

**MINUTES**  
**Planning and Zoning Commission & Architectural Board of Review**  
**City of Willoughby Hills, Ohio**  
**March 3, 2010**

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

**PRESENT:** Chairman Charlotte Schryer, Vice Chairman James Michalski,  
Mayor Robert Weger, Council Representative David Fiebig, John Lillich,  
Madeleine Smith and John Davis

**ALSO PRESENT:** Building Commissioner Fred Wyss, BZA Representative Frank Cihula,  
City Architect William Gallagher and Clerk Katherine Lloyd

Welcome back, Madeleine.

**Correspondence:** Public Hearing Notice regarding amendments to the Sign Code received from the Clerk of City Council, Victoria Savage.

**Disposition of Minutes: Meeting of February 4, 2010**

**MOTION:** David Fiebig moved to accept the minutes of February 4, 2010 as amended.  
Seconded by John Lillich

**Roll Call: 6 Ayes and 1 Abstention (Madeleine Smith)**

**Motion Passes**

**ARCHITECTURAL BOARD OF REVIEW**

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

**None**

**Public portion closed 7:07 P.M.**

1. Tom and Nanette Kiels

Contractor: Barr Bros. Construction

**2793 Rockefeller Rd – Room Addition – PPN: 31-A-006-R-00-007-0**

Plans stamped received by Building Department 2/22/10

Plans reviewed by building Department 2/25/10

Present: Dave Barr from Barr Brothers

**Owner/Representative Comments:**

- We are adding on a sunroom and an extension to the existing bathroom. It will be on the back of the house and 8-feet out from the side of the house.
- We built the existing home 4 years ago. The current sideline clearance is 25-feet. The addition with overhang will be 16-feet from the property line.
- All materials will match what is on the existing home. We are using weathered wood shingles. The siding color is Monterey sand. There will be shake to match the front and culture stone coming up about 4 feet which will also match the front.
- There will be a hip roof which will help the addition blend.

**City Architect's Comments:**

- Because it is only 4 years old helps with matching materials and avoiding the look of an addition
- All the windows are 3 feet, except for one on the left elevation that is 3' 6". *It is one of 3 existing windows. We are using two of them. This one may have been on the great room. We were just discussing the possibility of moving it to the bedroom to improve egress. That way all the windows in the sunroom will be the same size. That would look better because they will be next to each other.*
- I know you are trying match, but I do not think you need to have the stone on the addition match the front of the house. It does not really work with the rest of the house. The addition should match the vinyl siding and the brick on the side of the house, especially since it is so far back. *The owners would probably be okay with that. It will also save some money. So we should bring the shake down to the brick? My suggestion is to use matching siding and have it wrap around. You don't need to replicate the front of the house to provide the accent. That would make it blend in more. Simpler may be better. I will tell the owners that it is an option so they can decide.*
- The muntin style almost doesn't fit. You have them on the front and no where else. You could go with standard double hung windows.

**Board Comments:**

(Davis) I agree with the architect's suggestions. Plantings and landscaping could make up for architectural interest.

(Lillich) You do not usually see homes of this style with the stone carried to the back.

(Gallagher) If the stone is wrapped all the way around the corner, then continuing it to the back would make sense. We are not asking for that.

**MOTION:** John Lillich moved to approve the room addition at 2793 Rockefeller Rd with the owners having the option to not put the cultured stone and shake shingles on the side and just have siding match the existing siding.  
Seconded by Madeleine Smith

**Discussion:**

(Schryer) The Building Department will need new updated drawings reflecting any changes of the windows and materials.

**Roll Call: Ayes Unanimous**  
**Motion Passes**

**PLANNING COMMISSION**

There are no projects scheduled for tonight

**WORK SESSION**

1. August and Loretta Babuder  
Contractor: Carter Lumber  
**2275 River Rd – Agricultural Cold Storage Building – PPN: 31-A-016-C-00-009-0**  
Plans stamped received by Building Department 2/19/10  
Plans reviewed by Building Department 2/26/10  
Present: August Babuder, one of the trustees of the property

(Schryer) This project is being considered in a Work Session because the Zoning Administrator requested it. The existing building on the property was taken down a couple years ago and, therefore, lost its ‘grandfather’ status.

**Owner/Representative Comments:**

- The original barn was a large 100-plus year old wood 3-story structure that was built by Ellsworth, the original owner who bought the property in 1804. The barn was on the back property that had been under a five year lease to Warner Nursery. They used the barn. The roof caved in during heavy snows. Warner Nursery had promised to repair or replace it. The lease expired and the barn was not repaired.
- In 1973 Babuder bought the property and the leases from the Ellsworth estate. Because of his travel for business and educating his children, the barn was not repaired or replaced.
- Babuder’s son has started a nursery and needs housing for tractors and equipment and cold storage for young plants.
- We would replace the old 3-story, wooden barn with a pole building with metal roof and walls. It will have the same footprint as the original barn but with 30% less volume.

