

MINUTES
Planning and Zoning Commission & Architectural Board of Review
City of Willoughby Hills, Ohio

April 21, 2016

CALL TO ORDER 7:00 P.M

PRESENT: Vice Chairman John Lillich, Mayor Robert Weger, Christopher Hallum,
Joseph Zawatski (arrived 7:03), Jonathan Irvine and Michael Tyler

ALSO PRESENT: Building Commissioner Fred Wyss, BZA Rep Frank Cihula,
City Engineer, Pietro DiFranco, John Klements and Clerk Katherine Lloyd

MOTION: Michael Tyler moved to approve the absence of Christopher Smith
Seconded by Christopher Hallum
Roll call: Ayes Unanimous
Motion passes: 5/0

Correspondence:

- Email dated 3/17/16 from Asst. City Engineer Kevin Trepol RE: Review of New House at 2532 Maple Hill with attachments
- Email dated 3/29/16 from Asst. City Engineer Kevin Trepol RE: Review of New House at 2461 Maple Hill Drive with attachments.
- Email dated 3/29/16 from City Engineer Pietro DiFranco RE: Review of Protected Area Permit at 2275 River Rd with attachments.

Disposition of Minutes Meeting of March 17, 2016

MOTION: Michael Tyler moved to approve the March 17, 2016 as presented.
Seconded by Mayor Weger
Roll call: 4 Ayes and 1 Abstention (Jonathan Irvine)
Motion passes

Joseph Zawatski arrived at 7:03 PM.

ARCHITECTURAL BOARD OF REVIEW

Public Portion opened at 7:02 P.M.

None

Public Portion closed at 7:02 P.M.

1.) Ed and Gabriella Chessman
Contractor: ProBuilt Homes

2532 Maple Hill Dr. – New Single Family Home - PPN 31-A-012-H-00-014-0

Plans stamped received in Building Department 3/8/16

Plans stamped reviewed by Building Department 3/10/16

Plans stamped reviewed by City Engineer 3/17/16

Present: Ed and Gabriella Chessman (owners) and Kirk Brown (ProBuilt Homes)

Owner/Representative Comments:

We are building a 2688 sq. ft. ranch home with storm gray siding, black shutters and Prestige stone. Shingles are charcoal gray. All of the trim will be white. Windows are white with white aluminum wrap.

City Engineer's Comments (DiFranco):

All engineering comments have been addressed.

Board Comments

(Lillich) The drawings reflect everything we usually look for. It will be an attractive addition to the community.

(Tyler) It looks well done.

MOTION: Michael Tyler moved to approve the New Single Family Home at 2532 Maple Hill Dr. as presented
Seconded by Jonathan Irvine.
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

2.) David Kallow and Maureen Sweeney

Contractor: Signature Pools

2779 Rockefeller Road – In Ground Pool - PPN 31-A-006-R-00-004-0

Plans received in Building Department 3/17/16

Plans reviewed by Building Department 4/1/16

Present: Sam Trevarca

Owner/Representative Comments:

- Pool will be located right off the walk-out basement in lower part of property. Perimeter of the pool will be completely fenced with black aluminum fence and a self-locking gate. Pool equipment will be located below the pool due to ground elevation. It will be screened with landscaping.

City Engineer's Comments (DiFranco):

The pool is shown over the house sanitary sewer on the plans. Are you planning to relocate the sewer?
No, we will 'slide' the pool over toward the middle of the property.

Board Comments

None

MOTION: Joseph Zawatski moved to approve the In Ground Pool at 2779 Rockefeller Road as presented with the stipulation that the pool be moved so it is not over the sewer system as discussed.
Seconded by Mayor Weger
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

3.) Clover Communities Willoughby Hills

Contractor: Rosewood Signs, Inc.

