

**CITY OF GROVE CITY, OHIO
PLANNING COMMISSION MINUTES**

REGULAR MEETING

February 24, 2009

The meeting was called to order at 1:30 p.m.

Chair Holt began the Meeting with a moment of silence and the Pledge of Allegiance. Roll was taken with the following members present: Ms. Sharon Reichard; Mr. Gary Leasure, Mr. Marv Holt; Mr. Mike Linder and Mr. Dan Havener. Others present: Kyle Rauch, Development and Planning Officer; Ryan Andrews, EMH&T; Jennifer Readler, SZD; Tami Kelly, Clerk of Council; Chuck Boso, Director of Development; Christy Zempter, Planning and Zoning Coordinator; Greg Grinch, City Council and Jennifer Uhrin, Secretary.

Chair Holt noted that a quorum was present. Chair Holt then noted there were no changes to the minutes for the February 10, 2009 regular meeting. The minutes were approved by unanimous consent.

Chair Holt noted the following changes to today's Agenda: *Item #2 3827 Broadway - Certificate of Appropriateness (Sign & Ext. Alterations)* has been withdrawn. Mr. Havener made a motion to accept the requested change; seconded by Mr. Leasure. The motion was unanimously approved.

**ITEM #1 3800 Broadway - Certificate of Appropriateness (Ext. Alterations) (Project ID# 200811210048)
3800 Broadway, Grove City, Ohio 43123**

Applicant: R. Kelly & Traci A. Hamilton, 3800 Broadway, Grove City, Ohio 43123

The applicants are requesting approval of previously completed parking lot improvements in the rear portion of their property located at 3800 Broadway. The improvements were completed in 2005 and involved extending the asphalt north and south to both side property lines and west to the rear of the primary structure. The parking area extension connected pavement from the applicants' parcel to the adjoining properties that similarly have asphalt pavement extending to side property lines.

This is the third COA request submitted by the applicant since 2006 (all others have been withdrawn) and is to address concerns about surface water drainage issues that have arisen since the extension of the paved parking area, as well as to insure compliance with applicable City Code requirements. It should be stated that the City has received a number of complaints from the adjoining property owners concerning storm-water runoff and staff have been working on bringing this property into compliance since the completion of the improvements four years ago. The Development Department is unable to support the submitted request.

Mr. Stephen Bowshier, Esq. 4030 Broadway, Grove City Ohio representing Mr. Kelly Hamilton spoke to this item. Mr. Hamilton joined the meeting and spoke to this item as well.

Mr. Bowshier distributed documentation and stated that it was not a matter of ignoring or circumventing the code. Their position is that they had permission from the previous inspector and zoning officer. As background, Mr. Bowshier stated that his client had purchased the property in 2003, but prior to the purchase he had met with Scott Schweitzer who was an inspector and building and zoning official with the City at that time. According to Mr. Bowshier, his client had spoken with Mr. Schweitzer about repairs to the house and possible construction of a new garage in the back. He also talked with Mr. Schweitzer about some emergency repairs such as a new roof and replacement siding. Mr. Hamilton applied for exterior changes to the structure and went before Planning Commission and City Council in 2003. Mr. Bowshier referred to Exhibit 1 and Exhibit 2 (distributed earlier) to demonstrate that his client was not ignoring the City or the City's codes and regulations, he was aware of the code and he had involved the City in the process, and was given approval for the exterior modifications at the time. During the construction process, his client came across some other issues. One issue being pooling areas in the backyard. At the time, Mr. Schweitzer came out to the property

