

CITY OF KIRTLAND  
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING  
FEBRUARY 14, 2022

The meeting was called to order by Michael Denk at 7:00 p.m. Present were Commission members Richard Blum, Richard DeMarco, Michael Denk and Joseph Vinciguerra. Daniel Laux was absent.

Also present were Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney and Zoning Inspector Rick Loconti.

MINUTES OF THE JANUARY 10, 2022 MEETING

Mr. Blum moved to approve the minutes as presented, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

MINUTES OF THE JANUARY 19, 2022 COMBINED MEETING

Mr. DeMarco moved to approve the minutes as presented, with the second by Mr. Blum. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

PUBLIC SESSION:

PUBLIC REQUESTS

Phillip Gabriel – Proposed Minor Subdivision (Lot Split) at 7711 Euclid Chardon Road

Phillip Gabriel was present in this regard. Chairman Denk acknowledged receipt of a copy of a letter dated January 19, 2022 from the Lake County General Health District regarding feasibility for a home sewage treatment system and approving the dividing of the parcel with the condition that the newly created parcel west of 7711 Euclid Chardon Road shall be restricted to a maximum four-bedroom home.

Chairman Denk acknowledged receipt of a letter dated January 25, 2022 from City Engineer Douglas Courtney. He noted that the property is in the R-3A, single family residential, one-acre zoning district; and, if approved, will create one 2.086 acre lot and one 2.128 acre lot, which will comply with the R-3A district requirements related to lot size, width and frontage. Mr. Courtney had requested that the applicant provide dimension ties for all property corners along the Euclid Chardon Road centerline to the centerlines of Blueberry Hill Drive and Hobart Road. Mr. Courtney stated it was addressed in the revised plat.

Chairman Denk noted that the applicant provided a copy of a demolition permit for a garage. Mr. Gabriel said the garage will be removed once the lot split is approved. It was noted that the garage sits very close to the proposed new property line.

Mr. Denk inquired about the 96 ft. x 96 ft. new house footprint shown on the plan. Mr. Gabriel said the new house will fit within that footprint, but it will not be a 96 ft. x 96 ft. home. The existing residence will remain on the other lot, along with the garage and shed behind the house.

With regard to the existing garage that is proposed to be demolished, Mr. Lallo stated that if the application for lot split is approved, a condition should be included providing that it must be demolished before the lot split is filed with the County.

Chairman Denk opened the meeting to public comment.

Brianna Aldrich of 10521 Hobart Road stated that she speaks on behalf of her fellow neighbors and herself, noting that she has a list of property owners that are in opposition to this property being split. She stated she didn't choose to purchase her property as a business transaction; she didn't choose to have it in an area that has a lot of new construction. She said she chose her property because of the location and the land that surrounds it. She stated that currently the houses in this area were built in the 1950's and the average house is under 3000 square feet. She said that by allowing this property to be split, there will be new homes built and it will change the way Kirtland looks; it will change the natural aesthetics and beautification of the city and why she chose to live here. She stated that the proposal of 96 ft. x 96 ft. is a home of approximately 9,000 sq. ft. and it does not belong here. She stated anytime a house is built it changes the land and water distribution in that area, which will cause a problem for the neighboring property owners. She said that property slopes drastically from Route 6 toward the northwest corner of the lot, which will cause water collection, mud and a lot of other issues for the neighboring properties. She said the water runoff will also affect the Metroparks property.

Ms. Aldrich requested the City take into account their concerns of how the neighboring properties will be affected. She requested the City not allow the property to be split for more homes to be built with more water and land issues.

Answering Mr. Denk, Mr. Gabriel stated that he had plans for a proposed home of approximately 2500 sq. ft., with a three-car attached garage. Noting that the house may be on an angle, Mr. Gabriel said it would fit within the 96 ft. x 96 ft. footprint shown on the plan. Mr. Gabriel explained that for the Health Department's review for a septic system, he had to show an area on the plan where the house would be built.

Responding to Mr. Gabriel's inquiry about possibly constructing a 3,000 to 4,000 sq. ft. home, Mr. Courtney stated there is not a maximum square footage in the code, but the house must meet the setback requirements. Mr. Gabriel noted he is currently looking to split the property, but it might be a few years before a house is built. Mr. Denk stated that whenever a house is built, it would be best that it be built in the character of the neighborhood. Mr. Gabriel noted there are 3,000 to 5,000 sq. ft. homes across the street on Blueberry Hill.

