

**MINUTES OF THE AVON LAKE  
PLANNING COMMISSION MEETING  
MARCH 3, 2009**

**CALL TO ORDER**

Mr. Fell called the Avon Lake Planning Commission Regular Meeting of March 3, 2009 to order at 7:30 p.m. in the Council Chambers of City Hall.

Law Director Kerner administered the oath of office to citizen member Gary Fell for a new term commencing January 1, 2009.

**ROLL CALL**

Mr. Brightwell, Mr. Fell, Mr. Knilans, Mr. McNamara, Mr. Simonovich, Mr. Zilka, Mayor Zuber, Director of Law Kerner, and Engineering Manager Reitz.

**APPROVAL OF MINUTES**

Mr. Fell said that there were new copies of the minutes handed out at the meeting tonight. The minutes had minor grammar changes per the Law Director. Mr. Fell moved to approve the minutes of the February 3, 2009 regular meeting as amended. Mr. Zilka seconded the motion.

AYES: All

NAYS: None

**COUNCIL REPORT**

Mr. Zilka had no report.

**SWEARING IN**

Director of Law Kerner swore in applicants and members of the audience speaking to items on the agenda.

**NEW CASES:**

**CASE NO. 007-09  
WILLIAMSBURG CLEANERS  
DRIVE-THRU WINDOW  
379 LEAR ROAD  
CONDITIONAL USE SITE PLAN  
PUBLIC HEARING**

**REQUEST OF WILLIAMSBURG CLEANERS,  
19885 DETROIT ROAD, ROCKY RIVER, OHIO  
FOR A RECOMMENDATION OF APPROVAL  
OF A CONDITIONAL USE SITE PLAN TO  
INSTALL A DRIVE-THRU WINDOW AT THE  
EXISTING BUSINESS WITHIN LEARWOOD  
SQUARE SHOPPING CENTER. THIS PROJECT  
IS LOCATED IN A B-1 BUSINESS ZONING  
DISTRICT.**

Mr. Reitz stated this request is to install a drive-thru window for the dry cleaner at Learwood Square. The window will be installed in the southwest corner of the existing building and will require the removal and reconfiguration of the curbing in the area. The window will not have a speaker box or menu board and will be used during regular business hours for patrons to pick up and drop off laundry. The enclosed letter from the applicant dated February 23, 2009 is to respond to comments from the Zoning Administrator on the change to the traffic pattern. This project is a request for a Conditional Use and requires a Public Hearing by Planning Commission. Notice of the hearing has been posted on site, mailed to properties within 300 feet, advertised in a newspaper and posted at various locations within the City.

Ms. Kathleen Cowell-Saul and Chuck Cowell, 2347 Valley View Drive, Rocky River, Ohio were present tonight to represent this case and answer any questions the commission may have.

Ms. Cowell stated that the business will move to the front of the building and we hope the addition of the drive-thru will help to increase business. Ms. Cowell handed out newly revised plans to the members. Ms. Cowell stated that there had been some disagreement with the property owner about the traffic flow. The new plans represent a better flow of traffic per the owner. The owner of the property suggested this lay out, but has not seen the new plans.

Mr. Fell opened the public hearing portion of the meeting. There were no comments from the audience. Mr. Fell closed the public portion of the meeting.

Mr. Knilans stated that he thought the plans handed out tonight at the meeting helped the traffic situation slightly but did not think the new plans took care of the traffic problems all together.

Law Director Kerner raised a point of order that the plans that have been given out at the meeting have not been reviewed by the department heads, and they have not been given the opportunity to comment on the new lay out. The planning commission members have not had an opportunity to look at the plans thoroughly.

Mr. Fell stated that this case will probably be tabled to give the department heads and the planning commission members a chance to review the plans, but I thought it would be good to

hear the comments of the commission so the applicant has an opportunity to see how we feel about the drive thru.

Mr. Chuck Cowell stated that they had just found out yesterday that JND Properties had the final say on the changes to the property. We have been dealing with Omni Realty and they are ok with the drive thru.

Mr. Knilans stated that the Pizza Hut has the same situation with their drive thru. The drive thru window is on the wrong side of the street and cars must cross traffic to get to the window.

Mr. McNamara stated that the coffee shop is thinking about adding a drive thru as well, Pizza Hut and now this one. The entire shopping center area will have their drive thru windows on the wrong side. I think the traffic is minimal back there, but we have no idea what eventually may be in the front buildings. It is a coffee shop and pizza place now, but 10 years from now, who knows. If this does go through, I think the pavement should be marked very well to show how the traffic should flow.

