

August 13, 2018

Mr. Roger Friedmann – Chairman
Mr. Rich Barrick – Vice-Chairman
Mr. Tom Kronenberger – Member
Ms. Anne Flanagan – Member
Mr. Bill Mees – Secretary
Mr. Steve Roos – Alternate

Item 1. – Meeting called to Order

Mr. Friedmann called the regular meeting of the Zoning Commission to order at 7:01 p.m. on Monday, August 13, 2018.

Item 2. – Roll Call of the Board

Mr. Mees called the roll.

Members Present: Ms. Flanagan, Mr. Barrick, Mr. Friedmann, Mr. Kronenberger and Mr. Mees

Members Absent: Mr. Roos

Staff Present: Harry Holbert and Beth Gunderson

Item 3. – Approval of Minutes

Mr. Friedmann stated the first order of business is the approval of the July 9, 2018 meeting minutes.

Mr. Friedmann asked for any corrections to the July 9, 2018 minutes.

Mr. Mees moved to approve the July 9, 2018 meeting minutes.

Mr. Barrick seconded.

Ms. Flanagan – ABSTAIN
Mr. Barrick – AYE
Mr. Friedmann – AYE
Mr. Kronenberger – AYE
Mr. Mees – AYE
Mr. Roos – ABSENT

Mr. Friedmann asked for a show of hands from those in attendance for each case on the agenda. He then stated Case 2018-13MA would move up on the agenda since more people were present for that case.

Item 4. – New Business

2018-13MA
Tutoring Properties, LLC
8810 & 8812 Montgomery Road
Major Adjustment to a PUD

Mr. Holbert presented the case and case history in a Power Point presentation. He noted the proposal is for a 4,255 square foot single story office building. He reviewed the site characteristics and the history of the property. He noted the two lots in question were approved

as a Zone Change to "OO" – Planned Office District in 2008 along with three other addresses along Montgomery Road. Mr. Holbert showed an aerial of the properties included in the 2008 case. That case, he noted, approved two 10,000 square foot office buildings.

Mr. Holbert then went into detail on the current proposal. He noted a few discrepancies in the plans submitted in regards to setbacks and parking stall numbers.

Mr. Holbert stated there would have to be an access easement between the two parcels. He showed the proposed elevations for the building noting the applicant proposes constructing the building on piers to keep the impervious surface ratio (ISR) lower.

Mr. Holbert said the proposal complies with the buffering requirements of the Zoning Resolution. He then reviewed the lighting plan saying the applicant states it will meet the requirements of the Zoning Resolution.

Mr. Holbert reviewed the applicant's responses to the staff report noting the applicant is going above and beyond trying to meet the Zoning Resolution requirements. He said there must be a written agreement between the two properties in question to use existing landscaping as credit to ensure that it will be maintained. Mr. Holbert distributed the resolution that approved the 2008 case to the Board and reviewed some of those conditions.

Mr. Holbert spoke about the need for the Board to look at the entire site included in the 2008 approval and keep in mind any individual approvals should meet the same low density characteristics.

Mr. Barrick asked Mr. Holbert if the 2008 approval would be negated should the Board approve a Major Adjustment to the PUD for individual lots.

Mr. Holbert spoke about the challenges with individual approvals and the need for cross access agreements for future developments.

Mr. Barrick asked if the Board should require the applicant to agree to cross access easements for future development.

Mr. Holbert answered yes.

Mr. Barrick then discussed the ISR saying even if the building is on piers, the applicant must show an engineered solution to water flow that will not cause erosion.

Mr. Holbert said he thinks the applicant has a method to address the issues Mr. Barrick noted.

Mr. Mees asked for clarification on Mr. Holbert's comments about the 2008 approval. He asked if there is a distinction between a zone change and site plan approval.

Mr. Holbert answered any change to the 2008 approval for the property would have to be an adjustment to a PUD.

Mr. Mees asked about a possible approval tonight applying to future development.

Mr. Holbert said each development has to be approved on its own merits but the Board has to look at overall ISR and density.

There was discussion about the curb cuts with regards to possible future development of adjacent properties.

Mr. Friedmann asked if the applicant was present and wished to speak.

