

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Wednesday, February 27, 2013

7:00 PM

City Hall

Planning Commission

Donald R. Shepherd, Chair

David Andrews, Vice Chair

Joseph Keehner

Jennifer T. Price

Kristin Rosan

David B. Thom

Thomas J. Wester

Donna L. Jernigan, MMC, Senior Deputy Clerk of Council

Members Absent: Donald R. Shepherd and Jennifer Tisone Price

Members Present: David B. Thom, David K. Andrews, Kristin E. Rosan, Joe Keehner and Thomas J. Wester

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, February 27, 2013. The agenda for this meeting was published on February 22, 2013. Vice Chair David Andrews called the meeting to order at 7:00 p.m. with the Pledge of Allegiance led by Planning Commission Member Rosan.

B. ADDITIONS OR CORRECTIONS TO THE AGENDA.

C. APPROVAL OF MINUTES: Regular Meeting February 13, 2013

A motion was made by Rosan, seconded by Wester, to approve the February 13, 2013 Regular Meeting minutes. The motion carried by the following vote:

Yes 5 Andrews, Thom, Rosan, Wester and Keehner

Absent 2 Shepherd and Price

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

E. APPLICATIONS/PUBLIC HEARINGS:

Chair read the rules that would govern tonight's public hearings. City Attorney Shane Ewald gave an oath to those persons wishing to address the Commission tonight.

V-0003-2013

To consider a variance application to vary Section 1171.03(m) of the Codified Ordinances of the City of Gahanna, to allow a fence to be constructed with the supporting members facing the neighboring property; for property located at 172 Andalus Dr.; Linda Snyder, applicant.

Gard said application is as stated by the Chair; have area map and overhead map; couple of pictures of the existing fence before its removal; can see it was in need of repair; was covered by vines and bushes; have pictures of the fence as it is today; pictures were taken from the public right of way; supporting members posts and stringers are on the side facing Norris; the applicant wants to allow the supporting members to stay on the neighboring side as opposed to on the owners side as required by code.

Chair opened the public hearing at 7:06 p.m. and asked for proponents.

Linda Snyder, 172 Andalus Dr., said on May 16th about 9:00 p.m. I heard a noise and looked out my side window and someone was tearing the fence down; our neighbor Mr. Norris and several other guys and a woman had already removed about a 3' section of the fence and were shaking the rest to get it down; my husband asked what they were doing; Norris said some expletives and what does it look like I'm doing; my husband said how do you know whose fence it is; Norris said it is my fence; my husband said we have dogs in our yard; he said he didn't care about our dogs and he didn't move into this house for us or our dogs; my husband said I suggest we not take anymore of the fence down until we find out whose fence it is, so they stopped; the next morning, since there was a gaping section in the fence and we have dogs, and you can see from the picture

that the fence was old, my husband and sons went out and tore down the rest of the old fence; we went out and bought new materials because my husband had asked Norris that night if he had plans to build a new fence and Norris said no; we bought all new stuff and removed 75' of Forsythia bushes, two trees and a lilac bush; the next day when I came home from work and my son was there, Norris said when are you going to get this out of here; more expletives; I said we are working as fast as we can; Norris said I want this out of here now; I said where did you come from; Norris said you will be sorry, and I didn't buy this house for your pleasure, and walked off; that was the last time I spoke to him; feel he was threatening to my husband and sons the whole time they were reconstructing the fence that they were on his property; there is an old cross piece of fence that goes right almost to the line plus an old wire and split rail fence covered with ivy that made it difficult to be over there; so without moving it another couple of feet inside of our yard, and on that one side yard we only have 10 feet one inch, and without him allowing us to be on his property without the threats, we put the cross pieces toward him; all the rest of the fence has cross pieces facing toward us; we have split fences with neighbors that are here now; we have split the cost; we would have preferred that the cross pieces face us but because of safety now we felt threatened to go on his property. Snyder said there are a couple of other things; his survey said that two of the rear posts were on his property; our survey said only the last post was 7/8" on his property; we totally removed that post.

Chair asked if there were any other proponents and said we did receive many letters from neighbors who had no problem with the fence.