Mr. Simonovich stated that he thought the comments of Mrs. Booher described the problem very well. I don't think the parking should be taken out from behind the building in the front. We don't take parking out without looking to see if the parking was a requirement on the front building. We have no idea if the parking will be needed at a later date.

Mr. Reitz stated that he did not know if the front buildings would still meet the code requirements if the parking in the rear of the building is taken out, but normally an applicant would not put parking in if it weren't required.

Mr. Simonovich stated that ultimately the property owner has the final say. I think there is potential for this to be a one way traffic area, but if the property owner did not want this to change then we cannot go against him.

Mr. Chuck Cowell stated that his original contract is with Omni Realty and did not realize until yesterday that JND Properties had the final say. JND Properties is against the one way entrance because of the Pizza Hut drive thru, this layout was his solution.

Mr. Zilka stated that he does use the parking spaces in the rear of the front building. I can use the back entrance and not have to go around to the front of the stores. I think the parking spots are very vital to the coffee shop, and don't agree with eliminating the parking in the rear. We don't know the future of the shopping center and would not want to take parking spaces out that may be needed at a later date.

Mayor Zuber stated that he liked the second traffic pattern better than the first. I don't think there is much traffic back in that area and this is the same situation that the Pizza Hut has and they don't have any problems.

Mr. Brightwell is ok with both plans. I prefer the first plan if I had a choice, but don't feel there is not a lot of traffic. Adults will figure it out.

Mr. Fell asked about the pedestrian traffic. Will the pedestrians be using both doors? If the door on the west side of the building will be open, the pedestrians will be walking through the cars stacked in the drive thru.

Mr. Cowell stated that he liked the first plan better. The double doors on the west side of the building will be open for the business in the back of the building, but the first door closest to the drive thru window will be closed.

Mr. Fell stated that he liked the second plan better.

Mr. Reitz stated that with the second plan the traffic will tend to make their own exit. If there are no cars coming, I think they will just cut around the median and exit instead of going left to go to the right, or hit the curb.

Mr. McNamara stated that we cannot go against the owner, we should wait and see what the owner decides to do with the coffee shop and the possible new business in the center of the front building that is vacant right now.

Mr. Simonovich stated that we have to have the owner's permission in writing. We should be looking at a master plan for this location and not just piece meal this location.

Ms. Cowell stated that the architect that did the drawings for tonight are the architects for JND Properties and should be aware of the plans.

Mayor Zuber moved to table the request of Williamsburg Cleaners, 19885 Detroit Road, Rocky River, Ohio for a recommendation of approval of a Conditional Use Site Plan to install a drive-thru window at the existing business within Learwood Square Shopping Center. Mr. Zilka seconded the motion.

**AYES: All NAYS: None**

Mr. Fell stated that this case has been tabled. The new plans must be submitted to the Planning Office for review and will be heard at another meeting when the department heads of the City have had a chance to review the plans and we have approval of the property owner.

**CASE NO. 009-09  
GRAMERCY PLACE PHASE 3  
REVISED PRELIMINARY PLAN  
PUBLIC HEARING**

**REQUEST OF GAMELLIA CONSTRUCTION,  
32745 WALKER ROAD, AVON LAKE FOR  
RECOMMENDATION OF APPROVAL OF A  
REVISION TO THE PRELIMINARY PLAN FOR  
GRAMERCY PLACE SUBDIVISION PHASE NO.  
3 ON LEAR ROAD. THIS PROJECT IS  
LOCATED IN AN R-1 RESIDENTIAL ZONING  
DISTRICT.**

**The revision will require waivers to:**

- 1. The front yard setbacks per 1240.04 being less than 50 feet for sublots 23, 24, and 25;**
- 2. The rear yard setbacks per 1240.04 being increased to 50 feet for sublots 23, 24, and 24;**
- 3. Minimum lot width at building setback not being 100 feet per 1240.03 for sublots 26, 29, 30 and 32;**
- 4. Pavement width on a public street not being 27 feet per 1222.07.**

Mr. Reitz said this request is for approval of a revision to the Preliminary Plan for Phase 3 of Gramercy Place. This phase is south of Phases 1 and 2 and is east of the Baptist Church on 6 acres of land. This phase is requesting similar waivers to the front and rear building setbacks as were granted with the previous phases.

The revised Preliminary Plan still shows the 20 feet wide buffer on the four sublots that abut the Westwinds Subdivision. The buffer will allow fences and selective tree clearing but will restrict the installation of other structures. There is no requirement by the code which requires the buffer therefore maintenance and enforcement of the trees and plantings within the buffer will be through the homeowners association and developer not the City.

