

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Wednesday, October 9, 2002

Committee of the Whole - 6:00 P.M.

7:00 PM

City Hall

Planning Commission

Richard A. Peck, Chair

Jane Turley, Vice Chair

Cynthia G. Canter

Candace Greenblott

P. Frank O'Hare

Donald R. Shepherd

Othelda A. Spencer

Tanya M. Word, Deputy Clerk of Council

A. CALL MEETING TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL.

Gahanna Planning Commission met in Regular Session in the Council Chambers of City Hall, 200 South Hamilton Road, Gahanna, Ohio on Wednesday, October 9, 2002. The agenda for this meeting was published on October 2, 2002. Chair Richard A. Peck called the meeting to order at 7:08 P.M. with the Pledge of Allegiance led by Planning Commission member, Don Shepherd.

Members Absent: P. Frank O'Hare

Members Present: Richard Peck, Jane Turley and Candace Greenblott

B. ADDITIONS OR CORRECTIONS TO THE AGENDA - None

C. APPROVAL OF MINUTES: September 25, 2002

A motion was made to approve the minutes of September 25, 2002. The motion carried by the following vote:

Yes	3	Chairman Peck, Vice Chairman Turley and Greenblott
Absent	1	O'Hare

D. HEARING OF VISITORS - ITEMS NOT ON AGENDA - None

E. APPLICATIONS:

Chair stated Public Hearing Rules that would govern all public hearings this evening. Assistant City Attorney Ray King administered an oath to those persons wishing to present testimony this evening.

FDP-0010-2002

To consider a Final Development Plan for the YMCA of Central Ohio to be located at 1155 East Johnstown Road; YMCA of Central Ohio, Moody-Nolan, Inc., by Kathleen Dussault, applicant. (Public Hearing. Advertised in RFE on 7/3/02). (Public Hearing held on 7/10/02 & 10/9/02).

Chair opened the Public Hearing at 7:11 P.M.

Stephen E. Gunn, Associate Vice President, YMCA of Central Ohio. 40 West Long Street, Columbus, OH, stated we have a couple of changes requested by the Planning Commission; would like to discuss briefly those changes; on the elevation that is shown, you will notice there is continuous mansard roofing that goes across the top of the lower structure of the YMCA; that was one request of the Planning Commission and we have complied with this request; the second request is that there are some pilasters that you will notice on the elevation with some stucco accents above those; you will also notice some building signage that we have; the background is stucco with bronze letters, both of which are for the Gahanna YMCA and the OSU Rehabilitation site; the third item that we have is an updated landscape of the site; there is one modification to this plan and that is to the north, we have a hedge row that we will put down to shield the property to the Herman property; we've been able to with the savings there to pick up about six of those trees and bring them down to the south for further shielding from Johnstown Road.

Chair asked for Opponents. There were none.

Chair closed Public Hearing at 7:15 P.M.

Chair stated that this application packet has been in and out of workshop a number of times; the applicant(s) have been very cooperative in working with the Planning Commission; thanked the applicant(s) for their hard work and cooperation.

A motion was made by Vice Chairman Turley that this matter be Approved. The motion carried by the following vote:

Yes **3** Chairman Peck, Vice Chairman Turley and Greenblott
Absent **1** O'Hare

V-0021-2002

To consider a variance application to vary Section 1163.02 - Minimum Number of Parking Spaces Required; Section 1165.10(a) - On Premises Wall Signs; for property located at 1155 East Johnstown Road; per the request of Planning Commission for 225 parking spaces; to allow more than one wall sign; YMCA of Central Ohio, Moody-Nolan, Inc. by Kathleen Dussault, applicant. (Public Hearing. Advertised in RFE on 7/3/02, 9/12/02). (Public Hearing held on 7/10/02, 10/9/02).

Chair stated that the zoning code is written so that variances are disfavored; to approve a variance the Commission needs to find that there are special circumstances or conditions applying to the land, building, or use referred to in the application; this variance might be necessary because there are two separate and distinct uses of this property; part of the property will be used for recreation, therefore, the YMCA sign is necessary to identify that; the other part will be used as medical rehabilitation in conjunction with the exercise facilities that are on the premises by the OSU Medical Center; this requires some identification for persons going and need to be there; in the meantime, the applicant has not asked, nor has this Commission granted permission to create a second sign at the street; it will be one sign at the street.

