

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

**March 3, 2016**

**CALL TO ORDER 7:05 P.M**

**PRESENT:** Chairman Christopher Smith, Vice Chairman John Lillich, Mayor Robert Weger  
Christopher Hallum, Joseph Zawatski, Jonathon Irvine and Michael Tyler

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

**Correspondence:**

Email dated 2/18/16 from City Engineer Pietro DiFranco RE: Approval of a Protected Area Permit and the Site Plan, for construction of a new house at 2926 Lynn Dr.

**Disposition of Minutes: Meeting of February 4, 2016**

Correction to page 2, last sentence, "The house is in the 15-foot setback."

**MOTION:** Michael Tyler moved to approve the Minutes of February 4, 2016 as corrected.  
Seconded by John Lillich  
Roll call: Ayes Unanimous  
**Motion passes: 6 Ayes and 1 Abstention (Zawatski)**

**PLANNING COMMISSION**

**Public Portion opened at 7:07 P.M.**

No Public input

**Public Portion closed at 7:07 P.M.**

1.) Joseph Udovic

Contractor: ProBuilt Homes

**2926 Lynn Drive – Protected Area Review - PPN 31-A-007-F-00-015-0**

Plans stamped received in Building Department 2/5/16

Plans stamped reviewed by Building Department 2/19/16

Present: Joseph Udovic and Chris Brown (ProBuilt Homes)

**City Engineer's Comments (DiFranco):**

We reviewed the plans and recommend a waiver of the remaining additional requirements listed in the Protected Area Code and recommend approval of the Protected Area Permit per 1167.08 for the following reasons:

- The lot is made otherwise unbuildable by the regulations of 1167 and the setbacks in 1133.
- The applicant is utilizing low impact design, such as small building footprint, placing the garage and driveway at the furthest distance from the Riparian Setback and requesting relief from the front setback requirements in 1133. He is doing this in order to maximize the Protected Area as much as possible.
- He is also implementing erosion control measures which will be used during construction.

Contingent upon the Protected Area Permit, we then recommend approval of the site plan because he has addressed all of our comments.

**Building Commissioner's Comments (Wyss):**

This is a new development for this lot. Under Development Plans, I feel that the Board can approve the deviations from the setback issue for the reasons stated by the City Engineer. That would be done in Architectural Board of Review portion. Any motion to that fact should cite that Equivalency Rule.

**Owner/Representative Comments:**

This is a 1400 square foot ranch home. It was reduced from 1700 square feet due to the Riparian Setback. It will have an 8-foot basement and a 2-car garage.

**Board Comments**

(Hallum) Has this area flooded in the past? If so, would there be any concern with water displacement?

(DiFranco) I am not aware of any flooding issues in this area. The house site is quite a bit above the adjacent stream.

(Lillich) I am familiar with the area and I think we are doing the best we can do. It is nice to have a home owner who will work with us.

(Wyss) As Flood Plain Administrator, it is not in the flood plain. The Riparian setback in this case is because of the stream's proximity and the amount of square miles in the drainage area. That is why it is a 75-foot rather than a 25-foot. The floodplain goes up to the high bank level. There is a large flood plain to the north.

**MOTION:** John Lillich moved to waive the additional requirements for Protected Area Review at 2926 Lynn Drive.

Seconded by Joseph Zawatski

Voice Vote: Ayes Unanimous

**Motion Passes: 7/0**

**MOTION:** Joseph Zawatski moved to approve the Site Plan at 2926 Lynn Drive.

Seconded by John Lillich

Voice Vote: Ayes Unanimous

**Motion Passes: 7/0**

**ARCHITECTURAL BOARD OF REVIEW**

**Public Portion opened at 7:14 P.M.**

None

**Public Portion closed at 7:14 P.M.**

1.) Joseph Udovic

Contractor: ProBuilt Homes

**2926 Lynn Drive – New Single Family Home - PPN 31-A-007-F-00-015-0**

Plans stamped received in Building Department 2/5/16

Plans stamped reviewed by Building Department 2/19/16

Present: Joseph Udovic and Chris Brown (ProBuilt Homes)

**Owner/Representative Comments:**

It will have traditional Glacier White vinyl .44 siding. The stone façade in the front will be brown Pennsylvania Limestone cultured stone. The architectural shingles will be dual brown. Aluminum wrap will be around all the windows.