The applicant is requesting waivers to front setback requirements for three sublots and increasing the rear yard setbacks on four sublots. The waiver for the lot widths at the building line apply to four sublots on the revised plan while the previous plan had five such waivers. The applicant is also requesting a waiver from the pavement width requirement for the cul-de-sac. Per the approval of the same cul-de-sac at Monaco Place on Jaycox Road the waiver was granted contingent on the cul-de-sac being signed and marked as one-way and no parking being permitted.

This request requires a Public Hearing by Planning Commission. Notice of the hearing has been posted on site and at various locations in the City, mailed to properties within 300 feet, and advertised in a newspaper.

Mr. Jim Sayler, Reitz Engineering was present tonight to represent this case and answer any questions the commission may have.

Mr. Sayler stated the plans have been changed to show an area of wetlands that was found to be on the property. The basins have been moved to the south and the lots have been re-created. It is the same number of sublots and the setback remain the same as they were in the first plan.

Mr. Fell opened the meeting to the public.

Mr. Roy Cook, 36745 Chestnut Drive, asked about the drainage. I want to be sure the drainage shows on the plans and that the church will not be left with a swamp.

Mr. Sayler stated the drainage will show on the detailed plans at a later date. The plans before the board tonight are just the preliminary plans and don't show any of that detail. We are aware of the drainage from the Church that must be taken care of.

Mr. David Delzeith, 315 Lear Road stated that he was unaware of the selective clearing that was allowed in the buffer area. The buffer area was not left in a natural state and most of the trees were lost. The developer is not being a very good neighbor. They have people working in the houses all night.

Mr. Fell asked Mr. Sayler to let the developer know that Mr. Delzeith is unhappy about workers in the house at all hours of the night.

Mr. Fell closed the public portion of the meeting.

Mr. Knilans stated the fire department had no comments of the cul-de-sac. He asked Mr. Reitz if the fire trucks could make the turns if the no parking is enforced.

Mr. Reitz stated that with the wider cul-de-sac and the no parking the truck will be able to make the turns.

Mr. McNamara stated that he was fine with the plan.

Mr. Simonovich stated he had no issues with the waivers, but asked if it were normal for the Corp of Engineers to walk the properties looking for the wetlands.

Mr. Sayler stated that the Corp. of Engineers has been out to other properties recently and they have been out more recently that they have in the past. The engineer that we have doing the wetland plans for the developer is very conservative. I was surprised with the reaction of the corp, but think it just depends on who comes out to the site.

Mr. Zilka stated that he voted against the waivers on the first plans that have been approved. I will accept the decision on the setbacks to make the lots uniform and be in line with the last plan. I think the parking will be a serious problem with the elimination of parking on the streets. The drives are shortened and there will be no place to park if you have a party or people over for the holidays. How many cars can fit in the drive Mr. Sayler?

Mr. Sayler stated that with the shortened drives, some can fit two cars in front of the garage, maybe more depending on the lay out.

Mr. McNamara had no problem with the waivers or the plans. The parking problem is only with the cul-de-sac, the straight street will have the ability to have cars parked on the street.

Mr. Zilka stated that if the street lights are in the right-of-way on the outside of the cul-de-sac the fire truck will have a problem getting around the street.

Mrs. Fenderbosch, 32316 Gable Lane stated that the cul-de-sac in Monaco Place have had to be redone because of the trucks going up into to pavers that were laid to widen the street.

Mayor Zuber moved to approve the request of Gamellia Construction, 32745 Walker Road, Avon Lake, for recommendation of approval of a revision to the Preliminary Plan for Gramercy Place Subdivision Phase No. 3 on Lear Road with the waivers listed below:

1. The front yard setbacks per 1240.04 being less than 50 feet for sublots 23, 24, and 25;
2. The rear yard setbacks per 1240.04 being increased to 50 feet for sublots 23, 24, and 24;
3. Minimum lot width at building setback not being 100 feet per 1240.03 for sublots 26, 29, 30 and 32;
4. Pavement width on a public street not being 27 feet per 1222.07.

Law Director Kerner stated that the waiver forms have been filled out by and received from Jim Saylor, Reitz Engineering, and that they support the commission's findings that the special circumstances or conditions of the buffering and wetlands existing support the first three waivers and the buffering, wetlands, and the cul-de-sac green space requirement support the fourth waiver. If the forms have been received then the motion should reflect the receipt of the forms and should be included in the motion and the minutes.

Mr. Saylor did state that the waivers are on the final notes on the plans and the plans are part of the approval for the record.

