

THE PLANNING AND ZONING COMMISSION MEETING WAS HELD AT BEACHWOOD CITY HALL ON THURSDAY, MAY 5, 2016.

ROLL CALL: PRESENT: C. Cohen, Mayor Gorden, R. Hecht, O, Jacobs,
B. Mann, J. Pasch, B. Zabell
ABSENT: None
ALSO PRESENT: J. Ciuni, W. Griswold, B. Reali, G. Smerigan

A motion was made by C. Cohen and seconded by B. Zabell to approve the Planning and Zoning Commission minutes dated March 28, 2016, regular meeting.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, R. Hecht, O. Jacobs,
J. Pasch, B. Zabell
NAYS: None
ABSTAIN: B. Mann
MOTION APPROVED – MINUTES APPROVED

COUNCIL REPORT

Mr. James Pasch, Council Representative, stated on March 28, 2016, City Council adopted P&Z 2016-8, Select Medical and Cleveland Clinic request for preliminary site plan approval for a 60-bed, one-story rehabilitation hospital located at 3025 Science Park Drive. On April 14, 2016, City Council adopted P&Z 2016-9, TDA Architecture request for preliminary site plan approval of renovations to the main athletic stadium of Beachwood High School located at 25100 Fairmount Blvd.

P&Z 2015-35 JOSEPH CALDERWOOD, THE CM CONSULTING GROUP,
REPRESENTING PROPERTY OWNERS JOHN BUDGE AND VICTORIA
ESKINAZI, IS REQUESTING PRELIMINARY AND FINAL SITE PLAN
APPROVAL FOR LOT SPLIT OF PPN 741-17-001, ANSHE CHESED
CONGREGATION, 23737 FAIRMOUNT BOULEVARD, AND LOT
CONSOLIDATION OF PPN 741-08-038, 2565 EDGEWOOD ROAD.

Mr. Joseph Calderwood, The CM Consulting Group, representing property owners John Budge and Victoria Eskinazi, was present to request preliminary and final site plan approval for a lot split of 23737 Fairmount Blvd. and lot consolidation of 2565 Edgewood Road. The lot consolidation is to the rear of their property. Under the current zoning, it does not allow an addition to the back of the house. Adding this additional property would assist in the owners completing an addition to the house.

Mr. Griswold stated Fire, Police and Building have no questions or concerns regarding this application.

Mr. Ciuni stated the plat meets all City and County Standards and recommends approval. The owner must submit a fully executed deed for Parcel "A" in order to get the Plat recorded at the County.

Mr. Calderwood stated he will be completing the follow-up paperwork assuming it gets approved tonight.

Mr. Smerigan stated this request is for approval of a lot split and consolidation plat to transfer 1,000 square feet of land from the Fairmount Temple property to the applicants. These requests have been done before so additions can be constructed to meet the required setbacks. The split land would be attached to the rear of the applicant's existing lot and would permit them to construct an addition on the rear of their home in compliance with the rear setback provisions of the Zoning Code. Since this request is for a lot split and consolidation plat, City Council approval is required. The Planning and Zoning Commission will need to act in the form of a recommendation to City Council.

A motion was made by R. Hecht and seconded by B. Mann to approve Joseph Calderwood, The CM Consulting Group, representing property owners John Budge and Victoria Eskinazi, request for preliminary and final site plan

Mr. Griswold stated Police, Fire and Building Department have no concerns with this application and recommend approval.

Mr. Ciuni stated the plan meets all City codes and standards and recommend approval.

Mr. Smerigan stated this request is for both preliminary and final site plan approval for an expansion of the existing school gymnasium. The subject site is in the U-5 Public and Institutional District. The existing school has 32 classrooms and a current enrollment of about 349 students. The applicant does not intend to add classrooms, but merely to increase the size of the current gymnasium. The proposed addition is 23 feet in height and would add approximately 9,520 square feet of additional floor area, plus 1,223 feet of mezzanine area. The addition would extend the gym eastward and will require slight shifting of the dumpsters and some very minor renovations to parking. The dumpster enclosure will be against the east wall of the addition and the sidewalls of that enclosure will match the building materials.