A motion was made by Vice Chairman Turley that this matter be Approved. The motion carried by the following vote:

Yes **3** Chairman Peck, Vice Chairman Turley and Greenblott
Absent **1** O'Hare

DR-0045-2002

To consider a Certificate of Appropriateness; for property located at 1155 East Johnstown Road; YMCA of Central Ohio by Moody-Nolan, Inc., Kathleen Dussault, applicant.

See discussion on previous application.

Discussed

A motion was made by Vice Chairman Turley that this matter be Approved with the condition that a hedge be installed to the north of the parking lot instead of the proposed evergreen trees to meet the zoning code for screening and approximately six additional pine trees will be installed to the south of the property lot. The motion carried by the following vote:

Yes **3** Chairman Peck, Vice Chairman Turley and Greenblott
Absent **1** O'Hare

FDP-0015-2002

To consider a Final Development Plan for new concrete block office, park restrooms, and concession stands at Headley Park located at 1031 Challis Spring Drive; by City of Gahanna/Gahanna Soccer Association, Tony, Collins, applicant. (Public Hearing. Advertised in RFE on 9/19/02). (Public Hearing held on 9/25/02 & 10/9/02).

Chair opened the Public Hearing at 7:20 P.M.

Mike Musser, Recreation Supervisor, City of Gahanna, 200 South Hamilton Road, stated that at workshop last week, we discussed changing the colors from Blue to Hunter Green; seeking approval from the Planning Commission.

Chair asked for Opponents. There were none.

Chair closed Public Hearing at 7:21 P.M.

Canter thanked the applicant and the City Parks & Recreation Department for including the Herbs in the landscaping; would like to see that continue throughout the City buildings.

A motion was made by Greenblott that this matter be Approved. The motion carried by the following vote:

- Yes** **3** Chairman Peck, Vice Chairman Turley and Greenblott
- Absent** **1** O'Hare

DR-0069-2002

To consider a Certificate of Appropriateness; for property located at 1031 Challis Springs; by City of Gahanna, Tony Collins, applicant.

A motion was made by Greenblott. The motion carried by the following vote:

- Yes** **3** Chairman Peck, Vice Chairman Turley and Greenblott
- Absent** **1** O'Hare

FDP-0016-2002

To consider an amendment to an approved final development plan (FDP-0009-2000) to allow changes to the site plan to allow use as a single user building by changing loading docks, doors and windows; for property located at 791 Science Blvd., Capital City Office Warehouse #3; John Ingwersen, applicant. (Public Hearing advertised in RFE on 10/3/02). (Public Hearing held on 10/9/02).

Chair opened Public Hearing at 7:23 P.M.

Tim Meeham stated that we are requesting that we make some modifications to a previously approved Final Development Plan; the changes are an additional drive-in door on the north side of the building; a request that we reduce the southern exposure to two dock doors and a drive-in; the exterior of the building will remain as originally approved; these are to accommodate the needs of our tenant.

Chair asked for Opponents. There were none.

Chair closed Public Hearing at 7:25 P.M.

Peck stated for the record that it is unusual for the Commission to move on a Final Development Plan without taking it to workshop; want to be sure that we have all our procedural issues clear; with the exception of the changes from two users to one and the changes you just mentioned, the colors and building faceremain the same. Meeham replied that is correct. Peck commented that the Commission has received some feedback from the Department of Development; it is our understanding that these colors are just a duplication of what's out there.

A motion was made, seconded by Greenblott, that this matter be Approved. The motion carried by the following vote:

Yes **3** Chairman Peck, Vice Chairman Turley and Greenblott

Absent **1** O'Hare

DR-0070-2002

To consider an amendment to an approved certificate of appropriateness (DR-0037-2000) to allow for changes to the plan and facade to allow use as a single user building; for property located at 791 Science Blvd., Capital City Office Warehouse #3; John Ingwersen, applicant.

