where you purchased it with a letter from us indicating that you are not permitted to construct it. We will help you any way we can. We can also talk to the Building Department about returning your Building Permit fee that was paid. We will try to help you where we can.

Mrs. Barth – Thank you, we will now listen to the Administrative Reports, Mrs. Daley.

Mrs. Daley – Thank you Mrs. Chairwoman. From the City Planner, This request is for authorization to place an 8 feet by 12 feet storage shed in the existing 40 feet wide public conservation easement along the rear property line of the subject site. At the time Breckenridge Subdivision was approved, the City required a conservation easement along the rear of Sublots 1 through 12 on the south side of Breckenridge Lane. By requiring that the easement be placed on the plat, it was clearly the intent of City Council to preserve the existing natural vegetation along the rear of the lots. There is also a 15 feet wide storm sewer easement that runs parallel with the conservation easement. That storm easement was also kept out of the conservation easement. There does not appear to be any basis for granting an exception to the restrictions associated with the conservation easement. The applicant's property is over 200 feet in depth and there is sufficient room inside of the conservation easement and the storm easement to locate an 8 ft. x 12 ft. shed. The applicant clearly acquired the property with knowledge of the restriction, since it is part of the record plat for the subdivision. Granting this approval could result in similar requests from other adjacent lot owners that, if also approved, would ultimately nullify the purpose of the easement. It is recommended that the Planning Commission deny this request. From Engineering there is no report. Thank you.

Mrs. Barth – Thank you, Mr. Foulkes.

Mr. Foulkes – Thank you Mrs. Chairwoman. From the Building Department, this application was approved in error and the applicant was later notified of this error. Thank you.

Mrs. Barth – Mr. French.

Mr. French – Thank you Mrs. Chairwoman. From the Fire Department, there is no report. Thank you.

Mrs. Barth – Thank you, Mr. Kolick.

Planning Commission Minutes
June 9, 2016
Page 11

Mr. Kolick – Thank you Mrs. Chairwoman. You are in a position to act on this, the original plat said that this 40' would be left in its natural state unless the City would otherwise waive that requirement. Thank you.

Mrs. Barth – Are there any questions or comments? Hearing none, I would entertain a motion for Nicholas Judd.

Mr. McDonald – Mrs. Chairwoman.

Mrs. Barth – Mr. McDonald.

Mr. McDonald – I move to give favorable consideration for Request to modify the subdivision plat of the Breckenridge Subdivision to permit an 8' x 12' shed for PPN 391-14-059, also known as subplot 5, within the Conservation Easement.

Mrs. Walker – Second.

Mrs. Barth – Secretary please call the roll.

Roll Called

All Nays

DENIED

Mayor Perciak – Let the record reflect that I am instructing the Building Department, the Assistant Building Commissioner because the Building Commissioner is on vacation, to refund any fees that we have charged and let the record reflect that I am instructing the Secretary of the Planning Commission to work with the Assistant Law Director in preparing a letter to Mr. Judd to the necessary supplier so that you can obtain a refund. So we will get you the money that you paid us and you are right, if they did not apologize to you I am. He made a mistake and an apology should be had. For that I am deeply sorry and I can see you are aggravated and you are put out, I wish it would not have come to this, I truly tried to find a way to accommodate your need here but we will get you this and if you want I will have something signed something tomorrow and authorize the refund and again, Carol would you prepare something with Dan and get it to him, and have it hand delivered to his house.

Mr. Judd – Thank you.

Mrs. Barth – I would like to congratulate Mr. French as being recognized as Fireman of the Year. We are so proud of your accomplishments and we truly understand why they recognized you for this. You have been an asset to this Commission. (applause)

Mr. French – Thank you Madam Chairwoman and the members of the Commission

Planning Commission Minutes
June 9, 2016
Page 12

Mrs. Barth - Any other business to come before this Commission this evening? Seeing none, we are adjourned.

Charlene Barth, Chairwoman

Carol M. Oprea 

Carol M. Oprea, Recording Secretary

Approved