Chair asked for opponents. Jeff Perry, attorney for Charles Norris, said that Mr. Norris opposes the applicant's request and asks that the applicant's fence be rebuilt to comply with code so that the finished side faces the neighboring property and correct the encroachment onto his property and the encroachment onto a recorded utility easement; Norris opposes the applicant's request for five reasons; the applicants actually constructed their fence 8 months prior to the application for this variance permit, which is a violation of section 1131.02(a) which requires a permit prior to commencement of the work; second the preexisting fence belonged to Norris so even though Mrs. Snyder was told it did not require a permit to build a preexisting fence, it did not belong to her it actually belonged to Norris; the applicant's fence actually encroaches on Norris's property and that has been admitted to by the applicant; there is a letter dated December 14th where Mrs. Snyder says that according to their survey, a survey that they had conducted, the last post on Norris's property is encroached by less than one inch; also the applicant's fence encroaches on a utility easement which is also admitted to and is depicted on a survey that the applicant's caused to be prepared; fifth ground is that the application fails to satisfy all three conditions that are required by section 1131.03 that are required for the Planning Commission to grant the variance; the second for the preservation and enjoyment of substantial property rights; Norris argues that moving that last post off his property and curing the encroachment on the utility easement and reversing the fence so that the finished side faces neighboring property in no way is adverse to the preservation to the enjoyment of the property pursuant to 1131.03(m); in conclusion Norris vehemently opposes the applicant's request and asks that the fence be corrected and the encroachments be cured and that this application is baseless.

Charles Norris, 345 Invicta Place, said I have pictures of these two posts that are also on the surveyor's sheet and I wanted those two posts to be removed; I would not have put them there and I have no use for them there where they are at.

Gard said just a couple points of clarification; fences are permitted to be built across easements with the City Engineer's approval and the necessity and variance procedure is

located in 1171.05, not 1131; fences have their own set of criteria, and also I would like to remind the Planning Commission that encroachment is not in your purview; that is a civil matter between property owners; not something you can fix.

Chair asked for rebuttal. Snyder said I did call about a permit and they said if we were replacing an existing fence there was no need for a permit; Mr. Norris's attorney did not listen to me, I told him specifically that we had totally removed that last post; we did take out the chain link cross piece fence and took out the cross piece and that is gone even though it was there when we moved in; Norris waited 6 months after the fence was finished to file this complaint so he was okay with it; 9 months later he still has a cross section of the fence falling down; he also stated that he knows now that the fence is on our property; the old fence was constructed by the original owners of our house; I gave you a statement from a previous owner of 345 Invicta; three previous owners have lived there and have had no problems with that fence.

Price arrived at 7:20 p.m.

Members Present: David B. Thom, David K. Andrews, Jennifer Tisone Price, Kristin E. Rosan, Joe Keehner and Thomas J. Wester

Members Absent: Donald R. Shepherd

Keehner asked if they move their fence a few inches to accommodate their neighbor is that considered a new fence or is that rebuilding the old fence; Gard said I believe that is in the spirit of the code; if it was a replacement in kind; same height, same place and same material. Keehner asked Snyder in making plans to replace the fence did you try and talk with your neighbor about having temporary access to his property so that you could make it up to code with the up and down panels on his side of the fence? Snyder said there was not a whole lot of talking going on because he just kept telling us that we couldn't be on his property; even after the fence was in and my husband had a couple of concrete braces down he said he was going to tear those down; he kept threatening us when we were doing the work.

Thom said did you ask him directly? Snyder said no because he kept telling us we better not be on his property with that fence; when someone keeps telling you that why would you ask if you can go on his property; we would gladly have put the fence the other way.

Wester asked who owned the original fence. Snyder said our address 172 Andalus; Betty Humeringhouse was the original owner; I gave you a paper from Thomas Moore who was the owner of 345 Invicta when the fence went up and there were no problems with it.

Rosan said I have a question for Mr. Norris's counsel; it seems to me the issue is the stringers; has any thought been given to, or would your client object, to allowing Mrs. Snyder to be able to come on the property; we leave the existing fence and Mrs. Snyder comes on the property for the purpose of putting up new panels so there is a finished edge on your client's side of the fence; is that something your client would consider. Perry said absolutely; that is exactly what he would like.

Norris said I spoke with Gard and told her to tell Mrs. Snyder that she can come on my property and fix that fence.

Andrews said I don't understand why, at 9:00 p.m. at night you would start tearing down a neighbors fence; I live in a neighborhood with 3 homes around me and have a great relationship with my neighbors, but I would not attempt to do something like that without at least talking to my neighbors and finding out how they feel; especially at 9:00 p.m. at night.

Norris said the people that I had working there were working for some people across the street; I had told Snyder and her husband that I would eventually tear all of this stuff out; I was sitting outside one evening and I saw these people working across the street and I just called them over and asked them what they would charge to tear out this privacy fence; I did not realize it was 9:00 p.m. or I wouldn't have started then; Snyder was saying I wasn't concerned because I still had a piece of that up; that wire fence; the reason I left that up was because of this hearing because this piece here comes out from the house; the part I tore down would come across; and this is where it came across and you can see where their fence is.

Perry said this took place in May so it probably would still have been light out; would also like to address Wester's comment about the ownership of the fence; according to a letter dated December 14, 2012, by Mrs. Snyder to the Zoning department, she in fact concedes that the fence belonged to Mr. Norris according to a map from the Franklin County Auditor's website.

