



Village of South Russell
5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING VIA ZOOM
Record of Proceedings
June 11, 2020 7:30 p.m.

Members Present: Steve Latkovic, Chairman; James Flaiz, Dennis Galicki, Mayor
William Koons, and Elisa Budoff

Other Officials: Bridey Matheney, Solicitor; Nancy Grattino, Board Secretary

Visitors: Peter Cary, 477 Industrial Pkwy.; Steve Ciciretto, Architect
Brian Jeckering, Proposed Tennant; Chris Bell, Kensington
Green HOA President; Joe Cimperman, Kensington Green HOA Treasurer

Chairman Steve Latkovic called meeting to order at 7:30 P.M.

Board Secretary Nancy Grattino conducted roll call.

Latkovic stated that there were minutes from the January 9, 2020; February 13, 2020; and March 16, 2020 meetings. Flaiz made a motion to approve all the minutes, seconded by Budoff. Roll call – Latkovic – Yes, Flaiz – Yes, Galicki – Yes, Mayor – Yes, Budoff – Yes. With unanimous vote, the motion carried.

CASE # 20-PC-04: 477 INDUSTRIAL PKWY, SUITE D– ALL HOUSE DISTILLING LLC- PETER CARY, APPLICANT/OWNERS REP. – PROPOSED NEW TENANT FOR DISTILLING CO.

Cary reported that the two tenants previously presented to PC had withdrawn due to COVID-19. However, there was a proposal by Brian Jeckering, All House Distilling, to occupy 6,000 square feet of warehouse space in the rear of the building at 477 Industrial Pkwy. Jeckering explained that it was a combination of processing space to distill the spirits. It would also include a tasting room to educate the patrons on the process. He intended to have a kitchen where small pairings would be prepared to accompany the introduction of the spirits. He advised that where the craft beer trend is declining, the micro and craft distilleries are climbing. It attracts people for tours and events in the space. A large part of the revenue model for such a facility is to have some of

the space used for both aging of barrels and event space. The floor plan of the processing and aging areas would be to the outside of the building, and the internal space dedicated to events. He hoped to build partnerships with other local vendors to expand his offerings. The focus for All House would be whiskies with different finishes. The intent is only to serve spirits produced at the facility. Jeckering advised that the space provides tall ceilings necessary for processing, and they intend to build a box within a box for the tasting room. There is area in the back that would allow for patio space when the weather permits. It would be turning the warehouse space into an entertainment space. He stated that the business' objective is to become part of the community and participate in local events.

Jeckering stated the focus would be on different whiskies to include a bourbon, rye, and single malt, but also finished whiskies where the product is aged and then aged again in a rum barrel, for example. This is challenging because of time involved with the aging process. They would also be distilling gin or vodka. He did not plan to serve beer or wine unless there was a tie to a local microbrewery. Latkovic clarified that Jeckering would want to serve on site and would have a full liquor license. Latkovic asked how many people the location could accommodate, and Jeckering said within the tasting room, it would be 20 – 30. In good weather where the patio could be utilized, it would be doubled.

Steve Ciciretto stated that calculations were based on a maximum occupant load of 50. This does not include a staff of 5. Referring to the drawing, Ciciretto explained that if the 7,200 square feet were divided into offices, it would be one space for 300 square feet which would equate to a need for 24 cars. The distillery space is 6,000 square feet with distillery and tasting room with tables for 20 – 30 people. The distilling equipment would be in the northeast corner and would not be open to the people attending functions. The banquet area would be in the southwest corner. With this layout, there could be 50 occupants. Latkovic asked if this was just the banquet and kitchen area and not the patio. Ciciretto said yes and explained that it would be simultaneous to make cocktails outside on the patio and then dinners would be served inside to move the patrons into the facility. With tasting events, the space would be mixed use. He stated that just east of the tasting area is a commercial kitchen and ADA compliant restrooms. Ciciretto concluded the occupancy of the building would require parking for a total of 54 cars. He referred to the plan and indicated there were nine on the north side of the building, 20 on the east side of the building, and then 25 spaces in the back. He added that the events would be after hours where most of the building would be empty. Ciciretto advised that Cary had additional parking that could be used at adjacent buildings. Ciciretto also noted that there was landscaping proposed for the back side to make it feel like an event center. No elevation changes or signage for the building had been proposed yet. The paving for the parking is in place but would need to be finished. It is an existing parking lot, but it does not meet all the setback rules of current parking. There are no neighbors behind the property.

The Mayor asked about the hours of operation and Jeckering stated production would happen during a normal work week, and hours for the public would be 2:00 p.m. until 8:00 p.m.

weekdays and until 10:00 p.m. on the weekends with the tasting room closed on Mondays and Tuesdays.

Latkovic asked about the All House Distillery name, and Jeckering explained it involved his habit of taking over the whole house with his hobbies. He further explained that the business would only serve what it produces; all house spirits.

Hocevar informed the applicant and PC of the possibility of placing a conditional use on the application in terms of the Village's Zoning Code. Jeckering advised that the business would require substantial investment and the conditional use gave him pause. Flaiz, Latkovic, and Hocevar discussed the issue and decided that it was unnecessary for this application.

Flaiz made a motion to approve 20-PC-92 for 477 Industrial Pkwy, Suite D – All House Distilling, seconded by Galicki. Roll call – Latkovic – Yes, Flaiz – Yes, Galicki – Yes, Mayor Koons – Yes, Budoff – Yes. With Unanimous Vote, motion carried.

CASE # 20-PC-05: KENSINGTON GREEN- HOA- MOWING PLAN

In response to the January PC meeting, Bell stated that the new mowing plan was submitted. Furthermore, the HOA had the area mowed. He referred to the plan and indicated the area involved was from the entrance of Kensington Green to the west to the South Russell Police Department line as well as east from the Kensington Green entrance to the beginning of the wooded area along the right of way. Flaiz was unclear from the wording of the plan, and asked if the HOA would be mowing up to the roadway, or not mowing the ditch. Bell explained that the landscapers had been mowing the ditch. However, it was his understanding that this was not the responsibility of the HOA, but they were doing it anyway. Flaiz stated this was a gray area, but thought most people mowed the ditch line. Latkovic interpreted the plan to include the ditch. Flaiz explained that the mowing plan indicated from the right of way which would not technically include the ditch, where the old plan stated it would be from the roadway. Flaiz said his preference would be from the roadway to the fence line.

Flaiz noticed where the cutting stopped leaving an area between the right of way and the wooded area up to the drainage outflow on the far eastern end of the property. Flaiz said this area looked bad, and historically under the previously approved mowing plans years ago, would have been mowed. Bell stated that in 2017, the Mayor did a presentation to the HOA concerning water issues. As a result, the HOA stopped mowing the area along Bell Road and also part of the common property near the entrance that was allowed to become meadow land to help the Village mitigate water flow both in the direction of Chagrin Lakes and of Sunridge. This was a concession made for the Village. Flaiz indicated what he is concerned with was the area between Bell Rd. and the fence line and the wood line. Bell stated on the plan, they are still concerned about Sunridge. Flaiz stated that with respect, the Mayor should not have been making any deals on any of this because the mowing plan is of the purview of the PC. He did not see how not mowing the area between Bell Rd. and the fence line on the far eastern part of

the property had anything to do with stormwater control. Flaiz thought the stormwater issues were more on the south side of the fence line described as the wet meadow and retention basin adjoining Sunridge.

Bell asked if there were other communities along Bell Road that do not mow, and Flaiz said he did not know of any subdivisions that have a mowing plan. Kensington Green is the only subdivision that does not mow their entire common area per Village ordinances. Bell said he was aware that Willow Lane did not maintain the property along the roadway. Flaiz indicated this was a private property owner, not a subdivision, and is a private drive with individual homeowners. Bell indicated that Kensington Green is also a private lane, and Flaiz disagreed and said it was owned by a subdivision. Latkovic explained that the rules for subdivisions are different and would differ from the requirements of individually owned property. Latkovic clarified the area to which Flaiz was referring.

Cimperman advised that he read some historical documents which discussed flooding over Bell Rd., and he believed this was why the Village asked the HOA to cease mowing the area to slow down the water going over Bell. He thought this was the issue that resulted in the HOA's current situation. Flaiz stated he was involved with this issue, and there was flooding at the time. What the Village did not want mowed was the south side of the fence line in the retention basin. It used to be mowed periodically. The area visible from Bell Road between the fence line and the wood line was not included. Cimperman stated he was aware of this, but there was another part of the document that involved flooding over Bell Rd. near Sunridge. Flaiz explained that it was not completely the HOA's issue, rather an undersized storm drain that went from the wet basin outflow under Bell Rd. that the Village had the Engineer look into replacing. Because it was cost prohibitive, it was not done. Under the old plan, the area in question was mowed and as well as one swipe on the south side of the fence. Flaiz explained that his personal issue was at least having the area from Bell Rd. to the fence line mowed.