Mayor Zuber moved to amend the motion to include the waiver forms and be reflected in the minutes as received and are on file. Mr. Fell seconded the motion.

**AYES: All NAYS: None**

Mr. Fell stated this case has passed with the waiver and waiver forms and will now move on to City Council for three reading.

Mr. Knilans suggested that the no parking signs on the cul-de-sac's be put up sooner than later. That way the signs will be up as the people are looking at the lots and will know about the no parking up front.

**CASE NO. 008-09  
SHAW-NEE BUILDERS  
PIN OAK PKWY/COMMERCE  
GROUND SIGN SITE PLAN**

**REQUEST OF SHAW-NEE BUILDERS, 33801  
LEAR INDUSTRIAL PARKWAY, AVON FOR  
RECOMMENDATION OF APPROVAL TO  
INSTALL A FREE STANDING  
IDENTIFICATION SIGN AT THE NEW  
BUILDING ON PIN OAK PARKWAY. THIS  
PROJECT IS LOCATED IN A LI LIGHT  
INDUSTRIAL ZONING DISTRICT.**

Mr. Reitz stated this request will install a single sided identification sign for the multi-tenant building on Pin Oak Parkway. This sign is externally illuminated.

Mr. Doug Baldi, Baldi Design was present tonight to represent this case and answer any questions the commission may have.

Mr. Baldi stated the sign will be for the first building up front on Pin Oak Parkway that has been constructed already. There will be space for three tenants on the sign and will be externally lit. There may be a time when more signage is needed when all the buildings are up and the street is put in.

There were no comments from the board members.

Mr. Knilans moved to approve the request of Shaw-Nee Builders, 33801 Lear Industrial Parkway, Avon for recommendation of approval to install a free standing identification sign at the new building on Pin Oak Parkway. Mr. McNamara seconded the motion.

**AYES: All NAYS: None**

Mr. Fell stated this case has passed.

**CASE NO. 010-09  
CITY OF AVON LAKE  
REVISION TO PLANNING AND  
ZONING CODE 1246.05(a)  
AIR POLLUTION**

**RECOMMENDATION OF THE  
ENVIRONMENTAL AFFAIRS ADVISORY  
BOARD AND PLANNING COMMISSION  
SECRETARY TO UPDATE SECTION  
1246.05(a) AIR POLLUTION TO REFLECT  
REVIEW AND ENFORCEMENT OF AIR  
QUALITY STANDARDS AS THEY RELATE  
TO PLANNING COMMISSION CASES.**

Mr. Reitz stated this revision to the Planning and Zoning Code is to address recommendations from the Environmental Affairs Advisory Board related to the City's Air Pollution Control Officer. These duties and responsibilities are handled by the EPA for the City and therefore these wording revisions are to better explain the City's working relationship with the EPA.

Mr. Reitz stated the changes are being done to reflect the duties of the air pollution control officer now being controlled by the EPA.

Mr. McNamara stated that the EPA had no comments on the revisions, so I have no comment on the changes.

Law Director Kerner stated that he is not satisfied with the changes. I have not had a chance to look into the revisions. I would like to look at examples from other cities and see how they have

handled the changes. I would prefer this item be tabled to give me an opportunity to look into the revisions more thoroughly.

Mrs. Jennifer Fenderbosch, 32316 Gable Lane, Chair of The Environmental Committee stated that the revision were discussed at the Environmental Committee. Mrs. Fenderbosch discussed the environmental issues and gave the Planning Commission information regarding this changes being discussed tonight.

Mr. Fell moved to table the request of the Avon Lake Planning Commission and the Environmental Affairs Advisory Board to update Section 1246.05(a) Air Pollution to reflect review and enforcement of air quality standards as they relate to Planning Commission cases. Mayor Zuber seconded the motion.

**AYES: All NAYS: None**

Mr. Fell stated that this case has been tabled until the next available meeting.

**CASE NO. 011-09  
THE WAVE SALON AND SPA  
33487 LAKE ROAD  
WINDOW SIGNAGE**

**REQUEST OF THE WAVE SALON AND SPA,  
33487 LAKE ROAD, AVON LAKE FOR  
RECOMMENDATION OF APPROVAL TO  
INSTALL WINDOW SIGNAGE AT THE  
BUSINESS IN THE TRUE NORTH SHOPPING  
CENTER. THIS PROJECT IS LOCATED IN A  
B-3 BUSINESS ZONING DISTRICT.**

Mr. Reitz stated this request is for approval of the window signage at the recently opened business in the former lobby area of the old theatre at the True North Shopping Center. The overall signage area is within the limits of the code and has no outstanding comments from departmental review.