Nicole Vitantonio of 10495 Hobart Road asked where the runoff water will go, noting that she already has an issue with water. She inquired how this could be approved when the square footage of the home is not yet known. She said she has a water problem as a result of the house that was built two doors away, and her ditch is eroding. She said the house was built on a swamp, and when it rains the water now goes to her ditch. She said the water will increase with construction of a new house.

Mr. Courtney stated that for a single-family residence, the impervious surface is not increased enough to warrant a detention pond or similar management feature; it is managed through other sources, such

as grading or swales. He stated a 3,000 or 4,000 sq. ft. house would not generate enough additional runoff to trigger the higher level restrictions in the code.

Mr. Denk inquired about the proposed 5 ft. drainage easement along the rear property line. Mr. Gabriel stated that Dan Sinclair of the Lake County Health Department said it was not required, but if there was a future problem with the septic system for the existing home, the easement would allow for an off-lot discharge system if needed. Mr. Gabriel noted that the septic system for the existing home is working well now.

Ms. Aldrich said she also spoke to Mr. Sinclair at the Health Department, and he indicated that the old septic system for the existing house would not pass code now. She noted that they could take down the old house and build a new house in its place, then there would be two new houses on that current lot. She stated that the house built at 10555 Hobart, on the other side of her property, created a lot of water problems for her, even though the house is less than 2500 sq. ft. She said they were allowed to take out the retention pond on the property and build a new house.

For clarification, it was noted that the Commission is considering only the lot split tonight, not the construction of a new house. Ms. Aldrich stated that if the lot split is approved, it would allow another house to be built.

With regard to the house built at 10555 Hobart Road, Ms. Aldrich said she spoke to the prior City Engineer and Zoning Inspector about the water problems, but nothing was ever done until the city finally fixed the swale, but it was a temporary fix. She said the force of the water is causing destruction. Ms. Vitantonio said her ditch has collapsed three times.

Ms. Aldrich inquired if the applicant is allowed to bring in dirt or remove dirt on the property. Mr. Courtney advised that the site plan for a new house will address grading, drainage and stormwater pollution prevention. He stated the grading plan will show how the site will drain after the house is built, noting that impact to adjacent properties is mitigated. He stated that stormwater pollution prevention addresses discharge of sediment off site during construction and makes sure the site is properly stabilized after construction. Mr. Courtney advised that a single-family residence is staff level review and does not come before the Planning and Zoning Commission.

Ms. Aldrich said they have already cut down some trees, and she inquired if they will be allowed to cut more trees. She stated that she was not allowed to cut trees on her property. It was noted that there are restrictions for cutting trees in a riparian setback or in an environmental overlay district. Mr. Lallo stated that he will look into this further. Mr. Gabriel stated that he has no plans to take trees down, other than a tree that may need to come down for the driveway.

Ms. Aldrich inquired if neighbors will be notified when plans are submitted to build on either property. Mr. Denk responded that the Planning and Zoning Commission would not be involved in the process, unless the riparian setback is involved, and the Board of Zoning Appeals would be involved in the process only if a variance was requested. He noted that neighboring residents would be notified only in those instances for a new residence. Mr. Denk noted that the proposed lot split meets the requirements for minimum acreage, width and frontage.

Mr. Lallo noted that an application for a new house will not come before the Planning and Zoning Commission if it meets all the requirements, but the neighboring residents can submit a records request for a copy of the plans once they have been submitted.

Mr. Courtney stated that he would be happy to speak with any of the residents regarding their drainage issues, but he noted those are separate issues from the proposed lot split.

Mr. Loconti stated there are checks and balances in the Zoning Department and the Engineering Department. He noted that an occupancy permit will not be issued until Mr. Courtney approves the final grading and drainage. Ms. Aldrich said she is glad there is new representation in the City, who will hopefully make sure things go more smoothly this time.

Ms. Vitantonio stated concerns about the ground settling after a period of time. Mr. Courtney stated that once the house is built and the grading is done in accordance with the approved plan, future settlement or erosion is a private property issue for the owner to address.