Cimperman stated he wanted to review the old plan with the HOA board because he was aware that there was an issue with getting to the south of the fence because of trees. He expressed reluctance in having to do an assessment of the HOA members with some out of work due to COVID. The HOA board would also need to renegotiate the contract with the landscaper to include the new requirements. Bell stated his understanding was that the former plan was moot because it expired and had not been renewed in 18 years, so the conversation should be what should be done now. He asked what the PC's concerns were, the stormwater or the aesthetic? Bell's concerns were more for the stormwater, but if the PC's priority were the aesthetic, he would mow it. Flaiz stated stormwater management had nothing to do with the area with which he took exception. He clarified that the flooding that Kensington Green is causing in his neighborhood, Chagrin Lakes, has to do with Bullfrog Pond and has nothing to do with the mowing or stormwater management related to the mowing. Bell explained that the HOA was told and had received complaints that Sunridge was having issues as well. Flaiz did not know anything about Sunridge. Latkovic did not see how mowing along the fence line on Bell Rd. in front of the forest for 100 yards would affect stormwater.

Bell stated his point was that two years ago, the Village came to Kensington Green to ask the HOA a favor, and the HOA complied. Now the Village is coming at the HOA and telling them not to do it and punishing the HOA. He did not want this to happen every two years with a change of the members of the PC. Bell wanted a clear plan that the Village would not keep changing so that the HOA could budget for it accordingly. Flaiz advised that historically, the HOA came to the Village to address the cost of mowing, and the Village passed an ordinance which set up a procedure where the neighborhood could mitigate its costs and not mow all of the property. For many years it was mowed. The reason for the current situation was that the HOA stopped mowing between the fence and road. Bell reiterated that they stopped mowing it because of the Village. Flaiz said the mowing of this area had nothing to do with stormwater management and whoever told the HOA this information was 1000 percent wrong. Latkovic asked the Solicitor for when the last mowing plan was approved, and she thought it was 2007. Latkovic asked if the plans were then supposed to be reviewed every two years. Flaiz recalled that the ordinance allowed PC to put a review on it periodically. PC could approve something to be done with the area indefinitely. The Solicitor concurred. She said the ordinance would allow for something more permanent. Latkovic asked if it could have different requirements over time, and the Solicitor stated any reasonable conditions could be imposed. Latkovic asked Bell if in the long term, he would want to see the area mowed or left natural. Bell liked the way it looked mowed but was supportive of efforts to control stormwater. Latkovic agreed with Flaiz but was sympathetic to the mixed messages and economic issues faced by Kensington Green residents. He proposed that the plan include some mitigation of cost for Kensington Green. He suggested skipping a year and then planning that the area will be permanently mowed in the future. Flaiz suggested adopting a plan that would take affect in May 1, 2021 and include what is mowed now, but specify the mowing should go to Bell Rd. instead of to the right of way and should extend to the outflow of the eastern end of the property between the wood line and Bell Rd. Latkovic asked if this were acceptable, and Bell asked that it be worded in such a way so as not to include a two-year review. Latkovic said the point would be for this to be a permanent plan. Flaiz agreed.

Bell verified that no other subdivision had a mowing plan, and Latkovic explained that other neighborhoods and residents are subject to the Village Zoning Code for tall grass. Kensington Green sought the plan originally as flexibility with this ordinance. Cimperman suggested that a plan might not be necessary if the HOA mowed in accordance with the zoning regulation. Flaiz advised that in that case everything would have to be mowed, to include the meadow area.

Latkovic stated that the plan would start the following year and it would become permanent so that in essence it would become the ordinance but modified for Kensington Green so that everything would not have to be mowed.

Flaiz clarified that the mowing at Kensington Green had nothing to do with stormwater issues at Chagrin Lakes, and it was not his intent on this issue to have anything to do with Chagrin Lakes' stormwater issues. Bell stated that the information indicating it did was provided in a

presentation from the Village and Chagrin River Watershed Partners describing that the water ran through the neighborhood's low point to Bullfrog Pond, which would get overwhelmed and eventually flow to Chagrin Lakes. Bell offered to provide this information to the PC. He was otherwise in agreement with PC.

Corrections were made to the plan map. Flaiz suggested extending the yellow line virtually to the end of the property on the eastern end. He thought there was 15 or 20 feet of the outflow that would be impractical for the HOA to mow. Flaiz stated he thought the Village should maintain the outflow.

Latkovic made a motion to approve the mowing plan subject to two changes. In the third and fourth bullet point, the term "right of way" is changed to "road" and the yellow line is extended to the break in the eastern side of the woods along Bell Rd. where the outflow is effective May 1, 2021, seconded by Flaiz. Roll call – Latkovic – Yes, Flaiz – Yes, Galicki – Yes, Mayor – Yes, Budoff – Yes. With Unanimous Vote, motion carried.

Latkovic inquired about old or new business and hearing none made a motion to adjourn, and the Mayor adjourned the meeting.



Steve Latkovic, Chairman



Date

Prepared by Leslie Galicki



Village of South Russell
5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING
Record of Proceedings
July 9, 2020 7:30 p.m.

Members Present: Steve Latkovic, Chairman; Mayor William Koons, and Elisa Budoff

Members Absent: James Flaiz, Dennis Galicki

Other Officials: Bridey Matheney, Solicitor; Nancy Grattino, Board Secretary

Visitors: Peter Cary, 477 Industrial Pkwy; Alla Yesinovskiy, Allegria Studio

Chairman Steve Latkovic called meeting to order at 7:30 P.M.

Board Secretary Nancy Grattino conducted roll call. Flaiz and Galicki were absent.

CASE # 20-PC-02: 477 INDUSTRIAL PKWY, SUITE B – ALLEGRIA STUDIO – PETER CARY, APPLICANT/ PROP. OWNERS REP. – PROPOSED NEW TENANT

Latkovic asked Cary for the status of the tenant, All House Distilling LLC, and Cary advised there was a technical issue relating to fire suppression and the class of building. It would be a huge obstacle to have to install sprinklers, according to Cary, because of an inadequate water supply. The problem continues to be explored.

Cary introduced Alla Yesinovskiy, who had been a tenant in another building for the past three years developing her business. Cary reported that Yesinovskiy has a plan to expand her business in Suite B, 477 Industrial Parkway. This is the same Suite PC approved for a hair salon several months earlier. An architectural “fit plan” created for the business was provided to PC. Yesinovskiy provided a presentation to PC explaining the nature of her business. The business provides permanent make-up and cosmetic services. Additional services continue to be added. She is the founder and has a school where she provides training for clients and patients. Yesinovskiy stated she has clients in neighboring states and has the highest rate of business in the industry. A spa was added, and the business was approved by the Board of Cosmetology for spas. The business is regulated by the Geauga County Board of Health and rated as the best school and business because it is clean and sterile. She explained that they do not do traditional tattoo. Instead, it is restorative work that includes working with plastic surgeons as well as

physicians from the Cleveland Clinic and University Hospitals. As a result, she needs more space to grow. Additionally, Yesinovskiy is in discussions with a dermatologist to join the business to create a medispa. She added that there are separate areas for the hair studio, the medical, tattooing, and teaching areas.

The Mayor asked Yesinovskiy how many years she had been in business, and she replied since 2013. She is currently located in Bainbridge. The Mayor addressed the connotation of a tattoo parlor, and Yesinovskiy explained that she does not do traditional tattoo, but paramedical tattooing. She had no intention of conducting traditional tattoo. The Mayor asked if she treated people with severe burns. Yesinovskiy addressed the advantages and opportunities of having a dermatologist with the business. She explained that the work she does provides men and women who suffer a variety of issues with confidence.

Budoff referred to the type of medical facility involved with the death of Joan Rivers, and clarified that plastic surgery would not be performed with the business. Yesinovskiy stated there would be no plastic surgery. She did not think the dermatologist would be operating because she works at a hospital as well. It would likely involve skin care, consultation, and injectables. Latkovic clarified that when Yesinovskiy said “injectables,” she was referring to Botox. Yesinovskiy stated that Botox is among many fillers, but there would also be micro needling, and possibly laser hair removal.

Latkovic referred to the documents provided by Yesinovskiy and indicated the layout included three spa rooms, a pedicure room, shower, massage, styling, reception, and a large opening. Yesinovskiy indicated that she has room dividers to utilize in the open area.

Latkovic advised that he welcomed the business.

Latkovic made a motion to approve case 20-PC-02 for 477 Industrial Pkwy, Suite B – Allegria Studio, seconded by Budoff. Roll call – Latkovic – Yes, Mayor Koons – Yes, Budoff – Yes. With Unanimous Vote, Motion Carried

Latkovic indicated there were no minutes to approve.