**City Engineer's Comments (DiFranco):**

None

**Board Comments**

(Lillich) All the doors and windows are wrapped but there is no detail around the front entrance door. *We plan to change to a door with a rectangular window will be 50% of the door area. It will have colonial style grates. Will it be wrapped? Yes, we can wrap it like the windows.*

(Smith) We also ask that you wrap the stone about 18 inches around the corners. That will give a three dimensional look. *Is that not on the prints? No. We can do an 18-inch return.*

**MOTION:** John Lillich moved to approve the New Single Family Home at 2926 Lynn Drive contingent upon the door on the front entrance being trimmed with the same 2x4 wrap as the windows and the stone in front being wrapped around the corners 18-24 inches.  
Seconded by Jonathon Irvine  
Voice Vote: Ayes Unanimous  
**Motion Passes: 7/0**

(Smith) We need a motion to amend the site plan approval in order to enact the Equivalency Rule for the setback so the house is not pushed back further into the Riparian Setback.

(Wyss) The placement of the house is in line with the other houses on the street. The cul-de-sac on Lynn Dr. is very irregular and smaller than usual. The house is in line with the other houses that are set deeper. This would allow it to be set closer to the street.

**AMENDED MOTION for the Site Plan:**

John Lillich moved to enact the Equivalency Rule 1111.15 to allow a variation in the setback in the front for the site plan of the New Single Family Home at 2926 Lynn Drive to build closer to the street and keep the construction out of the Protected Area,  
Seconded by Mayor Weger  
Voice Vote: Ayes Unanimous  
**Motion Passes: 7/0**

2.) Michael W. Rigol, Sr.

Contractor: Michael W. Rigol, Sr.

**2881 Rockefeller Road – In-Ground Pool - PPN 31-A-006-0-00-066-0**

Plans stamped received in Building Department 2/29/16

Plans stamped reviewed by Building Department 2/29/16

Present: Michael Rigol and Michele Rigol

**Building Inspector's Comments (Wyss):**

They have provided more documentation than usual for an in-ground pool. It is a unique style pool. It can be above ground or in-ground. They will install it in-ground with an aluminum frame and a liner.

The packet shows the location of house and fencing. The entire area will be enclosed with an aluminum 4-foot fence. The pool equipment is shown next to the patio. They said they plan to enclose the pool equipment with landscaping. The site plan is from the actual build. It also shows the location of the pool.

**Owner/Representative Comments:**

It is a Kayak pool with an aluminum frame and vinyl liner. It will be below grade with sand on the bottom.

**City Engineer's Comments (DiFranco):**

None

### **Board Comments**

(Lillich) The plans show no gate in the fencing. *The gate is by the patio where the fence comes around the side of the house.* The other entrance is the sliding back door? *Correct.* The doors from the house will be alarmed? *They already are.*

**MOTION:** John Lillich moved to approve the In-Ground Pool at 2881 Rockefeller Road as submitted.  
Seconded by Mayor Weger  
Voice Vote: Ayes Unanimous  
**Motion Passes: 7/0**

### **UNFINISHED BUSINESS**

**Review Rental Registrations-** Chris Hallum led the discussion on bringing rental fees up to date in the City. Information from other communities and the complete Willoughby Hills Code (WH) was distributed to the Board. Input from the Board was requested.

1. Apartment Rentals: The WH Apartment Ordinance 1349.08 related to charges on rentals in apartment buildings was passed in 1975 and then passed again with a change in 1978. It has not been reviewed since then. The current fees are \$4.50 per building plus 4.50 for each additional 50 suites plus \$5.00 per dwelling. Costs in the City have gone up since 1978. Mr. Wyss added that Solon just passed a Rental Occupancy Permit #1489. They charge \$160 for the 1<sup>st</sup> three units in a multi-family dwelling unit and \$30 per dwelling thereafter.

2. Vacant Properties: There should be a vacant property registry to make sure they are being maintained. Lack of maintenance impacts neighbors who are maintaining their properties.

3. Single Family Homes: There are a number of single family homes that are rental properties in the City. They are not identified. We have a duty to keep track of them and make sure we do not have absentee landlords. We can look at what some other cities are doing.

- Cleveland Hts. Occupancy Ordinance 1347.06.- single family rental properties
- Shaker Hts. Occupancy Ordinance 1413.01

4. Common Areas/ Islands in the street are unmaintained: These may have been part of now-defunct HOAs [Home Owner Associations]. We need to determine who is responsible for the needed maintenance and come up with a plan.

Additional discussion included:

**Outdoor Maintenance Code for Residential Homes** which would include rental properties: Concern was expressed about grass cutting and open burning. Examples of vehicle storage and maintenance were cited. The City does have a Code which was voted on by Council - Ordinance 2010-22. It is basically the International Property Maintenance Code, but the Interior Code portion was removed. They are interchangeable with a few word differences. Recently with so many foreclosures, complaints have been made. Many vacant properties have been condemned because many were abandoned & stripped. In the provisions of that Code, if a property is condemned, it cannot be sold unless the violation is addressed. Per Mr. Wyss, if additional inspections for rental properties are needed, then an Exterior Maintenance Inspector would be necessary. Fire Code inspections for commercial buildings are done by the Fire Chief. If there is a complaint, the Building Inspector contacts Lake County as needed.