and met with Mr. Hamilton. They discussed how the water was pooling and flooding into the basement. Mr. Schweitzer agreed that a gravel base could be laid in the area until enough money was saved for the installation of asphalt. Mr. Hamilton went over the plans with Mr. Schweitzer, they developed their plans as to how the parking lot could be extended. Mr. Bowshier stated the only evidence he has is this drawing (Exhibit 3). Mr. Bowshier further stated that neither he nor his client have any other documentation regarding the approval given by Mr. Schweitzer. According to Mr. Bowshier, his client was told by Mr. Schweitzer that he did not have to go through the formal application process and Mr. Schweitzer had previously given verbal approval for the new roof. There is no formal record of an approval for the new roof or siding and other improvements on the residence as these were all given verbal approval by Mr. Schweitzer under emergency repairs. Mr. Hamilton undertook the improvements with Mr. Schweitzer's verbal approval. Mr. Bowshier reiterated that the only evidence he can submit is the drawing from the time period involved and that during the period of construction in 2004/2005, his client was not fined, he was not cited and he was not stopped in the process because at the time the City was well aware of what was going on and had given approval. However, in 2005 when the pictures in question were taken, there were new inspectors, new zoning officials that were not part of that previous authorization. Also the issue is not construction without authority; the issue is drainage and what is going to be done with the drainage. The neighbors to the north have complained about drainage issues, his client has requested an easement to try and address the drainage issue. These neighbors are more reluctant because they had to invest \$25-30,000 for their parking improvement and they feel that Mr. Hamilton should have to as well. Mr. Bowshier noted that previously there was a mound between the properties and they would put that mound back if necessary. He indicated that this would cause the pooling issues in the rear of the property to happen again. Mr. Bowshier also noted that his client has not followed through with the recommendations of Staff due to the cost, which would be \$8,000 for just engineering and surveying fees, of which his client simply cannot afford. (Exhibit 5) Mr. Bowshier emphasized that his client has not ignored the City and he did not build it and then ask permission later. Mr. Bowshier stated that the case is, his client got permission, undertook the improvements and the question is now, how to deal with the drainage issue, which is really a neighbor to neighbor issue not a City issue.

Chair Holt stated that he does not recall ever seeing this come before Planning Commission. Mr. Bowshier agreed because his client had been given verbal permission. Mr. Hamilton had brought the pooling issues to Mr. Schweitzer's attention. At which point, he says Mr. Schweitzer told Mr. Hamilton that he could authorize it under an emergency repair type issue. Upon construction, an area of concrete was found under the dirt which was probably the cause of the pooling issues.

Ms. Readler interjected that there has been significant discussion by the applicant's attorney about possibly having some type of approval by the inspector and in the State of Ohio what he is essentially arguing is an estoppels argument, which means if you give an approval and you are stopped from arguing in the future that you can change your mind. Those concepts do not apply against municipalities in the State of Ohio. Therefore, there has been no concrete information in the evidence to verify things that have been heard so far. Ms. Readler further stated that even if the inspector had given approval, he would not have had the authority to do so, as these would have only been for dangerous types of emergency repairs. However, even if the inspector had given approval, the City is not bound by that if something in the future comes to light. If it was the wrong or inaccurate decision, that can be changed. Mr. Bowshier felt that Mr. Schweitzer had given approval to a dangerous situation, being the water pooling where mosquitoes and infestations could occur.

Mr. Rauch clarified that the property to the north had installed a catch basin when they installed their parking lot. Mr. Boso stated this was done so the water flow would not be increased on adjacent properties. Mr. Hamilton had not installed a catch basin per his plan.

ITEM #3

This item has been withdrawn with a fee waiver if resubmitted within 30 days.

**Southwest Chiropractic Offices – Development Plan
Hoover Road, Grove City, Ohio 43123**

(Project ID 200811180046)

Applicant: Jonathan Barnes Architecture & Design, 153 E. Main Street, Columbus, Ohio 43215

The applicant is proposing to construct a 3,000 square foot medical office building on 0.459 acres located on Hoover Road north of Southwest Boulevard. The property is zoned Professional Services (PSO) and was granted variances to setbacks in 1998 of 6' to the south and 14' to the north with no parking allowable in the northern setback area. However, additional variances will be required for the proposed improvements that will extend beyond the property limits on the south side, as well as for the side yard parking setbacks and related landscaping requirements. The applicant has an easement agreement from 2001 with the affected property owner (The Village of Hunter's Crossing Condominium Association. The Development Department is recommending a deviation from 20 parking spaces to 14 parking spaces, similar to the deviation approved for Southwest Eyecare. Also, the lighting fixtures will match those used in the Kroger's parking lot.

Mr. Jonathan Barnes, Mr. Nate Wendling and Dr. Christopher Love were present and spoke to this item.

Chair Holt noted the following stipulations:

1. All applicable plan sheets shall be revised to reflect the reduced curb radius. Such radius shall not exceed 20'.
2. Applicant shall obtain a variance to Section 1136.06(b) for the proposed parking lot improvements.
3. Sheet A.1 shall be revised to incorporate a fourth general note stating that all trees will be a minimum 2" caliper at time of installation.
4. Sheets C-3, 4 and 5 and the provided lighting plan shall be revised to reflect the correct locations and lighting levels.
5. The dumpster enclosure shall be finished on all sides (except gate) with materials matching the primary structure.
6. All striping shall be white.