Old Business: Latkovic asked if there was any old business to discuss. The Mayor stated no.

New Business: Latkovic asked if there was any new business to discuss. The Mayor stated no.

Latkovic made a motion to adjourn, seconded by the Mayor.



Steve Latkovic, Chairman



Date



Village of South Russell
5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING
Record of Proceedings
September 10, 2020 7:30 p.m.

Members Present: Steve Latkovic, Chairman; James Flaiz, Dennis Galicki,
Mayor William Koons, and Elisa Budoff

Other Officials: Bridey Matheney, Solicitor; Nancy Grattino, Board Secretary

Visitors: Peter Cary, Applicant; Jenn Pishko, Cindy Ellis, Chagrin Falls Crossfit

Chairman Steve Latkovic called meeting to order at 7:30 P.M.

Board Secretary Nancy Grattino conducted roll call.

CASE # 20-PC-02: 477 INDUSTRIAL PKWY, SUITE D – CHAGRIN FALLS CROSSFIT
– PETER CARY, APPLICANT/ PROP. OWNERS REP. – PROPOSED NEW TENANT

Cary advised that the craft distillery which had previously been presented to Planning Commission (PC) had technical issues related to fire suppression that were too difficult to overcome. However, Cary advised he had had a steady stream of applicants, to include Chagrin Falls Crossfit which was applying to occupy the same suite formerly considered by the distillery.

Pishko stated she acquired her new business partners, John and Cindy Ellis and Ed Ellis, at the end of 2018. At the end of 2020, they will be at the end of a six-year lease in their current location and are looking at new spaces to better meet their needs. Latkovic asked if the space was the correct size for the business, and Pishko stated that with COVID-19, class sizes are limited, so the large square footage is not on the agenda. 6,000 square feet of totally usable and open space would meet their needs. Latkovic asked if there were any questions about the plans and added that it had been a successful business. Pishko explained advantages to remaining in the vicinity of her current location to include the relationships she has built with other small businesses in the area.

Mayor asked what the expected number of vehicles would be at any one time. Pishko reported less than 15 because classes are now limited to 11 participants. The classes and transition time total 75 minutes.

James Flaiz made a Motion to Approve case 20-PC-02 for 477 Industrial Parkway Suite D – Chagrin Falls Crossfit, seconded by Mr. Steve Latkovic. A roll call vote was taken as follows: Steve Latkovic – Yes, Jim Flaiz – Yes, Dennis Galicki- Yes, Mayor Koons – Yes, and Elisa Budoff – Yes. With Unanimous Vote, Motion Carried.

Mr. Latkovic asked if there were minutes from the July 9, 2020 meeting. Grattino stated that the minutes had not been completed due to her efforts to catch up on other Board minutes.

Old Business: Latkovic asked if there was any old business to discuss. Flaiz advised he had some new business.

New Business: Flaiz asked who the Village's Zoning Inspector is, and the Mayor replied Dave Hocevar. Flaiz asked if there was an Assistant Zoning Inspector and the Mayor explained that Grattino will be. Flaiz asked who was currently issuing zoning permits. Grattino stated she issues the permits and Hocevar does all the reviews and is training her on this as well. Flaiz asked if Grattino issued the zoning permit for the Sal's plaza building renovation. Grattino stated yes. He asked if she also issued the zoning permit for the new sign at Gurney Elementary School, and Grattino verified she did. Flaiz stated that based on 3.04, Development Approval of the Zoning Code, those permits should not have been issued until the matter was referred for PC approval. Historically, PC had always taken up and had to approve any addition or alteration to a commercial structure including when Augie's put the coolers on the back of the building. Flaiz stated that the zoning permits were issued illegally. Grattino explained that a facade was being sought, and the façade went to the Architectural Review Board (ARB). Grattino relayed that she was doing what she was told to do. Flaiz asked her who told her to do this, and Grattino explained that she asked the process of the order everything went in and she was learning everything that is done in South Russell. Flaiz stated that in the years that Hocevar had been doing this, he had always run it through PC because that was what the Village's ordinances said. He asked Grattino again who told her not to send them to PC. Grattino stated that Hocevar told her they needed to go to ARB and did not say it needed to go to PC. Flaiz stated that Hocevar had never done this, so he did not know what had changed other than Grattino was involved in the process. Flaiz read, "no application for a zoning permit involving a multi-family residential, private cluster residential development, or envelope, residential neighborhood, elderly assisted living facility, any one-family structure exceeding thirty (30) feet maximum height and not requiring a variance, business or industrial structure or use, or any property located in a groundwater sensitive zone in which the applicant seeks to develop the property...shall be approved by the Zoning Inspector prior to approval by the Commission according to the following procedure and development regulation of this Code." In his experience on Council and PC, Flaiz advised PC had always approved alterations to any commercial property. He added that the previous Gurney sign went before PC before the zoning permit was issued. He

was aware of the drama in the Village but was very concerned that the policies and procedures in zoning were not being followed. Flaiz explained that these were just the two he knew about and was sure there were other zoning permits. Under the Village's ordinances, these two were illegally issued by the Zoning Inspector. Grattino stated that the Gurney sign went to the Board of Zoning Appeals (BZA) for the variance and they also went to the ABR. Grattino stated that she was not told it had to go to PC. Flaiz addressed the Mayor and indicated the Mayor was hiring somebody as an Assistant Zoning Inspector. He explained that the cornerstone of the Village's Zoning Code for developmental approval was that these matters must go through PC and had gone through PC for almost 30 years, which was when development approval was passed. Flaiz stated he is both a PC member and a resident and has a problem when zoning permits are being issued illegally. He wanted to know what the Mayor would do to address it. The Mayor said he would respond to Flaiz once he ran the paper trail to see what happened at Gurney and Augie's. He would be ready for the next PC meeting with the details. Grattino added that if she had been properly trained, and not for a total of 10 hours, and told what to do, then it would have been done. She said she had asked questions, so she did not need to be thrown on the spot. Grattino added that Mr. Galicki could smirk all he wanted. Flaiz stated that as a PC member, he also wanted an accounting of all zoning permits issued that would have fallen under 3.04 for the past two years. He wanted to know what other permits were issued that should have gone through PC that did not. Flaiz stated it seemed odd to him that the PC was never meeting, but when he saw the work going on in the Sal's plaza, he questioned why this never came to PC. He advised that these were just the two that he knew about, but he was sure there were additional ones. The Mayor stated he would find out.

Latkovic asked why Hocevar did not attend the PC meetings and added that there used to be more representation, and it was quite helpful because these situations or other zoning matters could be addressed in real time. Latkovic asked if it would be possible for Hocevar to attend. The Mayor stated yes.

The Solicitor stated that going forward, there should be a requirement. She advised that Hocevar used to attend, and he attends the BZA meetings. The Solicitor concluded that his attendance should be a requirement.

The Mayor stated that when the PC meets on October 8, 2020, he would have the information concerning the zoning permits 3.04 since 2018, and specifically the sign at Gurney Elementary and Augie's. The Solicitor stated she would be happy to assist in the required training regarding the zoning code. She and Hocevar could put on a seminar or create a bullet point list of the process. The Solicitor acknowledged that the Village's zoning code was not an easy one, but the process was important to follow.

Flaiz asked the Solicitor if she saw any issues with the permits that were issued contrary to the zoning code. He added that he likes the Gurney sign and the look of the plaza, and that this was not the point. Flaiz described the situation as a microcosm of a lot of things that were going on in the Village where, due to leadership issues, there were a lot of procedures that were not

occurring as they should. Flaiz reiterated that it was not a matter of having a problem with the two projects, but rather a concern that the zoning code be followed. If people were not being properly trained, which he thought they clearly were not, that fell on the administration. The Solicitor agreed with Flaiz and stated she was a process/procedure person and said the Zoning Code is an ordinance and must be followed. Flaiz added that he did not know how this would impact the ongoing projects, but he was concerned.

Latkovic asked how many were outstanding and asked if there was anything that would fall under what was being addressed now that PC should potentially be looking at. Grattino asked if Latkovic was referring to signs, and asked if they look at all signs or just building signs. The Solicitor stated this was a good question and she did not know. Flaiz stated it was more comprehensive than this, but the easy question to answer would be if there were any outstanding zoning permits for additions or alterations in a commercially zoned or industrial zoned part of the Village's zoning. He explained it would be commercial or industrially zoned. Flaiz stated PC approved the Cleveland Clinic sign three years ago and acknowledged it had been done correctly at that time because this was a zoning permit which came through PC. Any zoning permits for additions or alterations of any type to any business or any of the buildings should go through PC. Grattino stated this was the absolute first she had heard that it came through PC. Latkovic asked Grattino to have a conversation with the Solicitor and then bring it up to him to discuss. He suggested she be more conservative around what should go through PC, and that PC could decide what should not go before them. Latkovic asked that she be overinclusive on at least the initial work to make sure the Village is complying with the zoning code. Grattino agreed. Latkovic advised that at the next meeting they would address some of the items Flaiz requested. Flaiz thanked Latkovic and apologized for the unpleasantness.