A motion was made, seconded by Greenblott. The motion carried by the following vote:

Absent **1** O'Hare

Yes **3** Chairman Peck, Vice Chairman Turley and Greenblott

V-0030-2002

To consider a variance application to vary Section 1143.08(c) to allow an existing shed to encroach 2.5 feet into a 7.5 foot side yard setback; for property located at 309 Milan Drive; Curt & Soundra Cooke, applicants. (Public Hearing. Advertised in RFE on 10/3/02). (Public Hearing held on 10/9/02 and 10/23/02).

Chair opened the Public Hearing at 7:27 P.M.

Curt Cooke, 309 Milan Drive, stated that he had already put the shed up; didn't know that he needed a permit; thought I knew the setbacks on the lot; put the shed there mainly because of a big tree that is to the left of it; didn't want to put it in the middle of the yard or to the left of the lot because that is the garage side; it's 10 ft. off the back, and 5 ft. off the side.

Chair asked for Opponents. There were none.

Chair closed the Public Hearing at 7:29 P.M.

Turley asked what type of foundation is it built on. Cooke replied 9 4x4's in the ground; 3 ft. of 32 inches of concrete bolted. Canter asked how long ago did you install the shed. Cooke replied it has been a couple of years. Canter asked how did the City get wind of this issue. Chrysler stated that it could have been a neighbor complaint or the Code Enforcement Officer could have been driving by and noticed it. Canter asked if you had to move this to be in compliance, what would be your estimated cost. Cooke replied that it would be a considerable amount due to the foundation; would have to cut the 4x4's and drag it through the yard and put it behind the garage; really do not want the shed in the middle of the yard or to the left; there is a fence that was there from the previous owners. Canter confirmed that you can't move it to be in compliance from where it's at because of the tree. Cooke replied that is correct; it is very close to the tree right now; I've cut down a limb that was over top of it and the roots are exposed around the back as it is right now. Peck asked am I reading your drawing correctly to indicate that the diameter of the tree trunk is 3 ft. Cooke replied yes that is correct; it is a good size tree. Greenblott asked what is the shed used for. Cooke stated mainly toys. Peck asked is it possible to pull the shed forward closer to the house. Cooke replied that it would destroy the main reason why we bought the house so that the kids could have a nice big area to play; with the shed where it is now, it is tucked away out of the way of the children. Peck commented that the Variance code is written in such a way that the Planning Commission is not to grant a variance unless (a) there are special circumstances or conditions applying to the land, building, or use referred to in the application; (b) the granting of the variance is necessary for the preservation and enjoyment of substantial property rights; (c) the granting of the application will not materially affect adversely the health or safety of persons residing or working in the

neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood. Cooke commented that the special circumstance(s) are: (1) the tree being so close; (2) the utilities being on the back where the guys just came and cleared the whole line with no problem; asked the guys if they had a problem with the location of the shed and they said no; if the neighbors had a complaint, they would have been here tonight to voice their complaints; (3) it would destroy the backyard of the width and the whole open area. Greenblott asked if the Commission could workshop this application; did not have a chance to go out and look at this site; would like to visit the site.

Chair advised that this application will be further discussed in workshop on 10/16 at 6:45 P.M.

Heard by Planning Commission in Public Hearing

V-0031-2002

To consider a variance application to vary section 1143.08(d) of the Gahanna Codified Ordinances to allow the construction of a fence in a No Build Zone; for property located at 681 Tim Tam Ave., James and Janet Worlin, applicants. (Public Hearing. Advertised in RFE on 10/3/02). (Public Hearing held on 10/9/02, 11/6/02).

Chair opened the Public Hearing at 7:39 P.M.

