

**MINUTES OF A JOINT WORK SESSION  
OF THE AVON LAKE  
PLANNING COMMISSION AND ZONING BOARD  
NOVEMBER 9, 2010**

**Call to Order**

Planning Commission chairman Mr. Fell called the Joint Work Session of the Avon Lake Planning Commission and Zoning Board of Appeals to order at 7:30 p.m. in Council Chambers of City Hall, November 9, 2010.

**Roll Call**

Planning Commission Members, Mr. Fell, Mrs. Fenderbosch, Mr. Knilans, Mr. Sherban, Mr. Simonovich, Mayor Zuber, Director of Law Kerner, Engineering Manager Reitz.

Zoning Board Members, Mr. Chillemi, Mr. Davis, Mr. Maloney, Zoning Administrator Booher.

Mr. McNamara, Mr. Hamister, Mr. Hyland and Assistant Law Director Graves were not present for the meeting.

**Meeting Business**

Mr. Fell thanked everyone for coming. The idea of this Work Session is an informal exchange of ideas between the City, Planning Commission and the Zoning Board concerning possible code revisions. Nothing will be formally decided or voted upon today. Neither Planning Commission or Zoning Board can be bound by any aspect of these concept plan reviews.

**CASE NO. JWS 10-01**

**PROJECT BOUNDARY SETBACKS IN PLANNED  
UNIT DEVELOPMENTS.**

Mr. Fell commented that this issue has been discussed at Planning Commission and was decided to bring forward to the joint work session to give the Zoning Board the opportunity to discuss the issue of property owners. The PUD was added to our code to bring a variety of housing to Avon Lake. Our intention was not to restrict property owners the use of their properties, but in the beginning when the code was new some of the subdivisions had quite a large area of the project boundary setbacks on the private properties.

Mayor Zuber stated that he brought this up at Planning Commission because of the calls from residents that have project boundary setbacks on their private property that cannot be used, mostly in the case of a fence were they would like to have a fence to keep their children or animals safe in their yards.

Mr. Reitz stated that most of the older subdivisions that have the project boundary setbacks on the private property are Waterside Crossings South and the subdivisions off of Krebs Road. Mr. Reitz made Planning aware that revisions to the code were created that gave exemptions to lots that are 15,000 sq. ft. or greater.

Mr. Maloney stated that the Zoning Board had seen approximately 8 or so cases for variances because of the project boundary setbacks. The Zoning Board is in a quandary because we have the code to uphold. The project boundary setbacks are a good concept and shouldn't be let go.

Mrs. Booher stated that most of the cases are fence issues and lots with larger homes on smaller lots.

Mrs. Booher read aloud the comments of Mr. Hamister who could not be here tonight, but wanted his comments known.

Mr. Davis stated that if the project boundary setbacks are to stay on the lots, there may not be a solution to the problem other than looking at the issues on a case by case issue. We may also look at allowing some type of fence for safety of children and animals. We may want to look at some type of open fencing with a maximum height to keep with the spirit of the greenbelt.

Mr. Fell asked the opinions of members on the height of the fence if allowed.

Mr. Davis stated that he would be open to allowing fences 3 ½ to 4 ft. tall, 50% open.

Mr. Sherban stated that we may want all the fences to maintain the same look to keep with the open greenbelt concept. The fences should be tall enough for pool safety.

Mr. Chillemi stated that he felt we should allow a variety of fencing.

Mayor Zuber stated that he agreed that fences should be allowed but should be specific when writing the revision and should be 50% open.

Ms. Booher stated that a picket style fence is an open fence and a specific type, but would still give property owners a choice.

Mr. Davis stated that the homeowners associations will need to determine the fencing if given a choice.

Mr. Reitz felt that the project boundary setbacks were intended to be left in a natural state. The project boundary setbacks are not governed by the City other than the structures and fences and most property owners have over the years taken more and more of that natural area and cleared it. This will just give the property owners more of a chance to clear that project boundary setback.

Mr. Fell suggested a wrought iron or picket style fence up to 4 ft. high.

Mr. Knilans suggested that we add wording to not allow fences in the project boundary setback if the project boundary setbacks are along the right-of-way.

Mrs. Booher stated we can take care of that by having the wording, fences allowed in project boundary setbacks in rear yards.