The subject site was previously granted a parking variance and approved for land banking of parking spaces. Since no additional classrooms are being proposed and since the enrollment is still within the parameters established when the variances were granted, it does not appear that any adjustment to the previously approved variances are necessary. Since no new variances are required, the Planning and Zoning Commission has the authority to grant approval. It is recommended that the Commission grant both preliminary and final site plan approval for this application.

Mr. Zabell asked Mr. Smerigan to clarify what is currently located at the area of addition.

Mr. Smerigan stated there are dumpsters and a few parking spaces in that area. They ended up modifying the parking layout and adding a new dumpster enclosure at the rear of the new addition. The land banked spaces are actually spread around the site and they still have enough parking to meet the requirement of the regulation.

A motion was made by B. Zabell and seconded by C. Cohen to approve Bruce Horton, Bialosky Cleveland, representing Joseph and Florence Mandel Jewish Day School, request for preliminary and final site plan approval for a gymnasium expansion to be located at 26500 Shaker Blvd.

ROLL CALL:	AYES:	C. Cohen, Mayor Gorden, R. Hecht, B. Mann, J. Pasch, B. Zabell
	NAYS:	None
	ABSTAIN:	O. Jacobs
MOTION APPROVED		

Chairman Mann turned over Chair to Mr. Jacobs.

P&Z 2016-11	ROBERT D. MOONEY, MOONEY & SONS TOWING & AUTO REPAIR, IS REQUESTING PRELIMINARY SITE PLAN APPROVAL FOR A BUILDING ADDITION FOR ADDITIONAL SERVICE BAYS TO BE LOCATED AT 27000 CHAGRIN BOULEVARD.
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Chairman Jacobs stated this item has been placed on hold for a future meeting.

P&Z 2016-12	LINDSEY MAYERFELD, OWNER OF PROPERTY LOCATED AT 2428 DEBORAH DRIVE, PER CODIFIED ORDINANCE SECTION 1105.01(b) ADMINISTRATION AND APPEAL, IS REQUESTING AN APPEAL OF DECISIONS OF THE CITY OF BEACHWOOD BUILDING COMMISSIONER MADE IN THE ENFORCEMENT OF THIS ZONING
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CODE, I.E. FOR THE REQUEST OF REMOVAL OF CHICKENS RELATING
TO CODIFIED ORDINANCE SECTION 1155.05(i) KEEPING OF FOWL.

Chairman Jacobs asked Mr. Reali for his comment.

Mr. Reali stated if it pleases the Commission, we would like to proceed with the appeal with Mr. Griswold's decision first then take a vote on that. The appeal should be ten (10) minutes and relative to the issue of was the Building Commissioner decision wrong. The vote of the Planning Commission will act as a final decision. When that is concluded, they can move on to the applicant's request for variances.

Mr. Reali asked Ms. Mayerfeld if that seems fair and if she would like to proceed with the appeal.

Ms. Lindsey Mayerfeld, owner of property located at 2428 Deborah Drive, stated she does not want to start out with any negativity, but she has received mixed signals from the City. When she spoke with Mr. Griswold regarding his letter she was told to make an appeal. When she spoke with Mr. Reali, he told her that was probably not the best way to have gone with this. She stated she has two (2) chickens that pose no harm to anyone and a petition with over 200 signatures has circulated Beachwood in support of the chickens. Technically, there is no basis for an appeal as she does not have 1.1 acres and she is not within 200 feet of the next property. When she first moved to Beachwood the City Ordinances did not prevent chickens and she has kept chickens in Beachwood for the past ten (10) years and she would ask for an appeal on that basis.

Mr. Mann stated he wants to make sure they are focusing these comments on the actual appeal and not the merit of whether or not to have chickens. He asked Ms. Mayerfeld what she feels was done incorrectly in what the Building Commissioner did.

Ms. Mayerfeld stated there is no basis for an appeal because, technically, she does not meet the minimum land requirement. She said they can dismiss it but entertain the appeal based on the fact when she moved to Beachwood the law did not prevent the keeping of chickens and maybe that would leave an opening for a basis of an appeal.