John Mazza, Harris, Turano & Mazza, Attorneys at Law, 941 Chatham Lane, Columbus, OH, stated that he is here representing the Worlin's for the purpose of this application; what we have here is a resubmitted application; understand that several of the Commission members have been out to the location; biggest concern is that there have been 25 other variances granted under similar circumstances; there are 10 other fences in this sub-division for which no variances have been granted; there are certainly questions about the ambiguities attached to this code section under which no build zone exist; believe that the City Council and Councilman Hogan would gladly verify this if need be; aware that Peck has had an inquiry from Law Director Weber; the predicate for this no build zone in this community was from the developer; the developer is on record as saying that they did not intend for this no build to relay to fences; the developer would if necessary submit that in writing; I think this Commission already knows that; to grant the variance in this particular instance would be consistent with the actions taken by this Commission under similar, not exactly the same circumstances; to deny the variance would be inconsistent and in my opinion would be a denial of equal protection; would be an example of selective enforcement; and certainly not achieve the goals under which this Commission tends to operate, which is to allow property owners maximum utilization of their property and enjoyment of their property where that utilization and enjoyment does not infringe upon any property right or present any danger to anyone else; so if there is objection, it must be material because that is the word that the Commission uses; we have not been aware of anything that can be characterized to date as a material objection; the extent of special circumstance that the Commission requires most prominently is that the Commission has granted variances on 25 other occasions; so the special circumstance that we would be looking at from the opposite direction is what special circumstance exists to deny this application; the Worlin's have the right to utilize their property as it now exists; they have built a fence which cuts off their property so that they can have their dogs run without adversely affecting other people; and also so that they can have use of their home without having an affect from other property owners in the area, one of which owns a pit bull for which a variance was granted, that scared Mrs. Worlin back into her home; the fence would be the same type of fence that is currently out there; finally in conversation with Weber, he has made it clear to me to the extent that he does not believe that any attack on a denial of this variance would be ultimately upheld; hope that he has conveyed his opinion further down the line.

Nick Hogan, 1040 Venetian Way, Gahanna, OH, verified that he has had several conversations with City Attorney Weber; in the last conversation Weber told me that he had spoken with Chair Peck, and that Chair Peck had agreed to put this issue on the quarterly Plenary Session agenda; we do have a tremendous amount of inconsistencies in the Code that we have to address; for example: the definition of a no-build zone specifically state that you must refer to the plot notes; the plot notes in the sub-division states that you must refer to the deed restrictions; when you read the deed restrictions it states that fences are permitted as long as they are not plastic or chain link; with one exception that the homes around Bryn Mawr lake may not have a fence of any kind whatsoever; have spoken with members of BZA and they indicated that they would like to have Council revisit this issue to make things consistent across the board; do understand from talking with Weber that the Planning Commission will do a recommendation to Council and then Council will review the code; if you need a formal request, I will be glad to do that in the form of a motion resolution.

Skip Cornett, 564 Dark Star, here to lend moral support to the Worlin's; one of the determinations was that no one knows what the no build zone is for and why it is there; would like to see the Worlin's be able to get full use of their property.

Chair asked for Opponents.

Eric Deligatti, 989 Tim Tam Avenue, stated that he is opposed to this variance application.

Mary J. Kriedler, 938 Cordero Lane; stated that my husband Eric Kreideler is also here with me this evening; the north side of our back yard is adjacent to the back of the Worlin's back yard; as we have stated in the four previous hearings for the Worlin's variance request, we have been and still are opposed to this request for a fence through the "No Build Zone" of their property; there is also on record from the previous hearings, letters from several of the neighbors in this block stating the they are also opposed to the fence; these neighbors include Arlene Tyler, Arlene Raya, Lawrence Buynak and Michael & Sue Dengel; have copies of those letters with me to be included as part of the record of this public hearing; we all bought these properties knowing at the time of purchase that this "No Build Zone" restriction was in our deeds; we have landscaped our properties so that all may enjoy the openness and park-like setting in this block; we do not want to have to look at a fence or maintain the lawn along a fence on someone else's property; even though there may be approximately 20 properties with approved fences in the three Rose Run sections, the majority of these are along Rt. 62, major streets or they were requested because of "special needs" children; also, one of the above mentioned neighbors does have a "special needs" child, and they prefer to not have a fence; the City of Gahanna code, Section 1143.08(d) states that "No permitted accessory use building or structure or fence shall be permitted to encroach upon any area designated as a "No Build Zone" and we all are abiding by this section of the Gahanna City Code; at this time on behalf of the aforementioned neighbors, my husband and me, we are asking that the Worlin's request to extend their fence through the "No Build Zone" be denied.

Eric Kreidler, 938 Cordero Lane, stated the Attorney for the Worlin's stated that there is no material objection; I believe there is material objection; that material objection is what effect this variance would on the property value of my neighbors and mine; as part of owning the property in a sense, we purchased the deed restrictions; was glad to learn that when I purchased the property that the deed restriction existed because I wanted an open area; didn't want to look at fences; as far the other fences that may exist in the neighborhood; this statement is true; however, none exist in the neighborhood that are

visible from my backyard; therefore the neighbors and I bought our properties knowing the deed restrictions existed; I intentionally bought the property with the intention of living up to the implied agreement among the homeowners, that we would all live with that restriction.