Steve Latkovic adjourned the meeting.



Steve Latkovic, Chairman



Date

Prepared by: Leslie Galicki



Village of South Russell
5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING
Record of Proceedings
October 8, 2020 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons and Elisa Budoff

Other Officials: Bridey Matheney, Solicitor, Board Secretary, Dave Hocevar, Inspector

Visitors: Brian Becker

Mayor William Koons called meeting to order at 7:36 P.M.

Mayor William Koons conducted roll call.

APPROVAL OF MINUTES: Mr. Latkovic asked for discussion regarding the minutes awaiting approval. After confirming with Ms. Matheney that one motion for all three meeting minutes would be acceptable, Mr. Flaiz motioned to approve the minutes from June 11, 2020, July 9, 2020 and September 10, 2020. Mr. Galicki seconded. On roll call vote, motion carried.

CASE # 20-BZA-06: 5210 CHILLICOTHE ROAD – CIPRIANI PLAZA – BRIAN BECKER, BECKER SIGNS - APPLICANT – PROPOSED MONUMENT SIGN – 10’ SETBACK VARIANCE FOR SIGN LOCATION & 5 SQ. FT. VARIANCE FOR SIGN AREA

Brian Becker began his presentation by stating that the current ground sign located in the plaza across the street from city hall is in very poor condition. His proposal is to install a new sign, using a brick over block base, with the brick matching the building, a limestone cap underneath the lower base, and a cap on the column. It would have an internally illuminated aluminum sign that would be attached. The sign is 30 sq ft, the code allows 25 sq ft, but a variance has already been granted. The current sign is set pretty far back from the road. They wanted to move the new sign closer to the road. Mr. Becker said they have also received a variance of 10’ to be able to place the sign 15’ off the road. He said Chief Rizzo

looked at sight lines with them. They then decided to move it back an additional foot, so it would be 16' off the road. The new sign would be in the same plane, perpendicular to the road, as is the existing sign. He noted the brick would match the brick on the building and the color of the cabinet would match the roof on the building. Mr. Latkovic referenced the picture submitted, showing the difference between the existing sign and the new sign, confirmed that it was a good representation of the distance move up relative to where the sign is today. Mr. Becker said yes, that is correct. Ms. Metheny asked if the photo was taken before it was decided to move the sign 1' back; Mr. Becker said yes. She then confirmed the sight line visibility, without going into the road, for someone coming out of the other side and turning left. Mr. Becker said Chief Rizzo wanted to move that extra 1' back, because a telephone pole was in the sight line. Mr. Latkovic asked the board if anyone had any questions. Mr. Flaiz asked whether the board had received the photos he sent via email. Firstly, he stated he is happy with the improvements to the plaza and that it looked a thousand percent better; all the improvements, from the parking lot to this proposed sign, he is very happy with everything. And while those improvements are very appreciated, his concern is the signage Sal's has in their window. The neon, the beer signs, represents a significant deviation from the zoning code and also a significant deviation from the character of the Village, and the commercial district in the Village. He believes this is the only store that look like this, and while it may be commonplace in other areas, it is not in South Russell Village. Mr. Flaiz thought it appropriate, since bringing up the developmental review for the new sign, to put some conditions that the landlord have the tenants comply with our zoning and eliminate what is seen in the photos. Mr. Latkovic stated that the sign has been there quite a while, and he is not sure what they should, or should not, be doing when things are this far along. He wants to understand if the conditions are appropriate for review by Planning Commission for the sign on the front. He does agree with Mr. Flaiz on the aesthetics and feels it does distract from how good that corner can look. Mr. Flaiz said the beer signs and the permanently affixed temporary lottery signs do not comply with zoning in the B-2 district, especially when looking at all the other signage in the Village.

Mr. Becker stated he is just the sign contractor, and if the signs in the window were not applied for, and a permit not obtained, that should be brought up to the landlord, Mike Cipriani. Mr. Flaiz said they operate under a development review of the property, and in the past, PC has put stipulations on approvals, such as, the rest of the property must be in compliance with our zoning, which in this case it is not. He again complimented the sign before the board, but he thinks if PC conditions their approval on Sal's compliance with the code, it will motivate them to address the situation so that this new sign can be installed quickly. He feels it would not be unreasonable to stipulate that they be in compliance with the zoning code during this development review wanting approval for a sign. Ms. Metheny agreed that the PC, with respect to the development review, can look at the property itself to ensure that it is in compliance with zoning. She noted that the BZA approval is conditional on approval from the police department and PC review. Mr. Latkovic agrees that this is the time to rein in that corner. Mr. Flaiz asked Mr. Hocevar if it is correct that, other than the Open signs, they should not have those other signs in the windows. Mr. Hocevar said window signs are throughout the entire Village and years ago, through the enforcement of that, there were a lot of issues with tenants, complaining that their businesses couldn't be seen, things of that nature. It was decided to not make an issue out of it because a lot of businesses have very limited signage in their windows. Mr. Hocevar suggested looking at the ordinances to limit signage in the windows. Ms. Budoff wanted clarification if the issue was neon signs or all signs. Mr. Flaiz said the zoning code prohibits signs from covering windows, and in the plumbing code, neon or

blinking signs are prohibited. In the zoning code for B-2, there is a certain square footage allowance for signs and that when including all windows signs, it would probably exceed that square footage. If you have a non-neon "OPEN" sign, if you have road signage that meets the square footage, you really shouldn't have any other signs in the windows. Discussion pertaining to different window signs in various businesses ensued. Ms. Budoff expressed concern that the enforcement of Sal's signage may have them pointing out other signs throughout the Village. Ms. Metheny said they would just have to make sure that the Village is consistent in complying the zoning code. Mr. Flaiz said he feels the zoning code was written the way it was to avoid businesses that end up looking like Sal's. Mr. Galicki said it is important to remember that the ARB, PC and BZA benefit the community in that they maintain the standards of the community and keep the community nice. Regardless of when ordinances were passed, the assumption is that they should be enforced. Perhaps initially approaching the tenants who have neon signs in a friendly manner, instead of issuing citations, saying although it has not been enforced in the past, the Village is looking to clean things up a bit now. Ms. Budoff agreed, saying it should not be targeted at Sal's. Mr. Galicki stressed the importance of consistency in enforcement, and not being arbitrary. Mr. Flaiz said for the purposes of approving this new sign before the PC now, he would say, as PC, we can't direct Dave, the Mayor or Council to do anything, but what we can do is condition our approval on the tenants of the plaza removing the window signs and neon signs and limiting their window signage to a non-neon "OPEN" sign. That would be his proposal for conditional approval of this sign, that they comply with those conditions that are consistent with the zoning code. It would be up to the Mayor, accountable to council, to direct enforcement throughout the Village. If people are apprised of what the rules are, he is fairly certain they would follow them. Mr. Becker asked if the code has an allowable percentage of coverage of windows, stating that most communities say you can cover 25%, 15% or 30%. Mr. Flaiz referred to Section 5.06(3)(a), which does not allow any covering of any windows with signs. "OPEN" signs or address signs are in a different area of the code. Mr. Hocevar suggested looking at the zoning code. Ms. Matheny agreed that the zoning code needs an overhaul, and discussion regarding the procedures to do so ensued.

Mr. Flaiz made a motion to approve the sign, conditioned upon the tenants of the plaza complying with the zoning code relating to signage. Mayor Koons seconded the motion.

Mayor Koons went on to say that procedurally, he did not like tying up Brian for his sign. Secondly, if the Village is getting tough on signs, every store has posted a sign about wearing a mask. Heading into the holiday season, and with many businesses hurting, with some people out there on the brink, he does not want to restrict their advertising, as he does not find that to be business friendly. He would like to look at this starting in January. Mr. Flaiz commented that he is sympathetic to the businesses, there is an advantage to businesses being located in our Village, and we have a very desirable looking business district. He attributed that to the many years of hard work and enforcement from Dave Hocevar, Laura Heilman, Jim Holt, and the hard work of the volunteer boards like the PC, ABR and the zoning board. Mr. Flaiz stressed the importance of enforcing regulations and ordinances of the Village.

Mr. Latkovic asked for roll call, Mayor Koons conducted roll call vote. On roll call vote, motion carried unanimously.

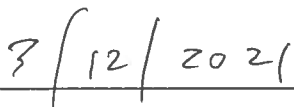
OLD BUSINESS

Mr. Latkovic asked if there was any Old Business to discuss. Mr. Flaiz brought up the issue of his public records request that he is still waiting for. Mr. Latkovic said it is better to wait until the public records request has been filled before discussing the situation.