35100 Chardon Rd. – Double Sided Non-Illuminated Sign - PPN 31-A-004-0-00-025-0

Plans received in Building Department 3/21/16

Plans reviewed by Building Department 4/1/16

Present: Jeff Michalek, Project Manager for Clover Communities

Owner/Representative Comments:

Map was submitted. There is currently a temporary sign.

(Wyss) The permanent sign will be on the other side of the road. Location was staked several months ago. Clover's property goes all the way to Chardon Road in that section.

City Engineer's Comments (DiFranco):

None

Board Comments

(Lillich) It is an attractive sign which fits the community.

MOTION: Michael Tyler moved to approve the Double Sided Non-Illuminated Sign at 35100 Chardon Rd. as presented.
Seconded by Joseph Zawatski
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

4.) Chris Adams

Contractor: Owner

2388 Rivers Edge Dr. – Small Addition & Pool House - PPN 31-A-017-C-00-003-0

Plans stamped received in Building Department 3/28/16

Plans stamped reviewed by Building Department 4/1/16

Present: Heather Adams

Owner/Representative Comments:

We have an existing pool. The pool house will be used to store chemicals and provide shade. The garage will be bumped out a little bit to add more room.

City Engineer's Comments (DiFranco):

None

Board Comments

(Lillich) The plans show a change in the angle of the house and pool house marked in red.

(Wyss) That was a change that happened in the course of the 'build'.

(Lillich) Will the siding and shingles match? *Yes, they will match.* On the back with the bump out for the pool house, is that an overhead garage door? *Yes, it is a garage door on the back.* It is an attractive garage door.

(Wyss) The pool plan was included. No grading will be changed.

(Tyler) Well thought out and nicely planned.

MOTION: Michael Tyler moved to approve the Small Addition & Pool House at 2388 Rivers Edge Dr. as presented.

Seconded by Joseph Jonathan Irvine
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

5.) Joe Grear

Contractor: Joe Grear

2461 Maple Hill Dr. – New Home - PPN 31-A-012-H-00-001-0

Plans stamped received in Building Department 3/31/16

Plans stamped reviewed by Building Department 4/1/16

Plans stamped reviewed by City Engineer 3/29/16

Present: Joe Grear

Owner/Representative Comments:

I am building a new farmhouse style home for my family. Color samples shown. There will be a lot of white accents. The brick above grade is stone.

City Engineer's Comments (DiFranco):

None

Board Comments

(Lillich) It is the policy of the Board to ask you to trim out the windows. *There will be a 3-inch trim around the windows.* You could trim out the grouped windows as one unit. *I agree.* We also ask that you wrap the stone 18-24 inches around the corners. *It is on the plans.*

MOTION: Joe Zawatski moved to approve the New Home at 2461 Maple Hill Dr.
Seconded by Chris Hallum
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

PLANNING COMMISSION

Public Portion opened at 7:26 P.M.

None

Public Portion closed at 7:26 P.M.

1.) Thomas Ruple

36100 Chardon Rd. - Preliminary Review: Equestrian Training Facility – PPN: 31-A-011-A-02-014-0

Plans stamped received in Building Department 4/15/16

Plans reviewed by Building Department 4/18/16

Present: Sharon Stewart and Thomas Ruple

Owner/Representative Comments:

- This was formerly the Blakeslee dairy farm. Picture boards showed with the historical buildings and what has been done with the property since they purchased it in 2013. Barn has been renovated with 4 stalls. We would like to use the 4 pastures near the barn.
- Currently we need fencing to get her horse on the property. We hope to have a 4-rail, 'no-climb' fences.
- In the future, we would like to make it into an equestrian facility with an indoor riding arena with stalls.

(Lillich) Fence is a good idea. Your neighbor to the east had a black bear in the front yard.