- **Need for an Interior Code for Rental Properties**

**Action Items:**

- PCABR can make recommendations to Council regarding rental fees for the current code.
- Recommendations should also include what we are looking at, how it would be managed, costs to the residents, who does inspections and the cost of doing the inspections.
- We would need to address the cost and procedure to inventory all the vacant property to build a vacant property registry and then maintain that database
- If a City is charging a fee, there is usually a service involved. The service needs to be provided.

## **NEW BUSINESS**

### **Logging in a Protected Area**

(Smith) This topic is on the Agenda for discussion only. There will be no vote.

Information distributed to the Board.

- EPA's Stormwater Pollution Prevention for Small Residential Construction Sites.
- Ohio Timber Harvest Planning Program from the Ohio Department of Natural Resources.
- Letter dated February 22, 2016 from the Chagrin River Watershed Partners, Inc. re: Protected Area Permit Application for 2275 River Rd.
- Email from City Engineer dated 3/3/16 with attachments.

### **City Engineer's Comments (DiFranco):**

- The property owner is here. [August Babuder, 2275 River Road, plus two unidentified people]
- Packets distributed to the Board and Mr. Babuder. Email was sent to the Board late this afternoon with the information attached. Background information provided for the Board. This is just a discussion today. We are waiting for deposit required by the Code.
- Mr. Babuder harvested trees in the Flood Plain. Work was done in mid-February 2016. He was not aware that Willoughby Hills had a Protected Area Ordinance. We did not realize until work was complete. We contacted the Chagrin River Watershed Partners (CRWP) and the Lake County Soil and Water Conservation District (LSWC) to get their recommendations. I made a site visit together with the Building Commissioner, representatives from CRWP and LSWC. We walked the perimeter. We saw no clear-cutting, severely disturbed areas or significant erosion.

(Babuder) A logger did the logging. He has not been down there or seen it. It was supposed to be done properly. His letter was included in the packet. The property was harvested 40 years ago in 1974. The logger marked the trees, including one of the neighbor's. She contacted the Building Commissioner who called me a few days after they were marked. No one told me that you cannot harvest; that it is a Protected Area. We intend to do whatever is correct. The property was a nursery when we purchased it. There were no trees when he left. We planted the trees which were just harvested. We grow Christmas trees and other trees on our farm which is registered with the State of Ohio. I did not know that a permit was required. It was not discussed with me. No government authority of any kind has ever informed us, as the owners of the property, that it was a Protected Area. We knew it was a flood plain.

- At this point, the work has already been done. We need to make sure procedures are followed and the area is not damaged and that it is restored properly.
- The CRWP and LSWC issued their recommendations.
- Recommendations of City Engineer: Waive the remaining requirements listed in 1167.05. Approve the Protected Area Permit per 1165.08 contingent upon the requirement listed. These were read to the Board and Mr. Babuder. Discussion with Mr. Babuder.

- Mr. Babuder needs to provide the Permit fee and the Plan Review fee. *The logger should share the costs with the farm owner.* The logger did not come to us before the work. *I did not know a permit was needed. What is the CRWP?* It is a nonprofit agency that advise cities on best practices. *They are not an authority to tell me what to do with my property. We will make it better than it was before.*

**Building Inspector's Comments (Wyss):**

- Mr. Babuder told the Law Director and Mayor that his property is under management of a forestry expert. This particular property is not. His property in Ashtabula is.
- Mr. Babuder contacted Mr. Cash, the Forestry Inspector for the area. Mr. Cash stated that any city ordinances takes precedence over the registered forestry management properties.
- The auditor's website shows that this property has not been registered or used as agricultural for many years.
- The City's Zoning Code does not recognize farming in Willoughby Hills. Once farm activity ceases, it cannot be brought back up.
- As soon as Mr. Babuder makes the \$600 deposit, reduced by the Engineer from \$1000 fee, and he has paid his other fees to get on the Agenda, we can officially review this for a Protected Area permit.
- Mr. Klements was asked to speak to the Board about Forestry in general because the plan was to discuss this in a general fashion.
- The Protected Area Ordinance is very silent about logging and timber harvest activities other than a mention of silviculture and revegetation plus definitions. There should be more in the Ordinance. The Board could make recommendation to Council about this.
- The Best Practices Brochure information from the Forestry Service of ODNR was in the Board Packet.

(Lillich) Whitetail deer problem affects reforestation. Deer browse and rub against the trees.

(Babuder) We need to be able to control the deer population. My property has been a farm since 1804. We do have a farm document. We have owned it about 40 years. We file tax returns.