Mr. Latkovic asked for any old business or any other topics that members wanted to bring up. There being no further business, Mayor Koons made a motion to adjourn. Seconded by Mr. Flaiz. Mr. Latkovic adjourned the meeting at 8:30p.m.



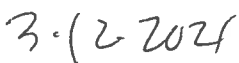
Steve Latkovic, Chairman



Date



Ruth Griswold, Board Secretary



Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings November 12, 2020 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D.,
Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Ruth Griswold, Board Secretary

Visitors: None

Meeting called to order by the Mr. Latkovic at 7:33p.m.

Ruth Griswold conducted roll call.

AGENDA ITEM 1: CASE# 20-PC-09: 524 EAST WASHINGTON STREET

Madelynne Prosek appeared before the board to present her proposal for a gymnastics studio at 524 E Washington Street. Ms. Prosek stated that her gymnastics studio is going to be the new face of high school gymnastics in the area; it used to be located at West G. Now, West Geauga, Chagrin Falls. Orange, all those schools will now be located at the Chalk It Up facility in South Russell, and what they are looking to do for the parents, due to Covid, because it is hard for parents to really watch, is to have a loft area that allows them to socially distance within that area.

Mr. Latkovic indicated that the old Cross Fit space is a little broken up, and the submittal only included an application and not a floor plan. He questioned Ms. Prosek as to whether she planned on changing the lay-out of the wide open area. Ms. Prosek said there will be no changes to the space itself, they actually need a wide open space to put the equipment, similar to the Cross Fit, they do need an open floor plan. They would just be bringing all of their equipment into the facility.

Mr. Latkovic asked where the loft would be located. Ms. Prosek said the details are not fully finalized with the landlord, but the loft would be at the first entrance, up above the bathrooms. Mr. Latkovic said although he had never been up there, he knows it kind of sticks out over the bathroom area, when you first walk in, over the desk area. Ms. Prosek said yes, that is the area where the loft would be located.

Mr. Flaiz asked whether the ingress and egress points were going to change, and Ms. Prosek responded there would be no change to those areas. Mr. Flaiz asked what the seating capacity would be for the loft, and Ms. Prosek said it would not be much, due to restrictions, the loft would probably hold roughly ten people max. Mr. Flaiz asked whether she would anticipate having more than a dozen cars there at a time, Ms. Prosek said no, unless they do have meets, then there is that back parking lot there that they have discussed with the landlord

possibly on Saturdays and Sundays if they were to host a meet after the whole Covid stuff is over, there would be a couple more cars there, probably about 30, roughly. Mr. Flaiz asked what time the meets are normally held, Ms. Prosek said the meets would be on the weekends, it depends but most are in the morning, there have been a few that have been held in the evening, but usually they are done by 2:00pm.

Mr. Flaiz said that it would be nice if Dave was in attendance, because he knows there is a lot of parking back there, but in the evenings, on Fridays and Saturdays, some of that parking is used by the restaurants. He said he has not been back there on a weekend evening and was concerned that there were parking issues. Ms. Prosek said she was told there are 94 spaces. Mr. Flaiz said he did not know how many he had leased out for the restaurants. Ms. Prosek said that he didn't explain that; he just said that they'd have that parking back there if they needed it.

Mr. Latkovic asked if the studio had a name, since it wasn't indicated on the application. Ms. Prosek said the name of her studio is "Chalk It Up Gymnastics". Mr. Latkovic asked if she was at West G now, and Ms. Prosek said they are currently practicing at another facility, because they were not able to get into the Cross Fit studio yet, however once they are in there, beginning January 1st, all of those athletes would move over. It used to be at West Geauga High School, or at Solon High School, but they are unable to do it this year.

Mr. Latkovic said, although less related, bear with him because he thinks this is very interesting. He was wondering if there is quite a strong gymnastic community in northeast Ohio here, nationally, where her business is coming out of as well. Ms. Prosek stated yes, she will have a high school program along with a rec program and a competition program, all of those things, there really isn't one in this area, especially for older athletes. That is why she thought bringing Chalk It Up would be perfect to bring into this area so kids don't have to drive all the way to Mentor or Geneva. Mr. Latkovic said that Solon has many facilities and asked if they were using Solon rec facilities, or do they have their own. If you're in gymnastics, and you're in Solon, are there other facilities in or around Solon. Ms. Prosek said there are one, or two in Solon, a little bit of a distance away, and that although none of her athletes have gone there, she does know of a facility out there.

Mr. Latkovic said he thought it was great that she is bringing this business to South Russell, to the area, even keeping it local, very exciting and we'll continue to have that little area back there as a really great place. He asked for other comments.

Mayor Koons said he has Dave Hocevar on speaker phone if anyone has questions for him. Mr. Flaiz asked what kind of parking situation is back behind that building, and how many spaces have been allotted to the restaurants. Mr. Hocevar responded that he did not know, but that he could find out. The plans are out for review, he has not seen the parking area described yet, he believes it's all in the works. He thinks they're going to be ok, he could talk to the owner of the adjoining building but he believes they have quite a few parking spaces. It was enough for all of Cross Fit.

Mr. Latkovic stated there were trucks in and out of all the larger warehouse buildings; it's a lot of space. Mr. Flaiz stated that one of the things they were supposed to be looking at was parking. He did not want to hold this up, and considering all that square footage, the gymnastic studio would take up a lot less parking spaces than some other options. It is not a bad idea from a parking standpoint. However, a parking plan should be available to look at as part of the developmental review. Mr. Latkovic agreed, in that there should be plans to review, along with parking, but for what this is, agreed not to hold things up. In the future, plans, with parking, should be submitted to Planning Commission.

Mr. Latkovic motioned to approve the submittal.

Mr. Hocevar indicated he would regulate the occupancy load according to the parking spaces. Since the parking lot was paved and all of the dumpsters were removed, they have a lot of parking back there. Mr. Flaiz indicated that the applicant had mentioned having gymnastic meets there, potentially on the weekends, but that most of those would be earlier on the weekends, and not likely to pose a problem at all. Mr. Hocevar agreed.

Mayor Koons seconded Mr. Latkovic's motion to approve.

On roll call vote, motion carried unanimously.

Mr. Latkovic apologized for not yet addressing the meeting minutes from October 8, 2020. Mr. Flaiz indicated that he has an issue with the minutes. He stated that when a motion is made to approve something subject to certain conditions, it is critically important that those conditions be part of the meeting minutes. A situation may arise where the applicant does not follow the guidelines and referring to the meeting minutes for clarity becomes a necessity. Ms. Budoff agreed, stating she had noticed the shortcoming as well. Mr. Latkovic also agreed that the minutes should be corrected, and given that they are recorded, it should be easy to do.

Mr. Flaiz moved to table the meeting minutes from October 8, 2020, until the next meeting.

Old Business:

Mr. Latkovic began discussing the public records request for copies of all non-residential zoning applications and permits from 1-1-2019 to present, Mr. Flaiz, being the requestor, indicated that there are at least five (5) different permits missing. He is aware of these because they were actually approved by the Planning Commission. The missing permits are: The Distillery, Allegria Studio, Cross Fit, Dynamic Fitness Solutions and MC Studio. Those were all referred to Planning Commission within the last few years, and none of those permits are included in the response to the records request. Mr. Flaiz said that if he knows of five missing, he is also wondering how many others may be missing. Mr. Latkovic questioned if the Village had a record, or a list, of all the permits that have been issued by the building department, in the form of a permit list of some kind. Mayor Koons indicated that a report was run for all the zoning permits issued in the time period requested. He then eliminated the residential and copied all non-residential. Mayor Koons said the official name is Detailed Fee Report on Zoning from 1-1-2019 to 11-4-20; noting that there are two pages of them. Mr. Latkovic asked if the fee report determined the issuance of a permit. Ms. Budoff mentioned that these seem to be just from 2019. Mr. Flaiz said the Gurney Sign permit is also not included in the packet. He knows the records response is incomplete because The Sleepy Rooster is in the packet, but the Z1 form is not in there. He has no confidence in the records response since he knows there are at least six (6) permits missing, and those are just the ones that he knows of. The whole point of this exercise was to see what permits were issued without going through Planning Commission. That is hard to do when the Village does not give him all the records responsive to his request.

