

CITY OF KIRTLAND
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING
NOVEMBER 9, 2020

The meeting was called to order by Chairman Michael Denk at 7:01 p.m. Due to the current state of emergency regarding COVID-19, the meeting was held virtually via Zoom. Present were Commission members Richard Blum, Richard DeMarco, Michael Denk, Rick Loconti and Joseph Vinciguerra.

Also present were Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney, Zoning Inspector Wayne Baumgart, Council President Richard Lowery, Councilman Jeffrey Ruple and Councilman Joseph Smolic. Economic Development Manager Monica Drake joined later in the meeting.

MINUTES OF THE OCTOBER 12, 2020 MEETING

Mr. Blum moved to approve the minutes as presented, with the second by Mr. Vinciguerra. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

PUBLIC SESSION:

PUBLIC REQUESTS

Carol Dolovacky-Bradac – Proposed Minor Subdivision at 8617 Billings Road, 10171 Hillcrest Road, and 10107 Hillcrest Road

Carol Dolovacky-Bradac was present in this regard. Chairman Denk noted that this matter has been in front of the Board of Zoning Appeals and a variance was granted (Appeal No. 20-4). Mr. Denk noted that five lots are being created from three existing parcels. The Chairman acknowledged receipt of correspondence dated October 28, 2020 from City Engineer Douglas Courtney, recommending approval of the minor subdivision. Mr. Denk noted that the legal descriptions and minor subdivision plat have been provided.

It was noted that the variance granted by the Board of Zoning Appeals was for the minimum lot area; the property is in an R-3B zoning district, minimum 2 acre requirement.

Referring to the Lot Split Concept drawing attached to the Board of Zoning Appeals documents, Mr. Blum stated that there are three existing homes (one on Parcel 1, one on Parcel 2 and one on Parcel 4); he questioned whether the existing home on Parcel 2 meets the side yard setback requirement from the proposed new property line, noting that setback dimensions are not shown and it is difficult to ascertain on the drawing provided.

Mr. Blum noted that the Minor Subdivision Plat submitted with the application does not show existing buildings, septic systems, or information relating to stormwater runoff. Mr. Courtney stated he does

not see an issue with water runoff, noting that the lots are fairly sizeable; he stated he would review any new homes for grading and drainage when they are proposed for the vacant lots.

Mrs. Bradac advised that she received a letter from the Lake County Health District approving the lot split, stating that based on the site evaluation review of the submitted soil work, the Health District determined that it appears feasible that the available space, topography and soil characteristics will support a home sewage treatment system designed and installed in accordance with the current state sewage treatment system rules.

Mrs. Bradac stated there are existing dwellings on three parcels, and those dwellings will stay. She stated that there are no existing dwellings on Parcel C and Parcel E, which are vacant lots. Mrs. Bradac advised that the septic systems for each of the existing dwellings are on the same lot as the dwelling.

With regard to lot area, Mr. Courtney advised that four lots are 1.87 acres and one lot is 1.48 acres, after deducting the right-of-way.

Chairman Denk opened the matter to public comment. There were no public comments or questions regarding the proposal.

In discussion, it was noted that the variance granted by the Board of Zoning Appeals addresses only the minimum lot area; setbacks of existing structures were not considered in the variance granted.

Mr. Blum questioned if Parcel 4 fronts on Hillcrest or on Billings. Mrs. Bradac stated that the front of the dwelling faces Billings. She noted there is a driveway on Billings and on Hillcrest. Mr. Blum inquired about the other existing structures on that parcel. Mr. Bradac stated there is an 1100 sq. ft. home, a detached garage, and a three-car storage building. It was noted there are also garages on Parcels 1 and 2.

Mr. Bradac stated that the home on Parcel A belongs to his father-in-law, the home on Parcel B is his, and the home on Parcel D is rented by his sister-in-law.

Referring to Section 1244.03, Mr. Lallo stated that the existing structures should be shown on the minor subdivision survey plat, along with the proposed setback lines. He noted that if an existing structure does not meet the minimum required setback, the applicant will have to apply for a variance for that issue.

Mr. Lallo advised that in order to determine whether the structures meet the minimum setback requirements, the applicant should submit a drawing that includes the existing structures and the setback lines. It was noted that the required side yard setback is 25 ft. for the R-3B zoning district.