Mr. Fell asked Mr. Reitz and Ms. Booher to put the code revisions together and send the revisions to Planning Commission when ready. The commissions tonight have agreed upon a wrought iron or picket style fence up to 4 ft. high in the rear yards in the project boundary setbacks.

Mr. Fell asked if anyone objected to other structures being allowed in the PUD project boundary setbacks. The other issues that the zoning administrator has had issues with are the patio being at grade in a sloped yard. A patio at grade is hard to do when the yard is sloped.

Mr. Maloney suggested a tier or bi-level deck.

Mr. Sherban stated that tiered or bi-level decks can be quite expensive.

Mr. Chillemi did not have a problem with decks and patios in the project boundary setbacks.

Mr. Davis and Mr. Maloney thought that the project boundary was put in place to protect the adjacent property owner and the greenbelt and should be left open. We should leave the restrictions in the project boundary setbacks and deal with them on a case by case situation.

Ms. Booher asked about playgrounds. Per our building department the playgrounds are not considered a structure and have been allowed in the rear yards without permits and allowed in a project boundary setback. Some of the playgrounds I have seen are as large as a deck/patio or fence.

Mr. Chellemi stated that maybe we could consider the playgrounds a structure if a footer is required.

Mrs. Fenderbosch stated that she did not have a problem with the jungle gyms. These are just part of development when there are children in a subdivision. I don't feel they are permanent. They will come out when the children get older.

Mr. Davis stated that he thought a permit should be required.

Mayor Zuber did not feel the City should get involved in regulating play structures. Maybe we should take a look at other cities and see how they handle these large play structures first.

Mr. Reitz stated that we should have something in our code to restrict the clearing of the

greenbelt and/or project boundary setback.

Mr. Sayler, Reitz Engineering stated that the commissions should be clear about their wording on green space, project boundary setbacks and buffers.

Mr. Fell stated that the commission will do a better job at looking to make sure that the project boundary setbacks are not on private property and will put together some wording to allow some fences in the project boundary setback and will look at surrounding cities to see how they regulate the play structures.

### **CASE NO. JWS 10-02**

### **FENCE HEIGHT REGULATIONS**

Mrs. Fenderbosch brought this item up to Planning Commission because she has had quite a few complaints and comments about fence heights. Residents are asking how some developers and residents get the higher fences in the front yards or green spaces when other residents cannot get the fence higher than three feet in their residential front yards. Specifically I am talking about Webber Road, Walker Road in the Waterside Crossings areas, and fences on mounds or hedges taller than three feet.

Mr. Davis stated that the cases that the Zoning Board has had the most problems with are houses that are on corner lots that front to two streets. Mr. Davis gave the example of Elmwood Drive off Electric. The houses face the street they front on, but their side yards are considered front yards as well. There are no houses that front to Elmwood Drive and some consideration should be given to those houses for the safety of the children and animals. It may not have to be the six foot fences that residents are given in their back yards, but possibly a four foot high fence along streets that have no houses fronting the street.

Assistant Law Director Graves arrived late to the meeting.

Mr. Maloney stated that he agreed with Mr. Davis that most of the cases that the Zoning Board hears are side yards on corner lots and landscape fences in the front yards.

Mr. Sherban agrees with allowing landscape fences in front yards and had no idea that landscape fences were not allowed.

Ms. Booher stated that our code does not define a decorative fence in the front yard.

Mayor Zuber stated that he liked the idea of the fence code that the City of Dublin has that was in our packets for ideas.

Mrs. Fenderbosch asked about the rule of architects, and use the rule of 75% of the front of the house as a measurement for the length of fence.

Mr. Maloney thought that the fence height and setback should be discussed. I feel that coverage area in front should be 25% of the house not to include the attached garage and be setback no more than 75% of the building setback, that would be 37 feet from the front property line. I think that 3 ½ to 4 feet in height with posts no higher than 6 inches higher than the proposed fence height would be a good start.

Mr. Maloney stated that he thought that streets with no houses fronting the street should be treated as back yards and have the 3 ½ to 4 foot height allowance as well. The fence would need to be an 50% open fence like we suggested in the project boundary setbacks, but would allow a fence for safety of children and animals.

Mrs. Fenderbosch stated that she felt with the sizes of housing in the City we should allow four foot tall fences in the front yards.

Mr. Davis stated that he could not remember a case coming before Zoning Board other than a landscape/decorative or side yard fence. I don't think that we have that big of a problem that we need to revise our code for front yard fences.