Andrews said is that something that we need to have an agreement in writing? Ewald said I can coordinate but the City would not be a party to that agreement; it would be a private civil matter, but I would be happy to sit down with counsel and the applicant; my request would be that you postpone this variance hearing pending the outcome of that agreement.

Andrews said we will postpone this variance for two weeks.

Tony Mancuso, co-counsel for Charles Norris, said I would just like to reiterate a couple of points; as indicated by Rosan, Mr. Norris would be happy to allow Mrs. Snyder to turn the fence around per the code; would it be Mr. Ewald's intention that the parties attempt to work that out privately; if we can do so would the board need to post facto a variance at that point? Ewald said there would be no need for a variance if the violation has been disbursed. Mancuso said okay, so the purpose of the postponement would be to see if the parties can come to an agreement prior to the board ruling whether the variance is allowed. Rosan said to Mancuso, so that I might clarify my question, I did not ask whether or not Norris would be open to turning the fence around, rather would he allow Snyder to put facing on the existing fence; it seems reasonable that there may be an accommodation so that we don't have to go to the expense of having the entire thing removed and rebuilt.

Andrews asked Snyder if she was okay with postponing the variance issue for two weeks to let you sit down and talk this out to get permission so you can turn the fence around. Snyder said I already have \$1,500 in a fence that I never intended to put up like that and now I'm going to have to spend another \$500; that is just ridiculous; he destroyed half of the fence by tearing it down; he had only been in the house a few weeks; I've been in my house for 14 years and get along with my neighbors; I guarantee you it was dark.

Rosan asked Snyder to come to the microphone. Snyder said I don't know what to think. Rosan said this is my thinking; one of the things that could happen with this application tonight is that the variance request is denied; my concern is if that occurs then you have

little choice but to tear down the fence and rebuild it; the reason for my questioning Norris is that would allow you to accommodate his concern while at the same time minimizing your expense; what we are proposing is a two week postponement; if those conversations are not productive then we come back here and we have a vote; if they are productive then the problem is solved.

Thom said I would echo; as a Commission we are trying to get this resolved; if we take this to a vote tonight one of you is going to win and one lose; we are attempting to make this a win win situation for both of you; you may not be totally happy with it and Norris may not be totally happy.

Snyder said if I turn the whole thing around or replace the front he's still not going to be happy with the fence; what does he want? Thom said as long as it is built according to code he has no recourse; the problem right now is that the fence is not built to code. Gard said the code says that the supporting members have to be facing the owner who is putting up the fence.

Andrews said we are going to give you a two week window to try and work this out with your neighbor and hopefully come to an agreement on this.

Andrews closed the public hearing at 7:30 p.m.

A motion was made by Rosan, seconded by Wester, to postpone V-0003-2013 for two weeks to the March 13, 2013 regular meeting. The motion carried by the following vote:

Absent 1 Shepherd

Yes 6 Andrews, Thom, Price, Rosan, Wester and Keehner

FDP-0003-2013

To consider a Final Development Plan for Otterbein Skilled Nursing & Rehab Neighborhood, for property located at 975 North Hamilton; Otterbein Homes, Sue McConn, applicant.

Gard said the area in question is the southern portion of the parcel a little over 5 acres; heavily wooded site; do have an aerial map; site plan is for 5 buildings which will house 10 residents each; each building is a little bit different; there will be a hub building that will be slightly larger with an office; have proposed landscape plan; not a lot of parking but what there is has some screening; bulk of the landscaping is in the boulevard area; each house has a planting bed; have rear view of each house showing fenced area; lighting will be shorter poles like residential; development is very residential in character; lot coverage is 34.3%.

Andrews opened the public hearing at 7:40 p.m. and asked for proponents.

Jill Hreben, President/CEO Otterbein, said I am here filling in for Sue McConn who had some surgery; we are looking forward to locating in Gahanna: Brian Gruber is also here and will show you the materials for each of the five residences. Gruber said each home will have its own identity with different color siding and masonry; will be 5 unique designs but with a lot of consistency when you drive through the neighborhood.

Greg Feller, Feller, Finch & Associates, said I have had conversations with Steve Welsh of the fire department; will add a fire hydrant at each end of the boulevard; will revise to widen pavement to 26'; for the drive aisle will change that from 14' to 20'; will submit revised plan.

Hreben said the project will look very residential and blend into the surrounding neighborhoods well.

Chair asked for opponents. Jane Peck, 1010 Ridge Crest Dr., said I am not really an opponent; they have worked well with our Homeowner's Association; will be good neighbors; hoped buildings would conform with cream color and stucco like the Canini buildings; has been a positive experience.

Wester asked about sidewalks along Hamilton Road, and Wetherholt said the multi purpose trail will run along Hamilton on that side.

Andrews asked if the Commission wants to workshop this with the changes being made; have a new site plan to help make things clearer.

