

MINUTES

PLANNING & ZONING COMMITTEE

REGULAR MEETING AND VARIANCE HEARING

Wednesday, April 20, 2016 9:30 a.m.

- City Hall Conference Room

1. The meeting was called to order by Bob Glassman *Present: Bob Glassman, Joey Raspe, George Lancaster and Trudy Troiano. Also present: Kathryn McCullough, City Clerk, Attorney Tom Wright and Commissioner John DeNeale.*
2. Oath of Office for New Members: Attorney Tom Wright administered the oath of office to new board members Joey Raspe, George Lancaster and Trudy Troiano.
3. Roll Call: Bob Glassman, present. Joey Raspe, present. George Lancaster, present. Trudy Troiano, present. Gail Cortelyou, absent. Ron Anderson, absent. After discussion by the members present, it was decided that the absences of Gail Cortelyou and Ron Anderson are unexcused absences. Tom Wright instructed the Committee Members that a member who misses 2 of 3 successive meetings of the Committee without cause and without prior approval of the Chairman, the rule directs that the Committee shall declare the position vacant and that the City Commission shall appoint someone to fill the vacancy.
4. Election of Officers:
Chairman: Bob Glassman called for nominations for Chairman of the Planning & Zoning Committee. Trudy Troiano nominated Bob Glassman. The nomination was seconded by George Lancaster. There being no other nominations, a vote was taken unanimously electing Bob Glassman as Chairman.
Vice Chairman: Bob Glassman called for nominations for Vice Chairman. Joey Raspe nominated Gail Cortelyou for Vice Chairman. There were no other nominations. In the absence of any no votes, Gail Cortelyou was elected Vice Chairperson.
5. Open Discussion of Board Responsibilities, Procedures and Forms
Bob Glassman stated that everyone was given a copy of the variance form. He also indicated this form is available on the City's website as are the Land Development Regulations (LDR's) and the City's Ordinances. Chairman Glassman explained the form. The 5 criteria questions are listed on page 2. The fee for a variance is \$700. The Attorney is not always present at P & Z Meeting unless the applicant has indicated, on the form, that they will have an agent present. Attorney Wright explained a very common variance request is from people wanting to 'square off' their house. They have a non-conforming setback and require a variance to continue on the same line as the existing structure. The Chairman went on to explain the Building Official will be present and will explain the residents request in detail and any historical information that may pertain to the

request. Attorney Wright went on to explain that the P & Z Committee operates in a quasi-judicial capacity. The persons speaking in front of the committee will be under oath. Because it is quasi-judicial, committee members must disclose any ex-parte communications at the beginning of the meeting. This would include site visits, communication with the applicant and discussion with the Building Official. The committee member must declare if any ex-parte communication would have an impact on your decision in the matter. Another issue is if you have a conflict of interest, such as a financial interest. If there is a conflict of interest the committee member would normally recuse themselves. That needs to be known before the meeting to assure there will be a quorum. Attorney Wright also explained the Committee members cannot discuss an issue among themselves. That is a clear violation of the Sunshine Laws. A member can discuss issues with a Commissioner because they are not on the same committee. However, because P & Z recommendations go to the Commission for approval, a Commissioner would have to disclose that discussion, as an ex-parte communication, before the Commission meeting. The Attorney also explained the Committee does not have to approve exactly what is asked. The Committee can modify a request, such as approving 10' instead of a requested 20', or apply other conditions the Committee feels appropriate. Chairman Glassman explained a variance request must be duly noticed by the City and the City must notify all property owners within 300 feet of the property requesting the variance. After a Planning & Zoning hearing, the Committee notifies the City Commission, in writing, of its recommendations concerning the variance request. Attorney Wright clarified that the Committee will vote individually on each of the 5 requirements for a variance. If the Committee votes yes on all 5 requirements, then a three fifths vote of the City Commission is required for approval. If the Committee votes no on any of the 5 requirements, the City Commission approval has to be by four fifths. The Committee is permitted, even if none of the requirements or met, to recommend approval to the City Commission. Again, in that instance approval would require a four fifths vote of the Commission. A discussion of the Post Hearing Questions form resulted in Attorney Wright stating the following changes need to be made to question 3 and question 5. Question 3 should read: Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance or cause fraud or victimization of the public. Question 5 should read: Granting this variance would NOT confer any special privileges in terms of established development in the immediate neighborhood. Both Attorney Wright and Chairman Glassman acknowledged the City Commission could deny a variance request even if the request had unanimous approval of the Planning and Zoning Committee. Chairman Glassman requested a definition of a Use Variance. Attorney Wright said a Use Variance could be a change in density in a residential neighborhood. Another example of a change of use might be a request to open a real estate office on 9th St. Actually a request for a change of use should not even come before Planning and Zoning. An applicant of such a request should be told by the Building Official and/or the City Clerk that per City Code any change of use in a zoning district cannot be granted by a variance. Attorney Wright also explained, if a variance is turned down, the applicant must wait 6 months before they can apply again. Also, if the variance is going to require a four fifths vote of the City Commission, the applicant is given the opportunity to insure the request will be heard when all five commissioners are present. Attorney Wright stated a Committee Member should recuse them self if an applicant is a personal friend and voting on the issue could cause a rift in the friendship or if the Committee Member does not feel they can be impartial because of the friendship or for any other reason. Commission DeNeale

requested the Committee look at the Comprehensive Plan and make recommendations to the City Commission concerning areas within the City requiring improvement. Attorney Wright wanted to discuss was a development agreement. If a developer came into the City and wanted a development agreement, City Code requires the first public hearing be conducted by the Planning and Zoning Committee, who shall review the development agreement and make recommendations to the City Commission. At the second public hearing the City Commission may approve the form and execute the development agreement. The City is almost completely built out so this may not be an issue. In closing, Attorney Wright stressed the importance of getting an absence excused if you are not going to be able to make a meeting. He also stated it would be good to get a second alternate appointed. The Committee is mandated to remove a member who misses 3 unexcused consecutive meetings. The minutes need to document who is excused and who is not excused from a meeting. It is the responsibility of the Committee Chairman to decide if an absence is excused. The LDR's state, if any member fails to attend two of three successive meetings without cause and without prior approval of the Chairman, the Board SHALL declare the members office vacant and the City Commission SHALL promptly fill such vacancy. You can discuss members and alternate members to the Committee. The Sunshine Law only prohibits conversation among members on issues that will come before the Committee for a vote. Appointment of members is the responsibility of the City Commission. The City Commission should designate a 1st alternate and a 2nd alternate. Kathryn has hard copies of the LDR's in her office for anyone who needs one.

5. Any Other Business- None
6. Chairman Glassman called adjournment at 10:45 a.m.

Kathryn McCullough, City Clerk

There may be attendance and participation of city commission members at this meeting.

If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.