Building Commissioner's Comments (Wyss):

- They have discussed this proposal since they took over the property. There is no such use in the Code for an equestrian training facility. They are seeking Similar Use approval of something that is approved in the R-1 District. Keeping of horses is in the Building Code. This is a 21 acre property. Similar Use approval is similar to Conditional Use Review. There are two meetings. This is the Preliminary Review to consider this use. Notice of an official Hearing for 5/5/16 meeting has already been sent.
- My memo outlines the fact that a training facility is similar to a school. The fencing shown are similar to what is in the Code. They must be 5 feet off the property lines. I suggest that the front fences be the same 5 feet off the ROW. Typically the front yard area has a 42-inch high fence. Because this new use is unique, the requested fence could be approved as an Equivalency in this particular situation.

(Lillich) The mailing was sent out. Notice of the 5/5/16 Hearing will be published in the News-Herald tomorrow.

City Engineer's Comments (DiFranco):

None

Board Comments

(Lillich) It is great that they have renovated and restored some of the historic buildings in the City.

(Zawatski) I think it is an exciting project.

(Cihula) Will you teach dressage? *My trainer is a hunter/jumper. Dressage is a possibility if they want. You will teach horses and people? Yes, we will train both.*

(Lillich) Do you expect to put a dressage ring in? *There will be an outdoor arena. We will have people who jump, do dressage or go train riding.*

MOTION: Michael Tyler moved to give Preliminary approval of the Equestrian Training Facility at 36100 Chardon Rd. as a Similar Use.
Seconded by Mayor Weger
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

2.) August and Loretta Babuder, Trustees

2275 River Road - Protected Area Permit – PPN: 31-A-016-C-00-009-0

Plans received in Building Department 2/25/16

Plans reviewed by Building Department 2/25/16

Plans reviewed by City Engineer 3/29/16

Present: August Babuder

(Lillich) This is a review of Protected Areas. We will not vote on anything tonight. We will look at what has transpired and where we are headed.

City Engineer's Comments (DiFranco):

-- Mr. Babuder had trees cut down by a logging company. He was not aware of the Protective Area Permit procedure. After the fact, we are trying to get him into conformance.

-- I met at the site with the Building Commissioner and representatives from the Chagrin River Watershed Partners and Lake County Soil & Water Conservation District. Based on their assessments, the City Engineer recommends

- Waiver of the remaining additional requirements listed in 1167.05. The Code has several requirements such as a vicinity map, property line map topo map, etc., and

- Recommend approval of a Protected Area Permit contingent upon the following: Comply with Lake County Soil & Water District recommendations dated 3/1/16 summarized as follows.
 - 1.) Install and maintain a 50' filter strip along the river, any tributaries and any wetlands;
 - 2.) Install water bars on the skid rows at approximately 250' spacing;
 - 3.) Restore any stream crossings that the loggers made;
 - 4.) Remove any slash or tree tops greater than 6-inch diameter from the channel, all banks or wetlands;
 - 5.) Seed and mulch all disturbed areas;
 - 6.) Follow good housekeeping practices like removing any debris that the loggers may have left, etc.
 - 7.) Reforest what was cut down by planting at least one new tree for every tree that was removed from an approved species list;
 - 8.) Submit Protected Area fee and deposit in accordance with 1167; and
 - 9.) Allow the City to perform a follow up inspection in the spring to make sure everything has been addressed.

Building Commissioner's Comments (Wyss):

- Mr. Babuder has paid the filing fee, your appearance fee and the deposit for the Engineer which should cover his time to date. Once a permit is approved, there is a fee of \$75.00. He has been notified of that fee in writing.
- To date, the project has been placed on a Stop Work order.
- The logger and his trucking company have cooperated with the Law Director and the Building Department. He was allowed to collect the log pile he had already trucked to the upper area because he had already paid Mr. Babuder for them. There are still some logs in the floodplain. The logger was told that he could not retrieve them until the Planning Commission issued a permit
- At this point, the project has been on hold.
- We have not entered Mt. Babuder's property at his request. He asked me to leave. The only inspections of the property have been from the neighboring property.
- Mr. Lobe would like us to be able to enter property and view the current conditions prior to any clean-up. I would ask Chad Edgar from Soil & Water to accompany me. I have been in contact with Aaron Kash from the Forestry Service. This property is not under the Forestry Management program at this time. He is will to accompany us if requested.
- After the clean-up, we would come back to ensure what of these conditions needed to be done.
- Chad Edgar would make a report prior to the clean-up and after the clean-up as well.