Mr. Vinciguerra moved to table the proposed minor subdivision, with the second by Mr. Loconti. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Conserve First LLC – Proposed Installation of Roof-Mount Solar Panels at 10324 Longview Drive

Aaron Godwin of Conserve First LLC was present in this regard; property owner Matthew Whittaker was also present. Mr. Godwin stated that the modules will be installed on the existing garage roof and will not be visible from the street or the neighboring property; he noted the house and garage are in the middle of the lot. Answering Mr. Denk, Mr. Godwin stated there are no other solar panels currently located on this property.

Mr. Godwin stated that an electric vehicle charger is included, noting that most of the systems they install include those. He noted that the system feeds the house, and surplus energy goes back to the grid.

Answering Mr. Denk, Mr. Godwin stated there is a Federal tax credit of 26 percent of the cost of the project.

Responding to Mr. Denk, Mr. Courtney stated that he has no engineering concerns regarding the application.

Mr. Godwin advised that electrical and structural inspections will be handled by the Lake County Building Department.

Chairman Denk opened the meeting to public comment. There were no comments or questions from the public.

Mr. Denk stated that he would entertain a motion to approve the application for zoning permit for the proposed installation of the roof-mount solar panels at 10324 Longview Drive. Mr. DeMarco so moved, and Mr. Vinciguerra provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Mr. Godwin stated that Kirtland is the only community that requires a conditional use permit for installation of solar panels, and the \$300 fee is more than other communities charge for permits for solar panels. Noting that concern regarding the need for a conditional use permit for this purpose was recently mentioned to him, Mr. Lallo stated he would be happy to discuss this with Mr. Godwin.

Mr. Denk stated that he would entertain a motion to approve the conditional use permit for the solar equipment as an accessory use. Mr. DeMarco so moved, and Mr. Vinciguerra seconded. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Tom Christopher – Application for Conditional Use Permit for Proposed 13-Suite Inn at 9199 Chillicothe Road

Tom Christopher was present in this regard. Mr. Lallo stated this was discussed, but never fully addressed, at the initial meeting for the event barn; the envelope of this building was reviewed by the City Engineer at that time. Mr. Lallo noted that at that time, it was proposed as a business center, but there was no application at that time for that use. He noted that it is now being proposed as an inn, or hotel.

Using the screen sharing function of the Zoom platform, the Commission reviewed the drawings that were presented with the application. Mr. Christopher noted that the building will not be visible from Route 306 or the Dollar General parking lot, because of the mounded landscaping.

Mr. Blum inquired about the structures on the roof. Mr. Christopher advised they are lit cupolas. Mr. Lallo referred to Section 1275.11(d) relating to the height of other appurtenances. Discussion ensued. Mr. DeMarco noted that the cupolas add to the aesthetics of the building and break the scale of the roof length.

Mr. Christopher noted that the exterior stone on the inn will match the event barn. Answering Mr. Blum, Mr. Christopher stated that the original structure (carriage house/garage) was going to be 50 ft. x 80 ft. with a covered deck off the back; the footprint for the new structure is ostensibly the same. He stated it will be 60 ft. x 80 ft., with a 20 ft. porch off the back; so it will be 80 ft. x 80 ft.

Mr. Denk inquired about lighting. Mr. Christopher stated they will use low-emit lighting, noting that the only other lighting this building will have are coach lights on either side of the front doors, the side and the back. He stated the lit cupolas will be downlit, noting they are keeping lighting to a minimum.

Answering Mr. DeMarco, Mr. Courtney stated he does not see any issues with maximum lot coverage with the addition of the new building.

The Commission acknowledged receipt of two e-mails from Janet Jodlowski of 9150 Florence Road. The correspondence was read and entered into the record. Mr. Denk noted that a lot of the questions deal with signage. Mr. Courtney noted that signage on the road would be a local issue; a stop sign at the exit of the shopping center would be a private property issue.

Mr. Christopher stated the purchase of the back property included a narrowly defined ingress/egress pattern going eastward from Route 306 to the back property and a westerly pattern through the parking lot back to Route 306. Mr. Christopher stated the closing was delayed by three months because they entered into a lengthy negotiation based on the input of this neighbor, who is very concerned about having traffic on Alexander. Mr. Christopher noted that he spent an additional \$25,000 on the closing price to secure an expanded egress/regress footprint; the recorded easement provides for a complete unlimited egress/regress of all asphalt on the property. He stated this was done to try to minimize the amount of traffic that might use Alexander, and it was far broader than that which was approved by the Commission in October of 2019.