Chair asked for Rebuttal. Attorney Mazza stated aesthetics are to be considered like beauty; in the eye of the beholder; it should be noted that the term fence was not added to that part of the code until after the Worlin's had already applied for a fence variance the first time around; people have talked about what they relied upon when they bought their houses; so did the Worlin's; as indicated in the application, they checked with the Developer; the Developer said it did not include fencing; they checked with an attorney; they checked with someone at the title agency; all whom said the fence would be okay; that is what the Worlin's had in mind when they bought this property, so they could fence in the yard so their dogs could run free; create flower beds and do landscaping; don't believe that the Commission could entertain the unsubstantiated opinion of a property owner who claims that his property value has been diminished by virtue of someone else having a fence on their property; unless you have a real estate agent or an appraiser come in and say yes it would be valued by so much; believe that is the kind of statement that could not and should not be any type of basis for any determination by this Planning Commission; it is not substantial; nor is it true.

Chair closed the Public Hearing at 7:58 P.M.

Chair stated that this application will be discussed next Wednesday 10/16 in workshop at 7:00 P.M.

Heard by Planning Commission in Public Hearing

F. UNFINISHED BUSINESS:

G. NEW BUSINESS:

DR-0071-2002

To consider a Certificate of Appropriateness for Signage; for property located at 110 Mill Street; A List of Wishes by Sign-A-Rama, Scott Wagner, applicant.

Frank Zura, stated we are requesting a permit for signage for A List of Wishes; sign will be more of a Victorian style; will have a background of PMS 556C which is actually the color of the window trim: the outline of the List of Wishes will be PMS 1841C which is a deep red; also the color of the front door; the trim which is a 1/2 inch and 1/4 inch outline which is the dark green which will be the same color as the light poles in front of the building; the actual List of Wishes and the coffee cup will be gold; we are going to hang the sign from the current porch. Peck asked is there any lighting. Zura stated not at this particular time; the individual who is leasing the building wants to crawl before they walk; our original intent was to actually put it in the yard; right now putting a sign in the right-of-way requires a variance from the City. Canter stated that sign looks very quaint and tasteful Spencer asked is tenant going to occupy the entire house. Zura replied to his knowledge there is only one tenant.

A motion was made that this matter be Approved. The motion carried by the following vote:

Yes	3	Chairman Peck, Vice Chairman Turley and Greenblott
Absent	1	O'Hare

DR-0072-2002

To consider an amendment to an approved Certificate of Appropriateness for Signage (DR-62-2001) to allow signage to read Copy This; for property located at 362A S. Hamilton Road; Copy This by Sign-A-Rama, Franklin P. Zura, applicant.