Owner/Representative Comments (Babuder):

I apologize for not knowing that I needed a permit. The first call that Mr. Wyss made to me was in mid-February 2016 because a neighbor had called him about some of her trees being marked. The logger marked trees on my property with a red dot. He marked some trees across the line so they would not be cut. I sold standing timber. I was paid for it already but I said they had to be logged in the winter, late fall or early spring so the trees would not have their leaves. They started to log about February 15, 2016. I was not aware that I needed a permit.

(Lillich) We are concerned about the remediation and restoration process.

-- I would like to have a list of the items that Mr. DiFranco gave and the number of trees, the type of trees, etc. That was not said before. I know what type of trees to plant and I intend to do so. It is already almost too late to do that. By the time I order the trees and plant them, it may be impossible to do it this spring. It may have to wait until next fall.

-- Regarding the fee for the permit, immediately as I was told by Mr. Mayor to get the permit, I think it was the 18th of February, I paid \$100.00 to Diana. I have the receipt. There was another fee of \$50.00 that he could waive. He can correct me if that is not correct.

-- Regarding me asking Mr. Wyss to leave, it was the day he came to tell me that he had a complaint from my neighbor. It 'boils' right here instantly. I cut him off. I said that we have courts if the neighbor is complaining about anything. I said we would take care of it in court. I asked Mr. Wyss to leave, otherwise I would call the police.

-- Regarding the inspection, if you bring qualified people who are authorized and know the business of logging, erosion, etc. and of course people from Willoughby Hills. The list from Mr. DiFranco does not apply at all. The land does not drain the way everyone thinks it does. I paid the fees and I expect to receive the permit today. This is very disturbing to me and my family. My daughter just graduated from college; I still have bills to pay.

-- I learned an old American saying, 'what goes around, come around'. So God help us.

City Attorney's Comments (Lobe):

-- At the last Council meeting, Mr. Babuder told me 'what goes around, comes around'. That is troubling. My main job has not to prosecute residents; my job is to get things to this Board. We have great people. The neighbors are concerned that we have not gone 'criminal' on this. Chapter 1167 does permit criminal actions.

-- There are certain facts that I want to bring to this Board for your ultimate consideration.

- 1.) Mr. Babuder is asking for forgiveness not permission. That is the first violation.
- 2.) He used contractors failed to register with the City.
- 3.) The amount of trees that were cut. I and Mr. Wyss talked directly with the contractor- after he registered, after we had to put him on a stop work order. The neighbors had to call the police because the contractor continued to violate the stop work order. There were 50-80 trees cut. We have a video of the trees as they were trimmed out. The logger stated that a minimum of 50 trees were cut in the flood way. I defer the experts with regard to flood ways.
- 4.) This is not a working farm pursuant to any State authority. If you want to become an agricultural district, the law requires that you go under Chapter 929. Even if it were a working farm, there are still the Flood Plain regulations. Trust in our Engineer and our Building Department.
- 5.) Mr. Babuder made \$16,000. We have a copy of the contract from the contractor.
- 6.) The Board needs to set a good precedent in this case. Other matters from down the Chagrin River have come to our attention where the bridge was constructed. Some other property owners have inquired about City liability. We have none. We did not construct the bridge or the flood way. This is a sensitive matter. We have a rule and regulation.