Ms. Amy Hebert and Mr. Stephen Hebert, the applicants, of Tutoring Properties, LLC, 7780 Campus Lane, Montgomery, OH 45242, addressed the Board. Mr. Hebert stated it is their intention to adhere to the Zoning Resolution as much as possible and to be a good neighbor. He spoke about a meeting he had with ODOT noting their concerns about the sight triangle. He spoke about the shared driveway and said ODOT was happy to hear there would be a single curb cut. He noted the curb cut at 8810 Montgomery Road would be eliminated.

Mr. Hebert stated they have a landscape architect working on the project and asked for clarification regarding a comment Mr. Holbert made about screening from residential properties. Mr. Hebert pointed out a sidewalk is now planned for western side of Montgomery Road so it is not necessary on the side where their business would be located.

Mr. Hebert said they are investigating setting the outside lights on a timer so they are turned off or dimmed during hours the business is closed. He noted an ISR of 60.2 was approved for the dentist next door and he proposes a .58 ISR.

Ms. Flanagan asked for the hours of operation and number of employees for the business and what ages the children will be that they tutor.

Mr. Hebert answered the business would be open 9:00 a.m. to 6:00 p.m. Monday through Thursday and 9:00 a.m. to 5:00 p.m. Fridays and will have about 20 employees. He said they serve grades K-12 and most of their students either drive themselves or their parents drop them off.

Ms. Flanagan asked if the construction of the building on piers was with the direct intention to lower the ISR.

Mr. Hebert answered yes noting there are other options such as permeable asphalt which is EPA approved.

Ms. Flanagan noted it also has to do with aesthetics saying we don't want a development to be all building and concrete.

Mr. Mees asked about the grade and if there would be a foundation in the front portion of the building.

Mr. Hebert answered the building would be built all on piers noting they will be consulting a structural engineer. He then spoke about water being directed to the same swale in which ODOT dumps water of from the highway.

Mr. Mees asked if the applicant will own both 8810 and 8812 Montgomery Road and if there would be a second phase for the development in the future.

Mr. Hebert answered yes they will own both properties and plan to sell 8810 Montgomery Road as a commercial lot with a shared driveway.

Mr. Kronenberger asked how far off ground building would sit.

Mr. Hebert explained the plan noting the building will be well landscape and one will not be able to see underneath.

Mr. Friedmann asked about an engineered plan to remove water.

Mr. Holbert pointed out the catch basin on the plan and Mr. Hebert said roof water would be directed into the catch basin.

Mr. Friedmann asked if there was anyone present from the public who wished to comment of the case.

Marsha Weaver-Butler of 8845 Lyncris Drive, Sycamore Township, OH 45242, immediately behind the property in question, addressed the Board. She asked the applicant where the end of the building would be.

Mr. Hebert said the building would be setback twenty feet from the rear property line and the living trees back there will remain.

Ms. Weaver-Butler said shedding of water is concern to her.

Mr. Hebert agreed and said water runoff will be directed to catch basin.

Ms. Weaver-Butler asked what the building height would be.

Mr. Hebert answered saying the building will be 35 feet tall.

Mr. John Misali, of 8829 Lyncris Drive, Sycamore Township, OH 45242, addressed the Board. He said he likes the use but it seems like a lot of building for the property; quite tall and massive. He said he is concerned if this is allowed it will set precedent for other properties yet to be developed. He said he is still concerned about storm water runoff which will be dumped adjacent to his property. He spoke about an existing wall on multiple properties.

Mrs. Hebert said they have no plans to do anything with the wall.

Mr. Misali also spoke about his concerns about the building plan with the piers and reiterated his concerns about setting precedent and having four more buildings this size.

Mr. Nicholas Strauss, of 8815 Lyncris Drive, Sycamore Township, OH 45242, addressed the Board. Mr. Strauss stated no future developer in the area is going to want to get less than what is approved on this site. He said the decision made tonight effects the future. Mr. Strauss said the applicant hasn't dealt with the water enough noting he hopes the applicant will look into what happens to the water once it leaves that property as well as options for slowing down the flow of water.

Mr. Friedmann entertained a motion.

Mr. Barrick made a motion to consider Case 2018-013MA.

Ms. Flanagan seconded.

The Board discussed the issues brought before them.