Mr. Barnes stated that they agreed to comply with the six stipulations and have adjusted their plans accordingly.

Mr. Havener questioned the location of the dumpster enclosure, he felt the radius may be too tight for a trash truck. Dr. Love clarified that he does not generate enough trash to warrant a dumpster. So although there is a dumpster enclosure as required by code, there is only a trash can located within the enclosure.

Chair Holt asked for feedback regarding the proposed landscaping. Mr. Rauch stated that he had spoken with the Urban Forester, Jodee Lowe and the submitted landscape plan meets code and was acceptable to her. Mr. Andrews stated they were working with the applicant on storm-water calculations, but this should not hold up the process.

Chair Holt noted that the Planning Commission would be supportive of a deviation in the parking requirement from 20 spaces to 14 spaces.

Mr. Havener made a motion that the Southwest Chiropractic Offices – Development Plan dated February 12, 2009 be recommended for approval to City Council with the stipulations as noted by the

Chair and including the Planning Commission's support of the parking deviation from 20 spaces to 14 spaces; seconded by Mr. Leasure. The motion was unanimously approved.

ITEM #4 Bleeding Ink, LLC. – Method of Zoning Change (Use Approval) (Project ID# 200812150050)
3697 Garden Court, Grove City, Ohio 43123

Applicant: Ryan Bolin, 3298 Farmbrook Drive, Grove City, Ohio 43123

The applicant is seeking a "use approval" for a tattoo parlor within an existing commercial/service center. The center is in close proximity to the intersection of Stringtown Road and Parkmead Drive. According to submitted materials, the business has been registered with the Secretary of State; the applicant holds a vendor's license; and each employee is professionally trained, certified, and accredited. Mr. Rauch stated that because this use was not expressly permitted in our Zoning Code, Planning Commission and City Council would need to review this request. The Development Department recommends that Planning Commission disapprove this application.

Mr. Ryan Bolin was present and spoke to this item. Mr. Bolin stated that he owns another business in the community, BioGuard Environmental Services, which is a water damage restoration business. He further stated that he and his family have been members of this community since 1960 and his father taught at Grove City High School for 35 years and was Business Manager for the district. He didn't want people to think they were outsiders coming in to open up a business without knowing and being a part of the community. Mr. Bolin stated he was a member of the Chamber and the Better Business Bureau and feels that they would be bringing income and taxes into the community.

Chair Holt clarified that Mr. Bolin was not the artist, but just the owner. Mr. Bolin agreed. Mr. Havener requested clarification as to whether the code would be changed with this request. Mr. Boso stated that City Council has the option of amending the code to allow this type of use as a stipulation, for example, in a C-2 zoning or they could simply approve the use of this specific request. Mr. Havener questioned whether the recommendation of disapproval by the Development Department was based on what is allowed per the code right now. Mr. Boso stated that was correct. Mr. Rauch stated that Mr. Bolin would need an approval from City Council in order to operate his business.

Chair Holt noted that there is another tattoo parlor currently located on Old Stringtown that also needs to go through this same process. Mr. Bolin clarified that he is not and does not want to be associated in any way with that business. Mr. Bolin feels that he has followed the proper steps in order to obtain approval to operate his business. Ms. Reichard questioned the number of tattoo parlors located in the City. Mr. Boso responded that there were three, the one located on Old Stringtown, Mr. Bolin's on Garden Court and another which applies permanent make-up that is located within a beauty shop. Ms. Zempter indicated that the tattoo parlor located on Old Stringtown has been cited and they would be appealing the citation.

Chair Holt distributed pictures of other tattoo parlors that are located in other communities such as Dublin, Gahanna, Westerville and Hilliard, which all have a permissive tattoo use in their code, but we can deviate from our code and go to Council. Dublin's and possibly Westerville's tattoo parlors are located within their historic districts.

Ms. Reichard stated that body art is out there and there are a lot of people out there seeking it, but she questioned the Development Department's recommendation of disapproval. Mr. Rauch reiterated that it is simply not an approved use per our Code.

Chair Holt stated that if this application gets passed through Planning Commission and Council, it would be setting a precedent. Ms. Reichard stated that future tattoo businesses would also have to go through the same application process.