Frank Zura stated that we ran into a small problem; if you remember this is where we had requested a banner that was put up; the individuals that had moved in were two partners; the two partners at that time were incorporated; one of the partners has since left; the individual is now sole proprietor; the sole proprietor did not want Inc. on the sign; I did not know that I needed an addendum to change it and not have Inc on the sign; the sign basically is the same with the exception of not having Inc. on it and on the bottom it said full service copy center; the owner no longer wanted that on there; he just wanted Copy This. Greenblott stated those are substantial changes in the text; asked did you have an inkling that the Commission would be concerned. Zura replied quite honestly, I thought if we kept the text and everything the same; thought we would be okay regarding the ink. Greenblott asked what about the removal of a whole line of text. Zura replied I really didn't give it any thought. Turley asked is the Copy This larger. Zura replied yes the Copy This is larger by about 6 inches. Shepherd commented that is pretty substantial. Zura replied it is smaller than you think; our thought behind this was that we really had to fill the sign and not have a lot of empty space; the original was 20 inch letters; the new letters are 28 inches. Peck stated that he noticed the sign a few days ago; his impression of the sign was that it was screaming to get off the building; the lettering is much more bolder and larger. Zura commented that he can't dispute the opinions and comments of the Planning Commission; the banner had been up approximately 9 months; the individual told us that he couldn't have Inc. on the sign; that was fine and dandy; quite honestly, I have no excuse for the full service copy center, only from the standpoint that it was supposed to be on there and it didn't get put on. Greenblott asked was the removal of the verbiage cost cutting. Zura replied it was minimal; actually the cost has gone up because we had to cut the sign out; the actual plexi that is behind the sign is larger. Turley commented that one of the submission requirements for signage for strip centers and malls is that there be photographs that illustrate at least three tenant wall signs to the right and to the left of the proposed signage, in addition to a picture of the specific location of the proposed signage; this is a perfect example of why this is important, because it is really hard to judge this in the context of what's around it. Zura commented this picture was taken approximately three weeks ago; all of what the Planning Commission asked for was submitted 9 months to 1 year ago; that is how long this project has been going; believe that when the banner was approved; it was approved for 90 days; it just got away from me; Gard & I did talk about this; the problem was that the owner did not want Inc. on the sign; asked could we make the sign larger; I was out of town on vacation when all this was taken place; when I returned, I did not look at; I am taking full responsibility for this. Peck commented that he didn't have a problem with dropping Inc. or even stretching out Copy This to fill out the proportional space. Canter asked can you give us something else. Zura replied that he will take a picture of everything on both sides; something else that might be throwing this off is the new Damon's sign; it is huge; consequently the Copy This sign looks out of place; we did however, keep the sign simple. Peck stated that we can discuss this application on October 23 at 6:15 P.M. Canter asked can you get the drawings to us before the meeting so that the Commission will have time to look over them. Zura replied that he will get them to Gard by Friday.

Discussed

2002-0049

To consider the vacation of Old Stygler Road from Agler Road south to the US 62 right of way line for road right of way purposes; to consider recommendation to Council that property be vacated as excess land with entire parcel reserved as a utility easement.

Sadicka D. White, City of Gahanna, Director, Department of Development, 200 South Hamilton Road, stated that the area which is encumbered which is about 2.96 acres site was right-of-way; we have determined that it is excess right-of-way; we are going through the process of vacating that right-of-way and asking for a recommendation from Planning Commission to go on to Council for the vacation thereof; east of that area, you

will see a hatched area; do not mistake that hatched area; that hatched area is not a part of that, it was already vacated and combined with the Jane Matlin property; we will be first deeding that property through a quit claim process to the Matlin trust in exchange for right-of-way that we have negotiated from the east side of the Matlin property in order to provide for an additional turn lane at Stygler Road per the Engineering Department; that right-of-way will retain all utility easements; we have received the location from the Engineering Department of all utility easements; have also received letters from all the utilities that are currently within the area stating that they have no problem with the City of Gahanna doing that. Turley asked what year was that stretch of right-of-way last used. Peck stated probably at or around 1969. Peck asked when a piece of City owned property is abandoned for practical purposes, doesn't it normally revert to the adjacent property owner. King replied no not without a deed. White stated that the actual process will be:

- (1) We will deed the property to the Matlin property first (This will be the first Council action).
- (2) In exchange we will receive a deed right-of-way on the east side of their property; so it will be an exchange of properties.
- (3) Then we will ask for the Council action of approval of the vacation.

A motion was made by Vice Chairman Turley that this matter be Recommended to Council for Approval. The motion carried by the following vote:

Yes	3	Chairman Peck, Vice Chairman Turley and Greenblott
Absent	1	O'Hare

H. COMMITTEE REPORTS:

Committee of the Whole

Gahanna Jefferson Joint Committee - Canter - No Report

Creekside Development Team - Greenblott - No Report

I. OFFICIAL REPORTS:

City Attorney

King stated that Mazza said that Equal Protection would apply in this case; it does not; equal protection only applies to protected categories of persons and properties; equal protection has no application to this particular application.

City Engineer - No Report

Department of Development - No Report

Chair.

J. CORRESPONDENCE AND ACTIONS - No Report

L. ADJOURNMENT - 8:35 P.M.

TANYA M. WORD
Deputy Clerk of Council

Isobel L. Sherwood, MMC
Clerk of Council

*APPROVED by the Planning Commission, this
day of 2012.*

Chair Signature