

CITY OF MILLERSBURG
Planning Commission Meeting
May 16, 2017
6pm

MEMBERS PRESENT: Ed Perlenfein, John Sullivan, Connie Lepin, Dennis Gunner, Scott Stimpson, Ryan Penning, Steve Vogler, Dan Nixon

MEMBERS ABSENT: Anne Peltier

STAFF PRESENT: Sarah Cook, Steve Hasson, Don Driscoll

CALL TO ORDER

Chairman, Ed Perlenfein called the meeting to order at 6pm and called for a motion to approve the minutes of the last meeting on March 14, 2017. Dan Nixon moved to approve the minutes and Dennis Gunner seconded the motion. Discussion: Steve Vogler questioned how a motion failed with a 4-4 tie vote, to which Steve Hasson explained unless a majority voted in favor, a motion failed. All in favor of the minutes: Ayes – 8, Opposed – 0.

APPROVED.

SUPPLEMENTAL INFO FROM PLANNER

Don Driscoll provided a summary of issues relative to partitions and easements and further explained requirements surrounding flag lots vs. easements, noting a simpler process with an easement, which took up less space on the property. Dennis Gunner expressed frustration with the fact that his code book did not match the codes cited in Don's staff report and did not feel they could make an informed decision on the topics that evening when their information wasn't up to date and accurate. Don pointed out that he had just that evening, delivered updated codes to the City Recorder, which had been adopted some time ago, but for whatever reason had not made it into the code books. Ed Perlenfein reminded them that things changed almost daily and it was the Planner's job to keep them abreast of those changes and in line, which he appreciated because he didn't have the time. Steve Hasson added that he had just become aware of the outdated code and now that he knew, he would make every attempt to keep the books current going forward.

Don also noted the updated TSP, which he provided that evening as well, and needed to be inserted into section 7 of the comp plan. Dennis Gunner indicated they had previously discussed who had the most current information and felt there was no excuse for the mix up. Connie Lepin commented that some of the items that had been updated were pertinent to what was on their agenda, to which Ed agreed and explained when they ran into those they would simply have time for explanations.

BAILEY/CORDLE LAND PARTITION

Don Driscoll explained the process for the review, noting it was not a time for public testimony, other than to hear from the applicant. Written testimony was allowed and Sarah Cook confirmed none had been received.

Applicant presentation: Mindy Cordle explained their previous application for 3 lots, which was denied because it made for lot sizes less than the minimum requirement of 10,000 sq. feet. They've re-submitted, with only 2 lots of much larger size.

Questions for Applicant: Dennis Gunner thought it looked like the same as before and discussion took place regarding a flag lot possibility. Conditions for a flag lot were reviewed and some were under the impression that the City didn't want them after hearing the report from Don Driscoll; however, the application was in compliance, but for the 25ft of frontage on the back lot.

Connie Lepin had questions regarding the easement and explanation took place regarding the difference and purpose of both private and public easements, in that the City did not own the property, but was granted permission to access it for utility purposes. She expressed concern that the driveway would be paved over the easement. Steve Hasson explained the property was privately owned and the City would not want to impose any further sanctions on it, such as requesting that it not be paved, unless the City wanted to purchase it.

Scott Stimpson questioned the house frontage direction, to which the applicant indicated they hadn't gotten that far in their plans yet.

With no further questions for the applicant or comments amongst the Commission, Dan Nixon moved to approve the Bailey/Cordle Partition Tentative Plan Request contingent upon compliance with the Findings and Conditions of Approval contained in the staff report. Steve Vogler seconded the motion. There was no further discussion. All in favor: Ayes – 6, Opposed – 2 (Gunner, Lepin) **APPROVED.**

DAYTON LAND PARTITION/VARIANCE

Don Driscoll provided background and summary of the partition and variance application, noting it had been declined previously when folks thought the easement changed the property size, but that was not the case. The applicant re-submitted with a flag lot parcel in lieu of an easement and requests a variance for the front yard on parcel 1 from the 80ft requirement, to 79.62ft. The approximate 5" shortage was because of the flag lot, which took up a portion of the property. Based on the Planning Commission's previous decisions and the applicants attempt to correct their concerns, Don recommended approval of the application, noting it was generally the same with the exception of the flag lot.