Mrs. Booher stated she had done much research on the front yard fences and most cities only allow a 3 to 3 ½ foot fence in the front yards.

Mr. Davis stated that most of the fences that are higher in the developments and on city property have been granted waivers by Planning Commission or Zoning Board. If a resident wants a fence higher than a three foot fence in the front yard they can always apply for a variance and we will look at these cases on an individual basis.

Assistant Law Director Graves stated that most of the cases at Zoning Board have not been for the height of a perimeter fence, but for the landscape/decorative fence.

Law Director Kerner stated that any waivers being granted at Planning Commission are looked at as acting as the zoning board at the time of application.

Mr. Fell stated that Ms. Booher and Mr. Reitz will put wording together for the Planning Commission and Zoning Boards to look at to allow properties that have side yards that front streets with no houses to have a fence and landscape decorative fences in front yards no more than 37 feet from the front building setback and no more than 75% coverage of the front of the house not to include the attached garage.

**CASE NO. JWS 10-03**

**REVISIONS TO CHAPTER 1256 WIRELESS  
TELECOMMUNICATIONS REGULATIONS**

Mr. Reitz discussed the changes to code section 1256 Wireless Telecommunications Regulations. Mr. Reitz stated that the changes that are in front of members tonight are what came out of the

discussions of City Council and the Public Service Committee meeting. The changes are setbacks per 1256.04 in relation to residential dwellings versus property lines; Additional requirements for the Demonstration of Necessity per 1256.11; Mandatory hiring of an outside consultant to review the application prior to review by Planning Commission; Revised approval procedures as listed in 1256.17; and creation of a new section for Alternative Tower design intended to create a venue for DAS antenna systems.

Ms. Fenderbosch asked Mr. Reitz where he got the distances from in the changes to the setback requirements.

Mr. Reitz stated that all the changes were taken from the Public Service Committee meeting.

Ms. Fenderbosch stated that she would like to demonstration of necessity per 1256.11 be done before the department head review. That way the department heads would have any revisions that were needed by the consultant and Planning Commission would have a full review when it comes before them.

Mr. Simonovich stated that he opposed the consultant having a review before the department heads. Mr. Simonovich thought the consultant should have review of application concurrent with the department head review.

There was discussion by all members on setbacks and distances, lot sizes and zoning issues.

Mrs. Fenderbosch inquired about the cap of the dollar amount for the consultant.

Mr. Simonovich thought that if you give a consultant a dollar amount cap they will use every penny and bill us for the amount of the cap. We should think of a different way to handle the cap, maybe by number of rounds of reviews.

Mr. Sherban requested the RFQ's be done with independent consultants, no bias, just the facts.

Mayor Zuber thought that the first contract with a consultant should be for one year to eighteen months, that way if we find we need to make changes with the consultants we are not bound to a lengthy contract that we cannot change.

Mr. Fell asked Mr. Reitz to draw up some wording to include the discussion from tonight's meeting and have this item as an item at Planning Commission.

## **PUBLIC COMMENT**

Mr. Fell stated that public comments is not part of a normal work session, but because so many people have come to the meeting tonight he moved to allow the public to speak to a topic on the agenda for up to 2 minutes each if there were no objections from members.

There were no objections to the motion to allow the public to speak for up to 2 minutes, on items on the agenda.

The residents listed below spoke to the fences in project boundary setbacks issue.

Ms. Jean Adams, 33207 Ambleside Drive.

Mr. Michael Bobelcheck, 33203 Ambleside.

Mr. Robert Young, 395 Harbor Court spoke to the landscape/decorative fences in front yards issue.

Ms. Bernadette King, Berkshire Drive spoke on landscape fences on corners being an obstruction while driving.

The following residents spoke to the issue of the Wireless Telecommunication Regulations changes.

Mr. Don Geodus, 396 Harbor Court

Mr. Welden Rice, 406 Harbor Court

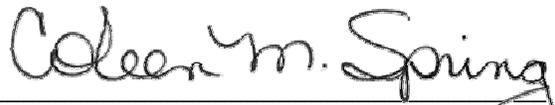
Mr. Fell stated the next regular Planning Commission Meeting will be December 7, 2010.

### **ADJOURNMENT**

Mr. Fell adjourned the work session meeting at 9:51 p.m.

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Gary Fell  
Planning Commission Chair

  
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Coleen Spring  
Planning Commission Secretary