Mr. Mees says he is confused about how to analyze two fifths of a previously approved PUD. He said the project as a standalone project is a good one noting any water issues would be resolved by Hamilton County Storm Water Management. Mr. Mees said if the Board has to go by the intent of the 2008 resolution he is not sure how to do that.

Ms. Flanagan said she likes the project noting it is more suited to the area with residences and schools nearby. She suggested adding conditions that the project must comply with recommendations from Hamilton County form storm water. She noted if this is approved, future applicants are not likely to come back with a large scale project because the area originally part of the 2008 approval would be reduced.

Mr. Kronenberger said the Board can create something new and is not bound by the 2008 approval. He said he is concerned about making sure to keep the spirit of the 2008 approval as far as intensity. He agreed the use is compatible with the adjacent residential area but said he is concerned about the intensity noting, for zoning, the ISR is a measure of intensity of use not so much a measure of absorbing water.

Mr. Mees asked, if the Board approves the proposal, would it be imposing regulations on future development.

Mr. Friedmann said it is difficult to be consistent with the previously approved PUD when considering these two parcels.

Mr. Kronenberger said the Board does not need to impose PUD conditions on this property but does have to take into consideration concerns and discussions from 2008.

Mr. Barrick added the Board should treat those conditions as guidelines.

Mr. Holbert stated it is crucial for Board to look at the spirit and intent of the 2008 approval, noting the conditions may be modified by the major adjustment.

Mr. Barrick suggested taking the proposal on its merits using 2008 approval as guideline.

Mr. Holbert pointed out a Major Adjustment was previously approved for 8784 Montgomery Road which was also part of the 2008 Zone Change.

Mr. Barrick said the use is fitting for the location as it preserves the character of Montgomery Road better than one massive development. He said he is concerned about the size of the building on one parcel. Mr. Barrick suggested the Board put a limit on what size building may be built on the adjoining parcel. He said, as far as zoning is concerned with ISR, we are looking at a .70 ISR noting he is not in favor of this high of an ISR. Mr. Barrick added cross easements for parking and curb cuts should be a condition for future and the project should include a sidewalk. He added the building design is poorly developed and should have more residential character for the roof design. Finally, Mr. Barrick noted some items are in the letter or have been stated as a verbal commitment from applicant but are not specifically noted on plans which is a concern.

Mr. Friedmann spoke about the ISR and concerns about water runoff stating he is not sure that what was presented this evening fully addresses this issue. He said ODOT has raised questions which have not yet been answered. Mr. Friedmann agreed the use is a great use but there are a lot of questions that haven't been answered and he would feel uncomfortable moving forward without answers to those questions.

Ms. Flanagan said the applicant has the option to continue the case to the next Zoning Commission meeting in order to allow time to revise plans made on concerns brought up by the Board and adjacent property owners.

There was discussion about what additional details and commitments the Zoning Commission would like.

Ms. Hebert noted the dentist office was approved at .60 ISR and had already set a precedent.

Mr. Hebert then requested a continuance.

Mr. Barrick moved to continue, seconded by Mr. Mees.

All voted Aye.

Item 5. – Old Business

2018-11T

Sycamore Township

Text Amendments to Zoning Resolution

Mr. Friedmann stated the Board will discuss the first four chapters this evening and see how it goes.

Mr. Holbert stated he has received a lot of comments about typos which will be addressed. He stated staff has been receiving input from residents.

Mr. Kronenberger asked about the process.

Mr. Holbert stated Zoning Commission will review the document a few chapters at a time in a public forum. He will present comments received and the Zoning Commission will make recommendations to the Board of Trustees.

There was additional discussion about the process and when the Zoning Commission should vote. It was decided to review and prepare something in writing to officially vote upon at a future meeting.

Mr. Holbert presented the comments he had received for Chapters 1-4:

1. Definition of Building Height

Mr. Holbert discussed the suggestion to change the way to measure height to the actual height instead of median height.

Mr. Kronenberger said that simplifies it.

Mr. Holbert said Hamilton County Regional Planning's concern with changing it to the peak height is there could be non-conforming structures that have already been approved which were measured to the median instead of the peak.

The consensus was to change the definition to measure roof height at the peak.