Eric Walter of Dworken & Bernstein (attorney for Mr. Christopher) stated the easement is recorded and allows ingress and egress. With regard to a stop sign at the parking lot exit onto Alexander, he stated the shopping center property owner would need to be contacted since it would be on their property.

Discussion ensued regarding signage on the public road. It was noted that the City cannot put up signage that would restrict certain users (other than truck restrictions). A question arose regarding the possibility of a gate at the parking lot exit to Alexander. Mr. Lallo stated it would be on private property, and would be at the desire of the property owner; the City cannot put up a gate to restrict

access on a public road. Mr. Courtney stated there is a “no outlet” sign on Alexander, just above the “no trucks” sign.

Mr. Denk inquired if there will be directional signs on the Tall Oaks property to direct the traffic flow to Route 306. Mr. Christopher stated that is their intention.

Mr. Loconti noted that venue proprietors often use temporary barrels to guide traffic egress after an event; he suggested temporary measures, such as sawhorse barricades, to deter traffic from exiting onto Alexander after the events.

Mr. Denk opened the meeting to public comment on the matter.

Torrey Mosley of 9131 Florence Road inquired about the proposed parking, and if there will be an additional parking area in the “bubble” noted on the site plan. Mr. Denk stated that it is a notation on the site plan indicating the number of parking spaces; there will not be any parking in that area.

Mr. Mosley inquired about plans for landscaping, noting that with the leaves off the trees, all he can see from his kitchen window is a big barn with white Tyvek on it. Mr. Christopher stated the original budget for landscaping was \$100,000; as they have gotten into their marketing cycle they decided to upgrade the landscaping, resulting in a \$300,000 budget for landscaping. Mr. Christopher noted that Mr. Torrey’s property is 15 acres, and his house is located 11.5 ft. from the property line, adjacent to a commercial property. Mr. Christopher stated he has done everything he can to mitigate the visual, audible and lighting disturbances to Mr. Torrey.

Mr. Torrey stated the elevation of his house is 25 to 30 ft. lower than the event center.

Nijah Long of 9131 Florence Road said that in October 2019 Mr. Christopher’s plan was to create a sound barrier with the trees. Understanding that trees had to be removed to build the venue, Ms. Long inquired whether there will still be a sound barrier. She acknowledged that their house is close to the property line, but she stated she is awakened every morning by construction work; her concern is that she will be awakened at 2:00 in the morning by drunk wedding guests. Mr. Denk stated there are noise ordinances in the City, noting that this was discussed when the wedding barn was proposed.

Mr. Christopher stated that the proposed inn is further south than the barn and will be further from their house.

Ms. Long inquired if there has been a change in the proposed hours of operation for the event venue. Mr. Lallo recommended that those concerns be addressed with the zoning office, noting that it is outside of the scope of this review.

Mr. Christopher stated that he has hired a general manager for the entire complex, and one of his many concerns is to make sure that it is not disruptive to residents of Kirtland.

Kevin Eilerman of 8066 Pinehurst Drive, and business owner at 9165 Chillicothe Road, stated that after reviewing the drawings, touring the facility for Tall Oaks and walking the property where the proposed suites are to be built, he offers his complete support of this project. He stated it will not only

fill a clear void in Kirtland services, it will add significant value to the downtown properties by providing lodging for visitors to the community. He stated that as a small business owner in Kirtland, having visitors to his office requires that they stay in Willoughby or Mentor, adding no value to Kirtland businesses; the proposed suites offer a Kirtland option with a country look and feel. Mr. Eilerman stated that he is in total support of Mr. Christopher's proposal and appreciates what he is trying to do for downtown Kirtland.

Ken Mitchell stated his wife, Karen, is with him (business address 9213 Chillicothe Road), along with Rick and Jeaninne Hozian of 9219 Chillicothe Road. Mr. Mitchell stated that the Hozian's have had their home for about 30 years, and the new event barn and hotel will be very close to their house. Mr. Mitchell requested that Mr. Christopher put a wall or fence along the length of the property, from the cliff to the parking lot. He stated they believe there is a probability that the party-goers will inevitably wander into the woods if there is not some type of barrier. Mr. Mitchell stated there is an old foundation at the rear of his property, along with an old man-hole, which could be a hazard for someone wandering onto the property. Mr. Mitchell stated that the front of the Hozian's house faces northward, noting that it is a dramatic difference now that it is fall.

Mr. Hozian added that it is very dark back there at night, and he wants to prevent any issues. Mrs. Hozian inquired how many people can be at the inn at one time, and she inquired if there will be restrictions on people outside.