Mr. Mann stated they can deal with that issue when they get to the variance but with the appeal it is not the time to reopen up the concept of chickens or no chickens. He stated they should first deal with the appeal of the decision made by the Building Commissioner.

A discussion ensued regarding the requirements, standards and revisions of the Ordinance.

Mr. Reali asked if the applicant was in compliance when she lived on Community Drive with the then existing Code.

Mr. Griswold stated when she lived on Community Drive it was prior to the 2012 enactment and he believes she was in compliance to the rules and regulations relative to chickens specifically at that time.

Mr. Reali stated the vote today before the Planning Commission is your decision based on the current code based on her current residence.

Mr. Griswold stated he recommended the appeal to Ms. Mayerfeld because she was being told to remove the chickens and had the right to appeal which any resident does of the decision of the Building Commissioner. She received a letter and it was proper and the direction, personally, she had to go basically because until the appeal was heard she has effectively had that right to maintain what she had. She had the right to come before Planning and Zoning as the code directs on the appeal of what was written.

Mr. Pasch stated it is relatively common when Ordinances are passed for people to be grandfathered in and has that been looked into.

Mr. Reali stated in Zoning Law, a grandfather clause is called a prior nonconforming use and would apply to her prior property on Community Drive. A prior nonconforming use cannot move with her to another property.

Mr. Smerigan concurred and stated it would be helpful to separate the two (2) issues. The first request is an appeal of an administrative decision pursuant to Section 1105.01 of the Zoning Code. The applicant is contesting the directive of the Building Commissioner regarding keeping of chickens. The applicant's letter indicates her desire to keep the chickens. The enforcement letter refers to Section 1155.05(i), which requires that the chickens be restrained in a structure and sets forth the locational requirements for the structure. The applicant currently has the chickens in the garage.

The letter from the Building Commissioner quotes the appropriate section of the Codified Ordinances, and correctly advises the applicant that the Code requires that the chickens be kept in a coop and states the locational requirements for the coop. While the applicant may be unable to comply with the regulation, it is clear that the Building Commissioner has correctly interpreted and enforced the provisions of the Zoning Code.

Mr. Smerigan stated we need to get past the first item on the agenda so they can concentrate on the variance.

Chairman Jacobs entertained a motion on the appeal.

Mr. Reali clarified the motion to uphold.

A discussion ensued regarding whether or not to remove the request of the appeal.

Mr. Reali recommended voting on the appeal.

A motion was made by R. Hecht and seconded by B. Mann for the request of Lindsey Mayerfeld, owner of property located at 2428 Deborah Drive, to uphold the March 4, 2016 decision of the Building Commissioner mandating that fowl be removed from appellant's property.

ROLL CALL:	AYES:	C. Cohen, Mayor Gorden, R. Hecht, O. Jacobs B. Mann, J. Pasch, B. Zabell
	NAYS:	None
MOTION APPROVED		

P&Z 2016-13	LINDSEY MAYERFELD, OWNER OF PROPERTY LOCATED AT 2428 DEBORAH DRIVE, IS REQUESTING A VARIANCE TO CODIFIED ORDINANCE CHAPTER 1155.05 KEEPING OF DOMESTIC FARM ANIMALS AND FOWL (SECTION 1155.05(i) KEEPING OF FOWL
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Ms. Lindsey Mayerfeld, owner of property located at 2428 Deborah Drive, was present to request a variance to Codified Ordinance Chapter 1155.05 Keeping of Domestic Farm Animals and Fowl (Section 1155.05(i) Keeping of Fowl).

Chairman Jacobs asked Ms. Mayerfeld what variance she is requesting.

Ms. Mayerfeld stated she is requesting a variance to the setbacks and the minimum land requirement.

Mr. Griswold deferred to Mr. Smerigan's report.

Mr. Smerigan stated there are two (2) variances in question. Firstly, the minimum acreage requirement which her property does not comply with; and secondly, there are two (2) setback requirements. The first being the coop being a minimum of fifteen (15) feet from the property line which she can comply with that and she has indicated a willingness to do so. The second is the necessity to be within 200 feet from another dwelling. She submitted a site plan which showed two (2) potential locations for the coop in either of the back corners of the property. Fifteen (15) feet off the property lines is required. Either of those placements would put her at less than the 200 feet of neighboring dwelling. The northerly location would put her at 100 feet from the two (2) dwellings directly to the north of her property, about 135 feet from the house on the west and 95 feet from the house to the south. The southerly location would be 115 feet from the house to the west, approximately 165 and 185 feet respectively to the houses to the north, and about 50 feet from the house to the south. In any instance, she will be requiring a variance that would amount to either a 50% or 70% variance.