Mr. Havener made a motion that the Bleeding Ink, LLC – Method of Zoning Change (Use Approval) be recommended for approval to City Council as submitted; seconded by Mr. Leasure. Chairman Holt voted no and clarified that his “no” vote was based solely on the lack of Code to permit it. Chairman Holt further stated that if Council wants to permit tattoo parlors, they should amend the Code to reflect that request. All others voted yes, therefore the motion was approved by the majority.

ITEM #5 First Baptist Church – Method of Zoning Change Project ID# 200901270005
2706 Kingston & 2707 Kenny Lane, Grove City, Ohio 43123

Applicant: Larry Knoll, RE/Max Elite Services, 2-76 Stringtown Rd, Grove City, Ohio 43123

The applicant is proposing to rezone two properties located at 2706 Kingston and 2707 Kenny Lane to R-2 (residential). Parcels to the north, south, and east are currently zoned R-2 (Single Family Residence). The parcel to the west, First Baptist Church, is zoned SD-1 (Religious Organization). The properties to be rezoned (040-002288-00 and 040-002286-00) have a combined acreage of approximately 0.340 acres and are currently zoned SD-1 (Religious Organization).

Mr. David Berna was present and spoke to this item. Mr. Berna explained that the First Baptist Church requested the original rezoning in order to use the houses for classroom space as they are located adjacent to the Church. However, First Baptist is building a new church at 3301 Orders Road and will no longer need to use them and wants to sell them for residential use. The daycare, Kings Kids will expand to use the entire facility located on Kingston Avenue.

Chair Holt noted that there were no stipulations associated with this application. Ms. Kelly requested clarification as to the requested zoning. Mr. Rauch stated that they are requesting that the rezoning be to R-2 Single Family Residential.

Mr. Havener made a motion that the First Baptist Church – Method of Zoning Change to R-2 Single Family Residential be recommended for approval to City Council as submitted; seconded by Mr. Linder. The motion was unanimously approved.

ITEM #6 Lumberyard Redevelopment – Preliminary Development Plan (Project ID# 200901210004)
Property West of City Hall

Applicant: Mo Dioun, Stonehenge Company, 147 N. High Street, Gahanna, Ohio 43230

The applicant is requesting approval of a preliminary development for a mixed use development to be located on the former Lumber Yard site, west of the City Hall. The development is to include a mixture of uses with three outdoor eating areas, public plaza space and public parking garage. The multi-level garage is to be accessed from Park Street and Grove City Road and able to accommodate approximately 250 cars. An additional 40 spaces are to be provided on street along with two curb-side drop offs, one on Park Street and the other on Grove City Road.

Mr. Gerry Bird , Mr. Mo Dioun and Mr. Terry Andrews were present and spoke to this item.

Chair Holt clarified that this is a Preliminary Development plan which means it is a conceptual plan for review. This will enable the Planning Commission to make comments and it will then go forward to City Council, who may also request changes prior to the Final Development Plan being submitted.

Mr. Bird gave an overview of the project itself stating that a final development plan for just the garage will be filed on March 9th. He stated that they are meeting weekly regarding this project and are still working out details. At this point, Grove City Road will most likely be left with its current alignment. Mr. Leasure requested clarification on the parking availability on Park Street and Grove City Road. Mr. Bird stated there would be two drop-off locations for either valet parking or just dropping-off, but other than angle parking on Park Street, the parking itself would remain basically the same for both Grove City Road and Park Street.

Chair Holt requested information on the façade on the parking garage. Mr. Bird stated that the majority of the façade would be blocked by the buildings. Mr. Dioun interjected that different designs have been discussed for the parts of the garage that would be visible.

Mr. Bird further stated that the first two floors of the garage would be accessible to the building under covered walkways, but the third floor of the garage would not be accessible to the building to maintain security and control. There will also be an elevator.

Chair Holt questioned if the parking garage was going to be pay or free. Ms. Reichard clarified that it would free.

Mr. Havener made a motion that the Lumberyard Redevelopment – Preliminary Development Plan be recommended for approval to City Council including the memo of February 13, 2009 from City Administration and the comments from Commission members; seconded by Mr. Leasure. The motion was unanimously approved.

Ms. Kelly noted that this item was not a PUD and therefore did not have to appear before Council unless requested. Planning Commission and the applicant would like to formalize this before Council.

Having no further business, Chair Holt adjourned the meeting at 3:20 pm.

Jennifer Uhrin, Secretary

Marv Holt, Chair