There was no further discussion on the matter, and Mr. DeMarco moved to approve the minor subdivision (lot split) at 7711 Euclid Chardon Road, with the condition that the existing garage on the proposed western parcel must be demolished and removed before the lot split is recorded. Mr. Vinciguerra provided the second. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

Mr. Lallo stated that the neighboring residents can email him or Mr. Courtney periodically to find out if any plans have been submitted for a new house, and if so, they can request a copy of the plans. Mr. Loconti added that the residents can come to the zoning office and ask to see a copy of the plans.

#### PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

#### WORK SESSION:

##### Communications and Bills

1. City Council Meeting Minutes – January 5, 2022 Work Session and Council Meeting; and January 19, 2022 Work Session and Council Meeting.
2. Board of Zoning Appeals Minutes of December 22, 2021.
3. Zoning Permits Report – January 1, 2022 to January 31, 2022.

##### Old Business

1. Alternative Energy Ordinance (No. 18-O-31) – No discussion at this time.

New Business

1. Review of Zoning Ordinances--Table of Contents – Mr. Denk noted that he distributed the table of contents for Part Twelve, Planning and Zoning Code. Mr. Lallo advised that the Charter requires a comprehensive review of the zoning ordinances every five years; therefore any ordinances that reference zoning are under the purview of that Charter requirement. Upon discussion, Mr. Denk suggested that the Commission members review Chapter 1282 Non-Conforming Uses; Chapter 1288 Off-Street Parking and Loading; and Chapter 1296 Outdoor Lighting for discussion at the next meeting.

Mr. Loconti initiated discussion regarding temporary signs in the right-of-way, such as sandwich boards. He noted there is a setback requirement for temporary signs; however, they can be placed closer to the right-of-way in the Historic District, with the Planning and Zoning Commission's permission. Mr. Loconti inquired whether the Commission may want to consider changing the language for the setback requirement, noting that very few signs meet the setback requirement in the ordinance because of the location of parking lots and buildings. Mr. Blum noted that signs may be a safety issue in the right-of-way. Discussion ensued regarding objects in the right-of-way. Mr. Lallo provided information regarding a Supreme Court case relating to this matter, noting that the law permits an object in the right-of-way as long as it is not affecting the regularly traveled portion of the road, essentially the paved portion. Mr. Lallo stated that the City can regulate objects that impair vision; he noted that there can be a height regulation for sandwich boards.

Mr. Loconti noted that several notices of violation are being sent with regard to temporary signs, sandwich boards, flag signs and pole signs. Discussion ensued in this regard.

Mr. Lallo advised that hopefully an application will be submitted for a conditional use permit within the riparian setback for Mr. Christopher's wedding barn property. He noted they are trying to relocate a stream on the property because it is eroding the cliffside. He noted they want to stabilize that streambank, but they are trying to straighten out the river and eliminate the oxbow. They have been working on this since at least June, when they submitted a letter to the Army Corps of Engineers asking for determination of whether a permit was required with them. The City learned of this in mid to late September. Mr. Courtney met with their engineer in late September and gave her a list of the City's ordinances that must be followed and the applications that are required with the City. The Army Corps of Engineers advised that for a temporary relocation, no permit from them is required, but advised it does not relieve them from getting permits or approvals from state and local entities, which includes the City. They filed an application in mid-December with the Ohio EPA, who also advised them they still need to get approval from the County and City. They reached out to the County, who also advised them they need to submit an application to the City. Mr. Lallo stated he advised Mr. Christopher's attorney in November that an application needs to be filed with the City, but no application has been filed to date. Mr. Lallo said he reached out to the attorney again on December 22 and on January 28, but he has not responded. The Ohio EPA is seeking public comments on that project at this time. Mr. Lallo is hopeful they will submit an application; and if so, it will be placed on the Commission's agenda. Otherwise, the City will have to take other action to make sure they file for proper permits before they begin digging.

Mr. Lallo advised that he believes they have reached an agreement with CEI for work within their transmission right-of-way.

Mr. Courtney advised that permits are needed for grading, for the riparian setback and for the flood plain. The Planning and Zoning Commission would need to address the grading and the riparian setback. Mr. Lallo advised that this is a separate project from the previous application for a conditional use permit for streambank stabilization. Discussion ensued.

#### Adjournment

There was no further business before the Commission, and Mr. DeMarco moved to adjourn. Mr. Blum provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 8:50 p.m.

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CHAIRMAN

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SECRETARY