Board Comments

(Lillich) I have worked a long time for the conservation of the Chagrin river valley. We got some sensitive areas ordinance to protect the Riparian corridor, the wetlands, and steep slopes. I want to make sure this does not happen anymore. It is a tremendous asset to property owners, the City and this community. The National Audubon Society has a world-wide program for areas that birds need for migration, feeding and nesting. The Chagrin Valley Corridor has been designated as an important area. The whole Chagrin corridor is what is left for wildlife. It is important to the image and property values of this community.

(Zawatski) I was raised in the city. Let me ask you (Babuder) a question, were you ever in sales? 28 years. I look at a number of the items raised by Mr. Lobe. I need much more information before making a decision in this situation and how to prevent this from happening again. I really have an issue sending a city official off your property. I question the marking of the trees.

(Irvine) I agree with both of you. There is not enough information about the project. We are reviewing this in hindsight. Decision was already made without our ability to have input. There is potential for reoccurrence.

(Lillich) I want to walk the property. Pictures do not tell the story. I need a field trip. *Agreement from Board.* We should set a date and time to do this.

(Cihula) There should be no more than 3 Board members at a time so it is not a Board meeting.

(Wyss) Right now they are on a stop work order to go down into the floodplain until a permit is granted. The longer the Board delays the permit, no reclamation or restoration. There is risk that all the brush and debris could go into the river if there is a flooding event. The floodplain down there is very complex due to the topography. We do not know where the brush. We need Mr. Babuder to agree to a pre-inspection by Soil & Water, Aaron Kash and the Building Commissioner. We could continue the permit review process if Mr. Babuder allows inspection by Soil & Water, Kash and myself. I could accompany Board Members

(Lillich) Can we give limited permit to allow reclamation to get started? *(Wyss) The Code is open to whatever conditions you place upon it.*

(Babuder) I have no problem with a site visit of qualified people who know timbering, erosion, the type of soil. The Board can make site visits. We can arrange it through the Mayor's office.

(Wyss) We could vote to continue this at the next meeting with conditions that we have access to the property. Soil & Water and Forestry have their own standards that should be included in the conditions.

MOTION: Michael Tyler moved to continue review for the Protected Area Permit at 2275 River Road at the next meeting on May 5, 2016 pending ability to make a site visits by Soil & Water, Forestry, the Building Commission and the Board. Soil & Water and Forestry can make a report to the Planning Commission before the next meeting.
Seconded by Jonathan Irvine
Voice Vote: Ayes Unanimous
Motion Passes: 6/0

(Lillich) The Mayor's will contact you to schedule the visits.

(Babuder) When can I get a permit?

(Lillich) After we make the site visit. The next meeting would be the earliest. *I appreciate it.*

(Babuder) I believe the Mayor said there was a fee that could be waived.

(Wyss) You paid \$100 which is the typical Planning Commission and in house review fee. Last week we gave you another copy of what you signed. The fees are all listed.

(Lillich) If there is a question about fees, talk with the Mayor and the Building Commissioner.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

MAYOR'S REPORT

None

COUNCIL REPRESENTATIVE'S REPORT (Hallum)

None

BUILDING COMMISSIONER'S REPORT

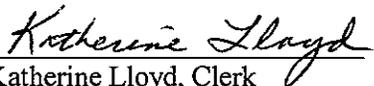
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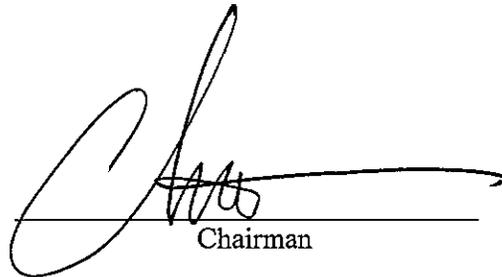
CHAIRMAN'S REPORT

None

MOTION: Joseph Zawatski moved to adjourn
Seconded by Michael Tyler
Voice Vote: Ayes Unanimous
Motion Passes 6/0

Meeting Adjourned at 8:44 P.M.


Katherine Lloyd, Clerk


Chairman

Date Approved 5.5.2016