Mayor Koons, in referring to the report, said that perhaps the report he was told to use is incomplete, and the six that Jim has found did not get entered, or we have generated the wrong type of report. He asked Jim to email him the list of names, while at the same time he would go back and see if the proper form was used. Mr. Flaiz said he appreciated that, but him telling the Mayor what records are missing, when he needs to know what records he's missing, is very frustrating. As a member of Planning Commission, he is requesting either the solicitor, someone from her firm, or an outside person, not the Mayor, do an audit of these records so that he could get the records he requested. He counts thirteen (13) different zoning permits from the packet, six (6) that he knows of are missing. Among the thirteen in the packet, there are some examples of matters that should have been referred to Planning Commission that were not. Mr. Latkovic said he had fourteen (14), perhaps there's a duplicate. Mr. Flaiz indicated that it's kind of confusing in that the one after the bank is 1188 Bell, which he

refers to as the Leechman building, the two-story office building next to the bank. That is Be Browed Etc. LLC; that may be the same permit, it looks like a duplicate. Again that is a permanent make-up place, with some tattooing going on there, and that new business occupancy from March of this year was not referred to the Planning Commission. There were a couple signs; Chagrin Falls Rotary, Bill Koons being the applicant; then there was a ground sign that required two variances, at 477 Industrial Parkway, that was not referred to PC. Of the thirteen in the packet, Mr. Flaiz said he found three examples that should have been referred to PC. The Gurney sign, which under zoning, was required to go through the conditional use process, also should have gone to Planning Commission. Mr. Flaiz went on to say that there was not a zoning permit issued for Sal's Plaza, which is a whole other issue since it was a pretty big enlargement of a commercial structure. He expressed concern as to how many alterations to commercial buildings occurred where zoning permits should have been issued but were not. Stating that this is an overview of his concerns; he also does not believe it appropriate that the Mayor handled a public records request from a Planning Commission member. He reiterated the need for somebody outside the Village, perhaps from the solicitor's office, per the Planning Commission request, audit these permits for these two years, have a clerk or an associate go to the building department to go through these records, because missing documents and inconsistencies are completely unacceptable.

Mr. Latkovic asked Ms. Metheny her perspective and response to this. Ms. Metheny said they would be willing to perform that audit; she is also curious as to how the list was actually pulled. She agreed the situation should be addressed, and has no problem taking a look at it and helping out.

Mr. Flaiz made a motion that the Planning Commission request the solicitor and her firm perform an audit and provide the Planning Commission with these zoning permits from 2019 through today, 2020, in the commercial, industrial or business zoned districts, or concerning a conditional use.

Mayor Koons seconded.

On roll call vote, motion carried unanimously.

Mayor Koons stated he would like to clarify his role in filling the public records request. He was given a list, the Detail Fee Report for a Fee Type, and he eliminated the residential, and he physically pulled the permits from the rest on the list. Mr. Latkovic said that bringing in Bridey's firm would be helpful. He said he knows that staffing, and keeping everything straight can be challenging, there having been a lot of changes in the Village. So, to take that time, get it right, and make sure as we go through, hopefully with Dave being around to train the staff that needs to be trained, we can get the permitting process in line with what the rules, ordinances and regulations in the Village are about. He went on to say that everybody wants the same thing; they volunteer their time because they want a good place to live. They don't want to overburden businesses or residents, but they also recognize that there is a certain amount of government oversight that is helpful to keep a community like ours nice, livable and attractive. When the system that we've tried to put in place breaks down; staffing can be a problem, things get out of hand, or just gets a little unwieldy, this has been handled as well as a situation like this can be. Mr. Latkovic expressed appreciation for the Mayor and what he has been trying to do, and appreciates him working with the Planning Commission, as both a member and as the Mayor. He wants to spend the time to figure out what went wrong, how it went wrong, so that they, as Planning Commission members in South Russell, can continue to do its oversight roles in the way they were designed to be.

Mayor Koons asked Mr. Flaiz to email him the list of people he knows we've missed to try and figure out where the hole is in the situation, so as to work on that before Bridey's people even get here. Mr. Galicki stated that he takes exception to that; to Jim's point, those six are only indicators of potentially a larger record keeping problem, in that it seems like if those six that Jim readily knows about are not on the list, we've got a bigger problem, Rather than try and fix what we can before the audit team comes in, we need to focus on keeping things as they are and have the audit team come in and take a good look at where the holes are so they can be fixed.

Mr. Flaiz responded that he gets Mr. Galicki's point, that Bridey will look at it no matter what, stating again that five of the missing permits are things that were on Planning Commission, things they're all familiar with, which is how he knew they were missing.

Mr. Latkovic said he respects why Dennis would be uncomfortable, and stated the objective would be to do this completely. He suggested that Jim just sends it to Bridey; it would be helpful if Bridey can be given such information, so that her team, in understanding what was missed, could then go in and question why specific things were not on the list. Mr. Latkovic asked if that would be all right with Mr. Galicki, to which he responded yes, he would be okay with that. Mr. Galicki stated it could even be an issue relating to fees; could it be that these six people were not charged the fees, then the question becomes if it is proper financial accounting. Mr. Galicki agrees with Mr. Flaiz that it appears there are some issues and problems, and of the need to go forward with the audit.

Mr. Flaiz stated he had been a member of the Planning Commission for a while and has served with many different board members. He said is passionate and cares about the Village; how it looks, how the businesses are, keeping things nice for the residents. That is the Planning Commission's job, to protect the character of the Village for zoning. It has been very frustrating for him because he knows how things used to be done. He noted that even the paperwork in the records request is not up to the standards that have been held in the past. He does want to commend the Village for hiring a full time building secretary with a lot of experience, and he thinks that in the end it will make a huge difference, and that staffing was probably the root cause of a lot of these problems, along with the various battles between the Mayor and Council over staffing. Mr. Flaiz feels that a lot has been done to solve the problem moving forward, and he is excited about that.

Ms. Budoff questioned the illegible nature of the documents and asked if they were all done by hand and not computer generated. Other members agreed. Mr. Latkovic said that hopefully with the newest member of the Village, some of this could be brought into the 21st Century. Mr. Flaiz said that the Z-1 Form has always been handwritten, which he has never had much of a problem with, but agrees about the quality of the printing and copies. Mr. Latkovic asked if the hand-written permits were three-part forms, Mayor Koons replied yes, that is correct, and he knew that the scanned copies would be difficult to read, which is why he also delivered hard copies.

Mr. Flaiz told Bridey that he hopes she has a bored associate that she can task this assignment to; Ms. Metheny indicated it would not be a problem.

Mr. Latkovic asked the members if there was any other old business or new business that anyone wanted to talk about.

Mr. Flaiz indicated that he had one piece of new business he would like to discuss. It was brought to his attention that there was possibly an issue with having a food truck at the Art Fair, and he did not know how that ended up. He said Bridey discovered that a food truck requires a conditional use permit in the Village, which he believes is insane in some ways. Mr. Latkovic said that this has probably not been adhered to very well over the years. Mr. Flaiz said that he had one in his driveway for his 40th birthday. He said that a food truck is kind of like having a caterer, and they are not engaging in retail sales of food to customers like they would be if they set up in a gas station parking lot. He said he didn't know if the zoning code treats those situations differently or not. He mentioned that the Village has had the Popcorn Guy at the Fall Festival, charging a few bucks for kettle corn, and technically that would need a conditional use permit. Mr. Flaiz said he is bringing this up because one of the primary points of Planning Commission is to look at zoning issues and come up with proposed zoning

changes. He would like to research what a few other communities have done and present his findings to the Planning Commission for some different options. He thinks the Village should look at differentiating between somebody who has a food truck at their house, or in their neighborhood versus a commercially zoned property.

An example given was not allowing Sal's to have a taco truck up there every Friday, but not discouraging Kensington Green from having an ice cream truck in their neighborhood for four hours.

Ms. Metheny talked about how the ice cream trucks are treated differently than food trucks in other communities; Bainbridge specifically prohibits food trucks. She went on to say that MC Art Studio did not have any food trucks at their event; they were going to, and they may have labeled it in a way that caused concern. They were planning on having The Hawaiian Guy Barbecue, who also sets up at the Farmer's Market. He provides the food to customers in "to-go" containers, since technically people are supposed to take it out and eat it. There was never going to be a food truck that the Fire Marshall would need to come out and inspect, so they would not have needed a Special Use permit. Ms. Metheny agreed that the code should be reviewed, brought up to date and possibly amended, providing the differentiation as Mr. Flaiz suggested. Although Bainbridge presently prohibits it, they have it under consideration to allow food trucks in different districts. Discussion followed pertaining to various food trucks at different events that Mr. Flaiz and Mr. Latkovic were aware of, from private events to setting up on the side of the road and engaging in retail sale of food. Mr. Latkovic said that he wouldn't want to overburden anybody, but the guy at the Fall Festival should have something so that we can protect ourselves, have oversight and establish limits. He went on to say that if one of the restaurants in the corridor wanted to have a food truck, for example, wanted to bring a huge catering truck to their site, it would be perfectly reasonable to require them to get something extra so that the Village could help monitor and oversee those types of situations. Mr. Flaiz said he thinks MC Art Studio should have been allowed to have a food truck and that there should be an easy procedure in place to allow it. He will print out procedures from other communities and bring to Planning Commission for review and discussion. Mr. Latkovic explained the process, since he didn't know if everybody had been through it: PC adopts a change, then council has to approve or overturn, and if no action is taken then it is approved, something to that nature. Mr. Flaiz said either can initiate it. The way it has been done historically, when he was council rep on PC, PC would author the zoning change, pass it, then it would go to council. Usually the council rep on PC would introduce that ordinance to council. His recollection is that council can't create a zoning change or disapprove our recommendation unless they have five votes: a super majority. Ms. Metheny recalled the last time it was done, very recently, the subject was concerning "Open" flags for the businesses. It was actually discussed in Council, brought to Planning by Councilman Porter, then Planning took it on, initiated it and it went back to Council and was passed.