Mr. Christopher stated that he agrees with the Hozian's and Mitchell's; and if approved, he will build a fence, compliant with the code, that runs the length of that property.

Janet Jodlowski of 9150 Florence Road suggested a gate at the exit arch, that would force traffic to the left to exit; it would be on the event barn property. Mrs. Jodlowski stated that to her knowledge, there is not a "no outlet" sign on Alexander or Florence. She stated the hours were never addressed, suggesting that Zoning should have some input into the hours. She inquired how many people can stay at the inn, and whether it will be limited to only people that are using the event barn. With regard to the landscaping, she stated there should still be sound barriers as provided in the original plans, along with visual relief to others. With regard to her concerns about traffic on Alexander, she stated a lot of her concern is for safety.

Doug Davidson of 10290 Chillicothe Road thanked the members of the Commission for their commitment of time and effort to the community. He encouraged the Commission to grant the conditional use permit; he referred to the improvement to the community that Mr. Christopher made with his other businesses in the City. Mr. Davidson stated that the wedding barn is a gorgeous facility, and he is sure the inn will be the same. He noted that the City could use the income tax and property tax, along with the bed tax for the new facility. He stated that he believes it will be beneficial for the City and the residents.

Mr. Denk stated that it would make sense to direct the traffic through the Dollar General parking lot and away from Alexander Road. Mr. Christopher stated he would welcome the opportunity to work with Mr. Lallo, noting that in addition to the signage on his own property, he will gladly pay for the temporary sawhorse barricades to channel the traffic, along with the cost of the manpower to put them

up and take them down. He requested that Mr. Lallo contact the shopping center property owner regarding permission to put these up.

Mr. Denk inquired about the planned use of the hotel when there is not a wedding party staying there. Mr. Christopher stated he has already received requests from the Community of Christ Church; they are in need of lodging facilities in Kirtland. Mr. Christopher said he advised that he would accommodate them during the week in the summer months, noting they believe it will be seasonal. He stated that appropriate security measures will be put in place. Mr. Christopher stated that on weekends, the inn will be exclusively for the wedding barn reservations.

Chairman Denk stated he would entertain a motion to approve the conditional use permit application for the Tall Oaks proposed inn at 9199 Chillicothe Road, as presented. Mr. Vinciguerra so moved, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Mr. Christopher stated they have 51 weddings booked, with another 4 contracts coming in this weekend, and they plan on opening in March. They have brides and grooms coming from as far away as Buffalo. He welcomed the Commission members to tour the facility.

TABLED REQUESTS

Andrew Loncar, Loncar Quality Construction – Application for Conditional Use Permit for Streambank Stabilization at 9199 Chillicothe Road

Mr. Vinciguerra moved to remove the matter from the table, with the second by Mr. Loconti. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Mr. Lallo stated that another application was filed on September 25, 2020 by Alison Frye of SME, the engineer for this project. Noting that the prior applicant was Andrew Loncar of Loncar Quality Construction, Mr. Lallo stated the application should be amended to incorporate the application filed on September 25, 2020 by Alison Frye, and to reflect the new applicant. Mr. Lallo stated that the plans submitted by Ms. Frye more adequately address the application for the slope stabilization.

Mr. Courtney stated he finished his initial review on October 12 and submitted comments to SME; they made revisions to the plans and resubmitted, and he issued his letter on November 3. Mr. Courtney noted this work within the riparian setback (streambank stabilization) is a conditional use. He stated the project also includes some temporary work within the City's Environmental Overlay District related to soil and geological conditions and forest cover, and they will be working within CEI's transmission easement. Mr. Courtney stated he is recommending approval with a couple conditions and one advisory note – the applicant will need written permission from First Energy to work within the easement. For the work within the Environmental Quality Overlay District, Mr. Courtney is recommending a condition that no trees over six inches in diameter be cut to construct the temporary access road. Since work will be occurring in the stream, another recommended condition is that the applicant will need to comply with all State and Federal regulations, pursuant to Section

1464.07. Mr. Courtney stated it is his recommendation that no work shall begin until proof of compliance with those regulations is provided to the City.

The Commission reviewed the submitted documents. Mr. Vinciguerra inquired if it is possible to construct the temporary access road without needing to remove any trees over 6 inches in diameter. Alison Frye of SME stated that based on their review of the site, they believe the alignment can go through and avoid cutting down any trees that are six inches or larger; if there was any tree within that alignment, they would adjust and document that.