**Building Commissioner’s Comments:**

- It is not a clean zoning issue. We can prove the barn was there with photographs and 1951 and 1973 aerial photograph (GIS) images that are in the packets. The 1973 photo clearly shows the shadows of the barn and the roof structure in the location he showed me last fall. The photographs of the red buildings show the chicken coops, remnants of the old granary and a shed that are on the upper part of the property.
- There are two issues:
  - He tore down the remaining parts of the barn with a demolition permit issued in 2007 by Mario DiFranco, the previous Building Inspector. Mario gave him a free permit but did not give him the advice that if he tore down the building he would not be able to rebuild it.
  - In 2007 the new zoning code was already in effect. It was enacted in 2006. The new code clearly states that regardless of the square footage, only two outbuildings are permitted.
- Looking at the new code in relation to large parcels of land where people have need for other outbuildings for agricultural use seems arbitrary
- Just one of Mr. Babuder’s properties would allow him to build a 6000 sq ft accessory structure. Adding the 12+ acre parcel and the 7 ½ acre parcels to the south and square footage of the existing buildings and the proposed building, he would have a total of 1896 sq ft. That only utilizes 32% of what he could have.
- The only provision in the code that states how long before a ‘grandfather’ is lost has to do with non-conforming structures in Section 1121.3 Discontinuation of Use. When a structure has been taken down or taken away, you cannot put the non-conforming use back. The previous barn was never a non-conforming structure under the old code.
- The size of the structure would be allowed by the code now, but the number of other accessory buildings which are permitted on the property are the issue.
- Suggestions from the Board would be appreciated. The issue may need to go to BZA.

**Board Comments:**

Discussion between the Board and the applicant identified the following points:

- Existence of the original barn is not in dispute
- Circumstances cited by the Building Commissioner that resulted in demolition of the old barn could influence extension of the ‘grandfather’ time period.
- Mr. Babuder took the demolition permit to the County Auditor to get a reduction on his property taxes. The old barn was not on the Auditor’s books because of when it was built.

- The property is a farm. If one or more of the other buildings were eliminated, that storage space would be lost. The size of the new proposed building would probably grow.
- The other buildings are at the top of the hill. The old barn on the old nursery property is at the bottom of a long sloping driveway. Transfer of stored items between areas would be a big problem. Tractors are needed at the bottom of the hill.
- The proposed pole barn would be at the previous barn location at the bottom of the hill which is out of sight.
- The footprint of the new building is the same but the volume or space of the new building would be much less than the original building.
- Mr. Babuder cannot build the barn close to the house because of the location of the gas and water lines and a new septic system.
- Topography of the properties and lack of flat spots seriously restrict construction locations.
- Under the old Code, agricultural properties did not have to come before the Board.
- The number of buildings permitted per property by the new 2006 code might not apply to agricultural properties.
- 2006 Zoning is set up for 2-acre lots, not a 12-plus acre parcel.
- There are no flood plain issues
- There are three permanent accessory structures and several temporary structures on the property. Once the 2006 Code went into effect, those structures became non-conforming. Section 1121.3 Discontinuation of Use would apply.
- The size of the property would be an important factor in making a decision.
- A building like this is necessary in an agricultural setting. The small accessory buildings serve a purpose for minor storage and farm business. The larger barn is needed to make the whole property function. Without it, this is no longer a functional farm. If this is a community where ‘the city meets the country’, then you need to preserve some on the country.
- The Board feels that Mr. Wyss will figure out the zoning issues to allow this building which is appropriate to this agricultural property and agricultural use.
  - The Building Commissioner could extend the ‘grandfather’ of the existing non-conforming structures. The original barn and the other structures were non-conforming because there were too many. Zoning could be approved because of square footage.
  - The Building Commissioner could consult with the Law Director.
  - The Building Commissioner will work with the applicant to prepare a zoning variance application for the BZA.
- Consensus of the Board is that restriction of the number of buildings on a property of this size given the agricultural purpose and topography seems arbitrary and restrictive and would be a hardship.

The building itself would be reviewed by the Architectural Board of Review. A wider door was suggested for easier movement of equipment and materials. Mr. Babuder stated that the original barn had two doors for drive through access.

**Work Session Public Portion opened 7:46 P.M.**

**None**

**Work Session Public Portion closed 7:46 P.M.**

**Mr. Gallagher was dismissed at 7:46 P.M.**

### **MASTER PLAN**

The Concept Proposal for Adoption, the updated Land Use Policy Map 9 and a GIS rendering of the Proposed Eddy Rd. Conservation Concept was emailed to the Board. Hard copies of each were distributed to the Board and were available for residents in the audience.