**John Klements, resident of Dodd Road**

- I am a Professional Forester by training. I have experience with foresting with my neighbor. I did a site visit regarding the BZA appeal for the barn. It looked like he was taking care of the place. More recently I walked the adjacent property with the Mayor and the Law Director. We looked across the property line. It is difficult to discuss specifics without being on the property. From the line, it appears to have been a thoughtful, managed cut.
- Our Code says that the Ordinance is not to be used to forbid silviculture. It would allow a person to have a professional or managed cut. My cut came out well.
- State forester for this region recently changed. Mr. Cash complimented Mr. Klements on his private woodland

(Babuder) In the fall of 2014, a mature tree from my northerly neighbor fell on my old garage. When a tree is mature, it will fall sooner or later. We had three 100' oak removed from near my house to avoid damage to the house. Now there is more sun.

- The professional forester is trained to touch base with the land owner to determine his objectives for the forest. Managing timber for financial profit is a significant thing.

- Each landowner needs to determine the management goals. No one can make decisions about someone else's property.
- The Forest Service was formed to protect a national resource. The Park Service and the Forest Service are distinct entities but have a lot of similarities in what the Federal government chartered them to do.
- On the city level, the City should say you can manage your woods but have professional involvement.

(Lillich) I manage about 81 acres at the Nature Preserve which is mostly abutted by private property. We work things out with regard to large trees.

(Smith) The trees are already cut. The task of the Board is in managing the recommendations of the CRWP and the Engineer on how to repair and preserve the Protected Areas. We appreciate the homeowner coming in. The discussion will better prepare us for when the application comes up for review.

(Wyss) Gus, you and I need to have a meeting. *(Babuder) I will see Mr. Cash.* As soon as you can get the deposit in to the Building Department, we can schedule this on the Agenda. *My advisor will be contacting your advisor on that subject.*

#### **MAYOR'S REPORT**

1.) Cell Tower: I have a request from City Council on the proposed Verizon cell phone tower on the Grange property. It is City property. Council would like recommendation from the PCABR. They would like PCABR to hold a public hearing for the surrounding neighbors. It will be a 140' monopole in the back corner of the parcel to address the 'dead' spots in the area. [GIS photo distributed]. There is compensation to the City with a 2% escalator every year. Verizon may also be interest in another City property for another tower.

(Smith) To initiate a Public Hearing, we will need to send notice to neighbors within 500 feet and schedule and publicize the meeting.

(Lillich) Mr. Tyler and I attended the Council meeting last week when this was presented. There are 3 styles of tower possible. One looks like a tree. (Smith) Would Verizon make a presentation at the Public Hearing? *Yes.*

(Wyss) The Mayor's office has been handling the negotiations. It is a well-travelled area on high ground.

(Weger) Originally there were two proposals but one dropped out. They do business with Verizon. There will be co-locators leasing out on the tower.

(Wyss) I will review the Ordinance again. Have them contact me so we can get this organized for the Planning Commission. All the presentation has to follow our Code.

(Tyler) I would like to see an example of the tree.

(Cihula) The presenter showed examples on his iPhone after the meeting.

2.) The auditor of Lake County sold some delinquent accounts to a company. The company paid the taxes. They sold some properties in July 2015, December 2015 and one now in March 2016. The total amount sold in Willoughby Hills was \$370,000. The City gets 10%. The City already has July and December. Proceeds from the March sale will be coming.

#### **COUNCIL REPRESENTATIVE'S REPORT (Hallum)**

Nothing further.

#### **BUILDING COMMISSIONER'S REPORT**

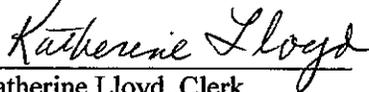
Follow up and clarification regarding Mr. Babuder: Last year when he had the logger mark the trees, there was a lot of discussion. Mr. Babuder was told that the marked trees were in the Protected Area. He may not remember that. In the future, with discussions of that importance, they will be followed up

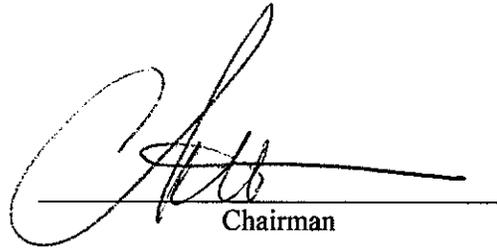
**CHAIRMAN'S REPORT**

Master Plan: Review and Discussion will be scheduled at 6:00 PM before the regular PCABR meeting in April. Schedule will be set at that meeting. Our goal is to have it all updated and recommendations made to Council. The clerk will send notice of the meeting.

**MOTION:** John Lillich moved to adjourn  
Seconded by Mayor Weger  
Voice Vote: Ayes Unanimous  
**Motion Passes 7/0**

**Meeting Adjourned at 8:21 P.M.**

  
Katherine Lloyd, Clerk

  
Chairman

Date Approved 17 March 2016