2. Chapter 2 and Table 3-6 Bee Keeping

Mr. Holbert stated bee keeping is allowed but the structure that houses the bees, as agriculture type zoning, must be setback 100 feet. Harry suggested a smaller setback and possibly requiring a six feet fence as a buffer.

Ms. Flanagan suggested stating it in the alternative by requiring either a six feet fence or the 100 feet setback.

Mrs. Kathy Kugler, of 7106 Tenderfoot Lane, Sycamore Township, OH 45249, addressed the Board regarding sustainability. She noted many people would like to raise products on their own property so they know where they came from and what's in them and bee keeping is part of that. She stated the 100 feet setback for agricultural uses restricts people who are not wealthy or who do not have large lots from having bees or compost bins.

Mr. Holbert noted the State of Ohio regulates bee keeping.

Ms. Flanagan said she would like guidance on why Jacobs chose 100 feet setback.

3. PUD Definition

Mr. Holbert stated he has received feedback that people are confused about the term PUD and want it to be simpler. The proposal is to call it a site plan review. Hamilton County Regional Planning recommended against the proposed change.

Mr. Kronenberger asked if we are just changing wording from PUD to site plan or if the intent is to make it so you don't have to go through boards to have a site plan approved.

Mr. Holbert said he can provide the Board with a more detailed outline of the differences noting when things would be staff reviewed versus require a public hearing to protect neighboring property owners.

4. 3-7.3 and Table 3-6

Mr. Holbert said there have been suggestions to change the required setbacks for compost bins from three feet to 100 feet. He said a three feet setback for compost bins could cause problems because some people do not use them properly and instead of compost it is just garbage. Mr. Holbert said he reached out to Hamilton County about free education for Township residents to learn how to properly maintain a compost bin.

Mr. Barrick suggested requiring those with compost bins to follow County regulations.

Ms. Flanagan commented that is too much government; if there is a complaint then address it.

Mr. Kronenberger said 100 feet setback seems excessive. Mr. Holbert said accessory structures have to be in the rear yard, noting a compost bin is an agricultural accessory

use structure which differs from a garage or shed. Mr. Kronenberger said 100 feet is excessive but three feet is too small.

Ms. Kugler addressed the Board again. She said she is a master composter and if a compost bin has odor it is not working properly. She said that three feet off with a tumbler bin is fine and, if people keep the right balance, there will not be an odor. She said 100 feet from the property line is excessive. She noted the reasons why composting is beneficial to the community. Ms. Kugler noted residents can get help if they have problems with composting.

Mr. Holbert noted the Township values composting and offers a compost giveaway twice a year.

Mr. Barrick recommended keeping the setback at three feet with Hamilton County regulations for maintaining the compost bin in place.

There was discussion about various ideas for setbacks and possibly limiting the size of the compost bin. The Board decided to recommend the setback for a compost bin be equal to that of the side yard setback for the principal structure in its respective Zoning District.

5. Section 3-9.4

Mr. Holbert noted he had received comments that the setbacks are too restrictive for all agricultural accessory structures. Chicken coops, livestock enclosures, bee hives, household pet enclosures, private kennel enclosures, etc. is currently and proposed to remain at a 100 feet required setback.

Ms. Flanagan noted it says pet enclosures must be setback 20 feet.

Mr. Kronenberger commented the 100 feet setback is not a change from the current Zoning Resolution.

Mr. Mees asked how many people have requested wanting chickens. Mr. Holbert answered three people.

Ms. Flanagan asked how many chicken complaints the Township receives. Mr. Holbert answered not many.

Mr. Kronenberger said he doesn't have an issue with the 100 feet setback because residents could go to the Board of Zoning Appeals and apply for a variance. The other Board members agreed to leave the setback at 100 feet.

Ms. Kugler addressed the Board again saying she understands roosters are undesirable but noted you don't need a lot of land to raise a few chickens.

6. Misc. received comment - Backyard fire pits should be banned is comment. One person's comment. The board recommended against adding that to Zoning Resolution.

Mr. Friedmann said at the September meeting the Board will have an updated draft of Chapters 1-4 to vote upon.

Ms. Kugler asked how Jacobs got the idea to make the changes.

Minutes Recorded by: Beth Gunderson
Planning & Zoning Assistant