Mayor Koons mentioned the selling of donuts at the Farmer's Market, and that Saturdays at the Art Show, they are probably selling coffee and cake. He said a good point was made in that the Village is running the Fall Festival without any jurisdiction. He feels that in looking at this, it is important to regulate the food trucks due to the propane. Mr. Latkovic said perhaps it would be a prohibition on the type of vehicle they are selling out of; the guy with donuts on his cart, or a wagon selling popcorn would not be a problem. He went on to say that once the board reviews Mr. Flaiz's findings, the goal would be to bring clarity to people who want to do these things. To Mayor Koons' point, he agreed that the donut guy should not be subjected to getting a permit, and the focus should be on more of a commercial enterprise. He is interested in seeing how other communities parse these things out. Mr. Flaiz said the thing to watch out for is somebody plopping down in a cul-de-sac and selling food or basically setting up a temporary take-out restaurant in a parking lot. Ms. Budoff said that is a very good possibility, especially if the governor shuts down restaurants again. She thinks the food truck businesses would start to pick up. Discussion followed regarding various trucks in different areas and the ensuing problems.

There being no further business, Mr. Flaiz motioned to adjourn the meeting. Mr. Latkovic adjourned at 8:24pm.



Steve Latkovic, Chairman



Ruth Griswold, Board Secretary

3-12-2024



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings December 10, 2020 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D.,
Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Ruth Griswold, Board Secretary

Visitors: None

Meeting called to order by the Mr. Latkovic at 7:32p.m.

Ruth Griswold conducted roll call.

Mr. Latkovic motioned to approve the minutes from October 8, 2020 and November 12, 2020. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE# 20-PC-10: 1188 BELL ROAD-SUITE 104-THE KNOT WHISPERER LLC-WENDY MCINTYRE, APPLICANT-PROPOSED NEW TENANT

Mr. Latkovic welcomed the first applicant, Wendy McIntyre, and asked her to speak about her business. Ms. McIntyre said she is massage therapist, and she sought a place where she could massage for Medicare recipients. She likes to accommodate her client's different schedules. She went on to say that she not only takes Medicare clients, and that everyone is welcome, offering her services to anyone at the meeting. She said her place is cozy and she really likes it there. Mr. Latkovic asked her if she was there now; she said yes, she has been there since September. She had some difficulties getting the electricity going, and Dave Hocevar was very helpful with that. She said she has been up and running since September. Mr. Latkovic asked if there were other employees, to which Ms. McIntyre responded no, it is just her.

Mr. Galicki asked Mr. Latkovic if he was missing something and questioned why the business has been in operation and that she is just now appearing before Planning Commission. Mr. Latkovic said he was looking at the application and thinking the same thing. Mr. Latkovic asked how we got to this point. Ms. McIntyre said she turned in her paperwork in a timely manner. Ms. Budoff pointed out that the application is dated 9-15-2020. Mr. Latkovic asked Mayor Koons or Dave Hocevar if this was one of the things that fell through during the recent transition period in the building department.

Mr. Hocevar said the landlord never informed the tenant about the formalities required, Planning Commission being one of them. Ms. McIntyre lost her power, and there may have been a change of a Planning Commission

meeting date. Mr. Hocevar said he tried to get her going on this, as it is a permitted use, and he did not want to shut the business down. She complied with everything she had to do, and she is here tonight appearing before the Planning Commission. He went on to say that a chain of events took place, beginning with the landlord neglecting to advise his new tenants that they must apply for an Occupancy Permit and appear before the Planning Commission. Mr. Latkovic asked who the landlord is; Mr. Hocevar said he thinks the name is Peters, and that there has been a change of ownership of that building. He said he did speak to him during the situation of the power loss of two weeks; First Energy then kind of dropped the ball on it, and we were having trouble getting the power situation straightened out for her. Mr. Hocevar said Ms. McIntyre complied completely with everything she had to do regarding appearing before Planning Commission. He added that he did not want to shut her business down and that she was already in there due to the landlord never explaining the formalities of going through the proper channels in South Russell. Mr. Hocevar said he has had a discussion with the landlord, and he doesn't think this will happen again.

Mr. Latkovic stated that it has been four months since the application. He asked for clarity as to why it took so long for the applicant to appear before the Planning Commission. Mr. Hocevar responded that she was in business and that the building department knew nothing about it at the time, until the loss of power. He then told her she would have to appear before Planning Commission. Mr. Latkovic said he noticed the other business on the agenda, at the same location, isn't open yet, so that Ms. McIntyre's situation is a little unique. Mr. Hocevar agreed. Mr. Latkovic asked Mr. Hocevar if he knew when the change of possession of the building took place. Mr. Hocevar said he believes the current landlord has owned the building for about three years, and that this current owner is somewhat lax on providing his tenants with information. Mr. Hocevar said the Village has just hired Sean Davis as our Fire Inspector, and he is beginning to perform inspections on all the commercial buildings in South Russell. Mr. Hocevar said a program is being put together, but that this particular situation fell through the cracks.

Mr. Latkovic directed the discussion back to Wendy's business, and said they would come back to discuss procedures. Mr. Latkovic asked Ms. McIntyre when and how she found out she had to appear before Planning Commission. Ms. McIntyre said she believes she was contacted by Ruth about two weeks ago, advising her she had to appear at this meeting. She was able to arrange her schedule to be here tonight. She said before that Ken, the landlord, had given her a piece of paper to turn in to the Village, which she did, along with a \$250.00 fee. Ms. Budoff referred to the Planning Commission application that was submitted by Wendy and noted it is dated September 15, 2020, and the date that she signed it is the same. Ms. McIntyre said after she turned in the forms, she just waited to hear from someone. She went on to say that this is the first she knew about appearing before the Planning Commission, and talked about other forms she completed and turned in.

Mr. Latkovic asked Ms. McIntyre how her business was doing. Ms. McIntyre said she has been very busy with her Medicare clients, her business is 90% Medicare, and they all found out they have free massages, since they are permitted 24 throughout the year. Ms. Budoff asked how things were going with the Covid restrictions, and does she feel she is able to run her practice safely. Ms. McIntyre said she keeps the room closed and locked while doing a massage in a private area and welcomed all to come to her facility in person. She said it is usually just her and a client in the suite, except for the one time a married couple came in together. She went on to say that she allows a half hour between clients for complete sanitization and disinfecting. Her goal is to make everything clean and comfortable for everybody and has masks and hand sanitizing stations available.

Mr. Latkovic said he has no further questions about the business itself, and that it sounds like a nice business, somewhat of a medical type use, and no parking issue with one client a time. He asked how Ms. McIntyre finds clients, and she responded that the clients go their insurance provider for a list of professionals who are authorized to give medical massages, and she is on that list. Mr. Latkovic asked what her hours are, and if it is by appointment only. Ms. McIntyre said it is by appointment only, which is necessary since she also works at Hand & Stone in Beachwood.

Mr. Galicki asked Ms. McIntyre if she backdated the Planning Commission application, and she responded that she did not. He confirmed that she initially filled out the application in September. She said yes, and she handed it in with the \$250.00 fee and another form. Ms. Budoff asked if she wrote a business check for the fee, to which Ms. McIntyre responded yes. Ms. Budoff said the cancelled check would also verify the dates. Mr. Galicki said he is trying to understand why the business was allowed occupancy and allowed to perform as a business without appearing before the commission, and if everything was submitted back in September, where has it been for a couple of months. Mr. Latkovic suggested that the issue be taken up when the commission talks with Bridey about the implementation procedures, including how potential tenants in the Village are notified of the necessary processes involved.

Mr. Latkovic made a motion to approve Wendy McIntyre's business, The Knot Whisperer, at 1188 Bell Road, Suite 104, as it is open today. Ms. Budoff seconded.

On roll call vote, motion carried unanimously.