There were no questions for the applicant and no discussion amongst the Committee. Scott Stimpson moved to approve the Dayton Partition Tentative Plan Request and the Front Yard Variance contingent upon compliance with the Findings and Conditions of Approval contained in the staff report. Dennis Gunner seconded. All in favor: Ayes – 8, Opposed – 0. **APPROVED.**

MUNICIPAL CODE AMENDMENT: ARTICLE 5 DEVELOPMENT STANDARDS; SECTION 5.133 GRADING

City Manager, Steve Hasson explained the purpose of the amendment was to pay more attention to the development procedure all the way through, with the City growing as rapidly as it was. He felt the engineers did a great job of evaluating the process in terms of engineering but little attention was paid to the land deviations occurring after a home was built and sold. The City needed a stricter policy in the form of a grading permit to ensure water passing through or upon a property doesn't intrude upon a neighboring property. He thought it would also lessen the potential for DSL to visit.

Steve Vogler referred to the change as just catching up to the times. Dan Nixon shared concern for whom and how it would be enforced, as well as how the developers would know what to do, and what recourse the City had if they didn't do it. Steve Hasson informed them that the Council had just approved the Development Coordinator position and once hired, this would be a task for that individual.

Discussion took place regarding the fee that would be charged for the processing of such a permit and whether or not the fee would be enough to cover the cost of having the engineer or other staff perform the function. A suggestion of \$25 was made with some believing it should be more. Connie Lepin sought clarification on what exactly would require such a permit, including tree removal, land partitions, etc. It was explained that the permit would be required only if more than 50 yards of dirt was being moved. With that, Dan Nixon moved to approve the proposal and forward it to the City Council for consideration and adoption. Scott Stimpson seconded. All in favor: Ayes – 8, Opposed – 0. **APPROVED.**

OTHER BUSINESS

Dan Nixon requested an update on the wetland situation with DSL, to which Steve Hasson recounted the recent events that had taken place with cease and desist letters and visits from DSL. He explained his correspondence with them and his pushback of their extreme measures in which they showed no respect for people or their property. He did indicate there were a lot of wetlands in the community that needed mitigation and he was looking into a wetland bank inside the City to address it, and would have more information on that in the near future.

Connie Lepin asked Steve if they could discuss their email correspondence they had earlier in the week in regards to her preparation for the meeting. Steve Hasson explained the difference between their legislative role and their quasi-judicial role and the importance of the two. For legislative actions, he explained they could seek out whatever information they felt was necessary and share with whomever they wanted; however, for quasi-judicial decisions they were more like independent judge's and needed to come into the meeting without bias and completely impartial, which means they had to base their decisions on the materials provided in the packet and upon questions asked during the meeting. The purpose of that was so that every person received the exact same information at the same time and nobody was privy to anything more. Steve discussed ex-parte contacts, which they would need to declare in the event they had conversations with somebody outside of the meeting. He cautioned them in having any such contact, as it could violate land use laws, and suggested they let the information come to them, rather than going out to seek it.

Both John Sullivan and Ryan Penning wondered if the Commission members could sign something stating they agreed to follow the rules, similar to a code of honor. A suggestion was made to get a list of quasi-judicial topics so they knew when it was appropriate to further investigate something and when it wasn't. Steve Hasson agreed it was a good idea and would prepare such a list.

Scott Stimpson excused himself at 7:10pm. In closing, Mayor Lepin asked from the audience for any feedback on how the meeting was run that evening, because he felt it was completely different than in the past and went very smooth. Dan Nixon responded, stating that the applicant's presentation and materials were very well put together and others in the past hadn't been. Ed Perlenfein commented that things seemed to be coming together and clicking into place, which he was glad for.

With no further comments the meeting was adjourned at 7:15pm.

Respectfully Submitted,

Sarah Cook
City Recorder