### **The Proposed Town Center Concept**

It captures all the points that have been proposed for Town Center area.

### **Proposed Conservation Development Opportunity Concept**

- It would provide relief to home owners with acreage facing Rt. 91. Those property owners would have the opportunity to sell the back half of their property for a development and still retain at least one acre or more. That also protects the look of Rt. 91. A development would be a buffer between the back of their properties and the freeway. It would still be residential, not commercial. It is vacant land that would be attractive for development in the future. It would be good location for conservation development with single homes creatively located to preserve green space or townhomes. It is important for the City to be pro-active in planning for the future. Green space between homes and the freeway helps protect property values. It is also a protection for the property values of the Morning Star development and other streets nearby.
- This concept was discussed by the 25-member committee for the 2003 Master Plan. At that time there was only R-Residential zoning. Now R-1, R-2 and Conservation Development are options. This just updates the concept from the old plan but with more zoning categories.
- Houses facing Eddy Road would have the same option.
- The GIS rendering was drawn up for purposes of visualization during discussion. Proportions and lines were arbitrary.

### **The Bishop Road and Rt. 6**

This area was included in order to encourage redevelopment planning. Elements of planning were included in Chapter 6.

**MOTION:** James Michalski moved to recommend to City Council that the revisions to the Willoughby Hills Comprehensive Land Use Plan dated March 3, 2010, including the Concepts Proposed for Adoption, Items A, B and C, be adopted by City Council.  
Seconded by Madeleine Smith  
**Roll Call: Ayes Unanimous**  
**Motion Passes**

### **Master Plan Public Portion opened 8:08 P.M.**

Joyce Grady, 3020 Marcum

Where is the vacant land shown behind the houses on S.O.M. Center? *It is still owned by the individual property owners. They would have the opportunity to sell off part of their property. Conservation Development would be attractive for the area because the land sits next to the freeway.*

My property is next to the freeway. *The only lots not sold in the Pine Valley and the River's Edge developments are next to the freeway.*

**Master Plan Public portion closed 8:08 P.M.**

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

(Davis) There will be an Open House at the Gallery on Friday, March 5<sup>th</sup> from 7-9:00 P.M. for two artists, Martha Germano and Eddie Mitchell.

**MAYOR'S REPORT**

National College had its grand opening and open house today. They actually opened in November with 4 students enrolled for the first session. So far, they have 100 students registered for the upcoming session. The school has been featured in the News Herald.

**COUNCIL REPRESENTATIVE'S REPORT**

- 1.) National College has extended an invitation to the public for tours of the facility. They want to be a part of the community.
- 2.) The Business of the Month program is on Channel 12.
- 3.) The proposed Income tax increase for the district will not be going forward. It is off the table.
- 4.) The exterior property maintenance residential code is still in committee.

**BUILDING COMMISSIONER'S REPORT**

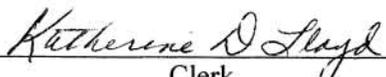
Mr. Wyss met at the Frank Lloyd Wright house today with Paul Penfield and the architect, who is a member of the nonprofit Board. They are still raising money to build the last Frank Lloyd Wright house on the property for which it was designed. The new one is being conceived as an educational facility with a museum and library and possible partnering with Lakeland Community College. There will be code issues with building a historic Frank Lloyd Wright house under the current building codes to make certain it is safe. Commercial use of the building would necessitate handicap accessibility. There is an architect's scale model of the proposed new house is on display at the Willoughby Library. It will come before the Board once they have raised the necessary funds and have their plans ready.

**CHAIRMAN'S REPORT**

- 1.) The Sign Code hearing is during the next meeting on Thursday, March 18<sup>th</sup>.
- 2.) Kristin Hopkins sent out an email announcing three upcoming Planning and Land Use seminars sponsored by the Cleveland APA. They are free to members and guests.
  - Redevelopment and Revitalization for a New Era on March 17<sup>th</sup> from 4:00-5:30 P.M. at Shaker Hts. City Hall.
  - Legal Implications of Zoning Decisions for Smart Planning and Development on March 26<sup>th</sup> from 8:00 to Noon at Cleveland State.
  - No Building Left Behind: Adaptive Reuse of Sacred Spaces on April 20<sup>th</sup> from 4:00-6:30 P.M. at Cleveland State.

**MOTION:** John Lillich moved to adjourn.  
Seconded by Mayor Weger  
Voice Vote: Ayes unanimous  
Motion Passes

**Adjourned at 8:20 P.M**

  
Clerk

  
Chairman

Date Approved March 18, 2010