Ms. Linda Passini, 166 Penrose Court, Elyria was present tonight to represent this case and answer any questions the commission may have.

Ms. Passini stated that she was unaware the signs had to come before the commission and the packets sent out should have all the information on the signs.

Mr. McNamara asked if the signs were already in place.

Ms. Passini stated the signs were already put up and the zoning administrator told her that the signs were never approved and she must get them approved by the planning commission and the building department.

Mr. McNamara moved to approve the request of The Wave Salon and Spa, 33487 Lake Road, Avon Lake for recommendation of approval to install window signage at the business in the True North Shopping Center. Mr. Zilka seconded the motion.

**AYES:**                    **All**    **NAYS:**                    **None**

Mr. Fell stated this case has passed.

**INFORMATIONAL ITEM**

Mr. Fell asked Mr. Reitz if there had been any decisions on the revisions to Creeks, Ditches and Waterway code.

Mr. Reitz stated that he has been in contact with Mr. Resar and some of the developers, but no decisions have been made. I will bring the code revisions in as a case as soon as some decisions are made.

Mr. Fell asked if there had been any progress with the cell tower on Pin Oak Parkway and if the tower had been completed.

Mayor Zuber stated that Mr. Scarpelli had applied for permits for the fence, light and landscaping. I do not know if the fence and landscaping have been completed or if the permits have been issued. The light is on and functioning.

Mr. Fell asked about the letter received from the Zoning Board regarding the setbacks and buffers.

Mr. Reitz stated the cases that the Zoning Board is seeing are the subdivisions that were previously approved. It will take some time for the older subdivisions to get out of the system and into the newer subdivisions that we are currently looking at closer and putting more restrictions on.

Mr. Fell asked Mr. Reitz to send a letter of clarification to the Zoning Board on the reasons for the cases coming in before them.

**DISCUSSION ITEM**

Mr. Fell stated that the commission had asked the Zoning Administrator, Ruth Booher to be here tonight to discuss the issue of living fences.

Zoning Administrator, Ruth Booher stated the living fence code section was taken out of the code intentionally. I have given you the information regarding the surrounding cities and how they handle living fences. Most cities have living fences in their codes, but do not enforce the

code unless it becomes as safety issue. Our code lets us handle the safety issues under our current code more effectively. The living fence codes are in place more or less for a setback issue.

Mr. Knilans stated that he thought Mrs. Booher's comment in the packets were sufficient.

Mr. McNamara stated that he was unsure what the purpose was for us discussing this issue again. I thought that we have discussed this issue at length several times now, and do not feel that there is a problem with our code and the enforcement of it.

Mr. Simonovich agreed with Mrs. Booher's comments.

Mr. Zilka stated that he believed that the commission was looking at this issue again due to the possible law suit that was threatened. I believe the issue discussed in the possible law suit was a few lots away from Mrs. Kings property and that there really was not an issue.

Mrs. Booher stated that bushes in questions are one lot south, 75 feet away from the driveway of Mrs. King. The Law Director, Police Chief, Service Director, Engineering Manager and several police officers had looked at the site and found there is not an issue with safety at that site.

Mr. Fell stated that he believed the code in effect now seems to be working.

Mr. Fell stated that nobody has an issue with twelve foot hedges in a front or side yard?

Mrs. Booher stated that we have them all over the City. Unless they become a safety issue, we don't have a problem with them.

Mr. Fell stated that he had more of an issue with living things as opposed to a fence that will always stay at three feet.

Mr. Zilka stated that we have those green utility boxes in a lot of front yards where the landscaping is well over three feet.

Law Director Kerner stated that there is only one person in the whole City that has had a problem with the code in force now.

Mr. Fell stated that since most of the commission was in agreement with the current code, no change would be requested now. Mr. Fell thanked Mrs. Booher for all the information that she had gotten together from the surrounding communities.

## **GENERAL PUBLIC COMMENT**

None

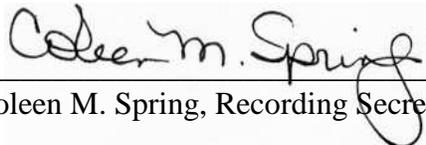
**ADJOURNMENT**

Mr. Fell moved to adjourn at 9:10 p.m. the March 3, 2009 Planning Commission meeting. Mayor Zuber seconded the motion.

**AYES:                    All    NAYS:                    None**

The next regular meeting of the Planning Commission will be on April 7, 2009.

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Gary Fell, Chairperson

  
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Coleen M. Spring, Recording Secretary