Ms. Frye stated they completed slope stability analysis of this slope, noting that the erosion is a threat to the stability of that slope. She stated the importance of protecting the toe of the slope and cutting down on the erosion to protect the asset that Mr. Christopher is constructing.

Eric Walter of Dworken & Bernstein (attorney for Mr. Christopher) stated they have been working feverishly for quite a while, and Mr. Christopher has expended approximately \$65,000 to get to this point. He stated there is no liability to the City in his opinion. He stated they have submitted the NOI (Notice of Intent) to the Army Corps of Engineers; he does not know whether the EPA will get involved. Mr. Walter stated they do not know what the Army Corps is going to require; he noted they met condition (a). Referring to Kirtland Ordinance Section 1464.07(b) (c) and (d), Mr. Walter stated they cannot make an application to the EPA because they are waiting on the Army Corps.; he noted that the EPA is not even sending people out right now. He stated the need to avoid further delay, noting that the barn and carriage house are in jeopardy because of the slope. Mr. Walter stated they believe they have met all the technical requirements at this point, and he requested that the conditional use permit be granted tonight.

Ms. Frye stated they have submitted to the Army Corps and they are aware of the project; the EPA is also aware of the project, as an NOI has been submitted. She stated that based on the results of the 404 application they sent to the Army Corps, they can apply and discuss this further with the Ohio EPA. She stated that they have to have feedback from the 404 application before the EPA will review it.

Mr. Lallo stated that the referenced ordinance requires proof of compliance, and he explained what the City will need to receive from the applicant to satisfy that requirement. Mr. Lallo advised the Commission of the proper language for the conditions.

There were no public comments in this regard. Upon the advisement of the Law Director, Chairman Denk stated that he would entertain a motion to approve the conditional use permit, which shall be conditioned upon the submission of the applicant's proof of compliance with Kirtland Codified Ordinance 1464.07(b) through (d), which may include certification from the owner that compliance with those sub-sections may be unnecessary; and on the condition that tree clearing, if necessary to facilitate the construction of the temporary access roadway, is restricted to trees of 6-inch caliper or less. Mr. Vinciguerra so moved, and Mr. Blum provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

Mr. Christopher thanked the Commission and Law Director Lallo. He stated that Kirtland has an existential risk that has been discovered on the property, and they have had two independent engineering firms confirm that there is a significant power tower on his property that is eroding at a

rate that was never intended. He stated it is sitting in a stream that it was never intended to be sitting in and is now starting to list; he noted that the high-water mark of that stream is 6-1/2 feet, as evidenced by the erosion. Mr. Christopher stated that he wants to go on record of saying they are doing everything they can; they have attempted to communicate with First Energy and they would welcome the opportunity to work with the City regarding getting this situation fixed. He stated they have reason to believe First Energy is not inspecting it on a regular basis, and they are afraid it is going to fail, which could be catastrophic. Mr. Christopher stressed his concerns about the safety and security of that tower, noting that he previously contacted the Mayor's office about this concern.

Ms. Frye confirmed that based on visual observation, there is some significant erosion around those foundations, and it should be looked at further to see what needs to be done to implement any repairs.

Mayor Potter stated that the City received correspondence a few months ago from First Energy when this issue was first raised, and they contended that there is no safety concern with the power tower. Since it has been brought back up, the Mayor stated he will re-address this with First Energy to request further inspection on their equipment and the tower. Mayor Potter noted that the City took this concern seriously when it was first raised and addressed it immediately with the representative from First Energy; subsequent correspondence from First Energy assured the City that the power tower was safe.

Mr. Christopher reiterated his concerns about the safety of the tower, noting that 20 years ago it was not sitting in the stream. He noted that in the last 20 years, the stream took a hard left and engulfed that tower and is eroding it.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

WORK SESSION:

Communications and Bills

1. City Council Meeting Minutes – October 5, 2020 Work Session and Council Meeting; October 19, 2020 Work Session, Council Meeting and Finance Committee Meeting; and October 27, 2020 Finance Committee Meeting
2. Board of Zoning Appeals Notice of Decision – Appeal No. 20-12.
3. Board of Zoning Appeals Minutes of September 16, 2020.
4. Zoning Permits Report – October 1, 2020 to October 31, 2020.

Old Business

1. Sign Ordinance – No discussion at this time.

New Business

None.

Adjournment

There was no further business before the Commission, and Mr. DeMarco moved to adjourn. Mr. Vinciguerra provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 10:16 p.m.

CHAIRMAN

SECRETARY