In summary, it does not appear that the applicant meets the criteria necessary for the Commission to make a determination that there is a practical difficulty. The Commission will need to act in the form of a recommendation to City Council.

A discussion ensued.

Mr. Mann stated he is not in favor of this item as he struggles to find a practical difficulty that would support a 50% variance.

Ms. Hecht stated once they set precedence they start to lose control and they cannot do that. She is in favor of organic eggs and chickens and would love to do that at her house, but she cannot as she does not meet the standards.

Mr. Pasch stated the Ordinance was in front of City Council a couple of months ago to lower the distance requirement for ownership of fowl to where the coop had to be built next to neighboring properties. He was in favor of lowering the distance requirement, and he would personally be in favor of her having chickens on her property but he was the only one on City Council who voted for it.

Ms. Mayerfeld commented City Council made a decision on it but based on what facts and if more educating was done, maybe the sway of City Council would have been different.

Mr. Pasch stated they had a public hearing on the issue and before he votes on anything, he researches all the issues behind it.

Chairman Jacobs advised Ms. Mayerfeld the Ordinance voted on by City Council was recommended to City Council by the Planning and Zoning Commission after investigation by the Beachwood City Staff and other communities. The Planning and Zoning Commission does not enact the Ordinances, that is the responsibility of Beachwood City Council and they have to follow the Ordinances enacted by City Council.

Chairman Jacobs asked Ms. Mayerfeld if she has submitted something to City Council.

Mr. Reali stated she has requested a text amendment to the Code but, currently, is not on the agenda. It would go to City Council the way the Code is written, gets on the agenda and Council could refer it back to Planning and Zoning Commission.

A discussion ensued.

Mr. Zabell stated one of the requirements of a variance is to prove a hardship. He asked Ms. Mayerfeld if there was any hardship she wanted the Planning Commission to consider before they vote.

Ms. Mayerfeld stated she hopes she does not get emotional but the chickens are their pets and it would be a hardship to us, her kids and the chickens, obviously, as they would probably be shipped off to a farm and be cooked.

Mayor Gorden stated there was much testimonial before City Council on this matter. There was a struggle based on the size of the parcel when Council was drafting their final decision. They were concerned if it was brought to a smaller size, it would affect many people in the community who might not be comfortable with it. The parcels on Community Drive were selected because of the size of acreage and it would not be abutting any neighbors that were close to each other. We have a community that does not have a lot of acreage but does have some that meet the intent of the Ordinance that was passed. He believes we need to be aware of that.

A motion was made by C. Cohen and seconded by B. Zabell to approve Lindsey Mayerfeld, owner of property located at 2428 Deborah Drive, request for a variance to Codified Ordinance Chapter 1155.05 Keeping of Domestic Farm Animals and Fowl (Section 1155.05(i) Keeping of Fowl) subject to the City Planner's Supplemental Report.

ROLL CALL: AYES: C. Cohen
 NAYS: Mayor Gorden, R. Hecht, O. Jacobs, B. Mann
 J. Pasch, B. Zabell
MOTION DENIED - RECOMMENDATION TO
COUNCIL – Monday, June 13, 2016 at 7:00 P.M.

Chairman Jacobs stated he would like to schedule a special meeting to discuss the Master Plan as City Council is looking for a recommendation from Planning Commission as to whether or not adopt the Master Plan as is or with modifications.

Planning Commission concurred.

A motion was made by R. Hecht and seconded by B. Mann to adjourn the meeting.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, R. Hecht, O. Jacobs,
 B. Mann, J. Pasch, B. Zabell
 NAYS: None
MEETING ADJOURNED

Orry Jacobs, Chairman

Veronica Gentner, Secretary

Karen Navolanic, Clerk of Council