Chair closed the public hearing at 7:53 p.m., and scheduled FDP-0003-2013 and DR-0007-2013 for workshop on March 6th at 6:30 p.m.

Heard by Planning Commission in Public Hearing

DR-0007-2013

To consider a Certificate of Appropriateness for Site Plan, Landscaping, Building Design and Signage for Otterbein Skilled Nursing & Rehab Neighborhood; for property located at 975 North Hamilton Road; Otterbein Homes, Sue McConnell, applicant.

See discussion above.

Discussed

F. UNFINISHED BUSINESS: None

G. NEW BUSINESS:

S-0001-2013

To recommend to Council the adoption of the Hamilton Road Corridor Plan.

Evans said you all received draft copy of the Hamilton Road Corridor Plan; has been several years in the making; held public meetings; worked with OHM; good draft of plan and existing market planning trends; has been a lot of investment in the corridor in the last two years; want to be prepared for more; is gateway to community.

Tony Slanec, OHM, said the most important thing to understand is that this is a draft and a guide for future development; this plan should help you understand the goals of the community and City; we want the Hamilton Road corridor to have a desired look and branding to elevate the economic development opportunities; to be available for development; a lot of changes in today's market trends; great opportunities in the future; address density, signage, streetscape and public spaces; public responded; from a development standpoint is the vision conveyed; completing vision and branding will help to lure the type of development to help elevate the quality of architecture and design; want to attract and set precedent of quality; level we want to achieve and be proud of; vision of how function for walkability; split at Rocky Fork; north of that walkability; south being part of the interchange and Techcenter; two different development patterns; businesses more suited for larger formats and the other more pedestrian driven.

Justin Robbins, OHM, walked the Commission through the draft document. (Available in the office of the Clerk of Council.)

Wester said I think you have done a lot of work, but in the 10 or 15 minutes you have been talking I have only heard the word bike once; how do bike lanes and multi purpose lanes fit into this, especially with the two age groups; with the two demographics you

mentioned biking is becoming very popular; what would recommendations be near the Central Ohio Urology site and Techcenter; in the first picture over 270 with a lattice work of some sort, what does it look like for pedestrians; is there a sense of safety; a lot of good things in here and things that the City needs to address; these are just some of my initial comments.

Slanec said it is extremely important that we address walkability through the entire corridor; is extremely important; what the document eludes to having a vehicular and pedestrian divide is related to scale of development; if you look at the property at the interchange I would suspect that you are going to get large office users; large format retail; destination type uses by an interchange; we studied interchange development around 270; what we projected from a market standpoint was that it would be some type of large format; that doesn't mean there won't be public space; that could be mandated; that office would have a campus type feel; plaza space; something to create the walkability; can strengthen the language even within the vehicular areas that we want to promote that walkability and connectivity.

Evans said walkability is a priority for all of our plans; everything we are doing; we will build that into the code that will go with this plan the requirement for bike racks, and even in the vehicular area; there will be tree lawns; things that make people feel safe; lighting brought down to people scale; encourage that through design elements; in regard to the walkability between that Morrison and Hamilton corner down to Buckles, that is not something that is connected; we do have the walkability along Techcenter; current zoning is a PUD zoning so that anyone coming in on that northern side of the Buckles tract would have to have an integrated plan for how that development would work together and was connected; so zoning covers some of those walkability elements; plan does have land use recommendations but does not dictate the zoning; so the zoning is going to be the hard core what you have to do to locate on this site.

Andrews said we will take this to workshop for March 6th at 7:15 p.m.; everyone is welcome to come.

Discussed

H. COMMITTEE REPORTS:

Hamilton Road Corridor Committee -Andrews: Discussed above.

I. OFFICIAL REPORTS:

City Attorney - No Report.

City Engineer - No Report.

Department of Development.

Evans said the Mayor will be having coffee with residents at Panera about the tax reform at 7:30 a.m. and other different times on Thursdays; the drive at Huntington is a go and construction should start on Monday and take 7 to 10 days.

Chair.

Andrews said a quote from Will Rogers; "good fences make good neighbors"; was easier for Otterbein because they did reach out and work with the neighbors.

J. CORRESPONDENCE AND ACTIONS.

Sherwood said Shepherd did have the office send out an email concerning a plenary session and asking for members to present issues they wanted to discuss; when I spoke with him he had not received anything; please get items in to Shepherd and me; will possibly look at having the plenary session on a workshop night when we have nothing else to discuss.

K. POLL MEMBERS FOR COMMENT.

Thom thanked Evans and the department for their work with Huntington. Andrews said he is glad and thankful that Price was not injured in the car accident.

L. ADJOURNMENT: 8:25 p.m.; Motion by Wester.

M. POSTPONED APPLICATIONS:

Donna L. Jernigan, MMC
Senior Deputy Clerk of Council

*APPROVED by the Planning Commission, this
day of 2013.*

Donald R. Shepherd