Mr. Flaiz, who apologized for being a little late, said he is totally in favor of the business. He asked, in the interest of fact-finding, if Ms. McIntyre could tell him who she spoke with when she visited the Village with her paperwork. Ms. McIntyre said she believed the woman she spoke with was a temporary employee, and that it was around the time when the one secretary had left. Mr. Flaiz then asked if anyone had ever contacted her after that. Ms. McIntyre said she was in contact with Dave a lot during that time because of the power issue. Mr. Flaiz asked if her check had cleared. Ms. McIntyre said she would have to check with her bank. Mr. Flaiz thanked her for coming to the meeting tonight and apologized for any confusion on having to come before the Planning Commission after she was already open. Ms. McIntyre said that was not problem, although she was surprised to hear about it. Mr. Latkovic thanked her for her flexibility.

AGENDA ITEM 2: CASE# 20-PC-11: 1188 BELL ROAD-SUITE 203-JENNIFER MORGAN, LISW, APPLICANT-PROPOSED NEW TENANT

Mr. Latkovic introduced the next applicant, Jennifer Morgan, and asked her to speak about the business she is going to be opening up. Ms. Morgan said she is not open yet, and that she plans to open in early January. She said she is a psychotherapist, a licensed independent social worker, and that she works with veterans, first responders and law enforcement. She said she is restarting her practice here after moving from Washington D.C. about a year ago. Mr. Latkovic asked her to speak about how the business functions.

Ms. Morgan said this would be a single office location, and she would see one client at a time. There will be a minimum of one hour between clients, due to Covid concerns and also for privacy reasons. She would schedule by appointment only, and she will have all CDC recommended sanitary practices in place. Mr. Latkovic asked what issues her typical client would be dealing with. Ms. Morgan said all her clients are very different; she recognized that PTSD is in the news a lot, and some of her clients do have PTSD. She went on to say that in her experience her clients are dealing with many things; some traumatic brain injury, some PTSD, some just have reintegration problems. She said there is another layer that she works on now that is called moral injury. Those conditions can all overlap, and moral injury can mimic PTSD, so there are a lot of layers now that are worked on, but every veteran is very individual.

Ms. Budoff asked if she has been doing her sessions in person or having a lot of video meetings. Ms. Morgan said she plans to see the client in person due to the level of trauma that most of her clients have, it is best to establish a baseline in person, due to a lot of non-verbal communication. Once she has a baseline established, she would offer her client tele-health sessions, and if it's appropriate for the client and is preferred by them, she would certainly do that. She said that some therapies are much safer and more effective to do in person, and she would work with her client as to their care plan.

Mr. Latkovic asked for any other questions or comments. There were none.

Mr. Latkovic asked Ms. Morgan what attracted her about this particular location. Ms. Morgan said she likes that it is a little off the beaten path, and it is a quiet place. She cares deeply about her client's privacy, and she wanted a nice quiet place that they would feel comfortable going to, and she felt that this building would meet those requirements. Mr. Latkovic said he is glad that South Russell can accommodate her needs, and that it is great work that she is doing. Ms. Morgan said she is hoping to serve the community well.

Mayor Koons motioned to approve Jennifer Morgan as a licensed social worker, to open her business at 1188 Bell Road, Suite 203, effective in January 2021. Mr. Latkovic seconded. On roll call vote, motion carried unanimously.

Mr. Latkovic then referred to **Agenda Item 3, Case #20-PC-12** and asked Bridey Matheney to present her findings of the building department's zoning permit procedures. Ms. Matheney clarified that technically the Planning Commission asked her firm to conduct an audit and she just wanted to make sure everyone is on the same page, because the parameters were somewhat narrow. Specifically, Planning Commission requested that her firm conduct an audit of the following records of the building department from January 1, 2019 through November 12, 2020, which was the last Planning Commission meeting date. This was for all zoning applications and permits for all commercial, business and industrial districts, as well as all conditional use permits. Ms. Matheney went on to say that she and her associate, who had just passed the bar, conducted this audit as requested by the Planning Commission. Ms. Matheney said that Council approved 14 (fourteen) hours for this preliminary review. She is happy to say that she does not think there will have to be a secondary for another part of this. Ms. Matheney said she and her associate were both at the building department on Thursday December 3, and again on Friday, December 4th. She herself went back on Monday December 7th. She said on December 3rd, they each spent about three hours looking through the files. She said there are a lot of physical files in the building department, and she found that there is an interesting procedure that she was not aware of. She mentioned the Planning Commission members being taken aback that there were a lot of paper applications. The zoning permit itself is a hand-written three-part copy. When someone submits a zoning application, unless a zoning permit is actually issued, that application does not get put into the computer database; only if the zoning permit is issued. She found it interesting because we have this building department software and perhaps it is being under-utilized in that regard. She went on to say that then there is no back-up, therefore, one would not necessarily know by looking in the computer, what is actually in the physical file. For instance, you could have a zoning application, and for some reason it was withdrawn, or it went to Planning and it was not approved, or the applicant withdrew it at Planning. In other words, while there may be an actual physical application, you would not necessarily be able to see that in the computer. She said the physical zoning files are maintained completely separately from the building files, in alphabetical order by street name.

Mr. Latkovic asked if you wanted to find an application, would you have to actually know the street of the related zoning permit. Ms. Matheney said maybe, but if there was a zoning permit issued, you could also do a search in the database. She said she worked with Ruth and that she knows the software very well. You could do a search within a time frame for all zoning permits. She said the issue is that some people will have submitted an application, it may have even gone to Planning, but if there was no zoning permit actually issued, that does not get put into the computer. She said that may be an area where there is room for improvement, and that Ruth mentioned she would like to start entering applications when received.

Mr. Flaiz said the problem is that a permit isn't supposed to be issued, in most circumstances, until it goes through Planning Commission, but it is not entered into the software until a permit is issued. Ms. Matheney said that is correct, to her understanding. Mr. Flaiz said that is a big part of the problem, and Ms. Matheney agreed. She went on to say that many of the files had a lot of information in them, and that they actually only found

approximately 18 or 19 zoning applications and/or permits that met what Planning Commission's audit was about: the commercial, business, industrial districts and/or conditional use permits. She said she has them, has scanned them and will send the files out to the members. She apologized for not sending them prior to the meeting, but due to time constraints, she did not feel the Planning Commissioner members would have enough time to review them. She said she will send them out for review. Ms. Matheney said her audit focused on the commercial areas of the Village, but since conditional use permits could be in any district, they did have to go through some residential zoning files. She mentioned that there are red folders in the zoning files, characterizing a Planning Commission submittal. She felt the color coding of the folders for specific boards was a good organizational tool.

Mr. Latkovic asked Ruth Griswold if the software was capable of managing all the different permits and applications that are submitted, and she responded, yes, it does have those capabilities. Ms. Matheney outlined the areas of the software, such as the note fields, that are valuable tools and should be utilized. She said at one point they did look at some of the building files and discovered some zoning files in there, perhaps because the project consisted of both building and zoning permits. Overall, she felt the files were well organized. This scenario did not occur often but could be an issue. She said the building file cabinets are small, 8 ½ x 11, and the zoning files are much larger. And while she is not very familiar with the software, she felt it didn't seem very intuitive and heard that South Russell was the very first site for this actual software to be used and did not know if it has ever been updated. Ms. Matheney said that in addition to the three-part form currently used for the issuance of a zoning permit, there is also a computer-generated zoning permit that is issued from Franklin BDS. The scanned files of the public records request will have a zoning permit application, a handwritten zoning permit, as well as a computer-generated zoning permit. She said she didn't necessarily feel that both were needed, but that is not really the issue. Ms. Matheney said there are a lot of files, and there were things that she did not find zoning applications for. As an example, Ms. Matheney said she did not see a zoning permit application for the first applicant on tonight's agenda. Therefore, she is unsure if the steps are being followed as far as first obtaining a zoning application, then having the applicant referred to Planning, then obtaining a Planning Commission application, and so on.

Mr. Flaiz said that his understanding of the zoning, and what Dave has always said, is if you alter a conditional use, it must come before Planning Commission. Ms. Matheney said that is correct. Mr. Flaiz said from his understanding, there are only two conditional uses in the Village: the gas station and Gurney Elementary. He wanted clarification that anything relating to Gurney or the gas station would have to come before Planning Commission; Ms. Matheney confirmed that to be correct, and that it is actually a separate section of the code. Ms. Matheney said also anything relating to The Lantern, Elderly Assisted Living, is technically also supposed to come before Planning. She said that the computer software can perform many functions and that since she does not work with it, she doesn't know all of it, but that someone who works with it would be able to pull certain things.

Mr. Latkovic asked Ms. Matheney if she felt she was able to find the full population of the request, but that it was just a little challenging, not the best organization, and certainly not all reflected in the software. Ms. Matheney said it was going by address, so if for some reason, there was not an address in there, then she didn't know where that file would have been. Mr. Latkovic asked her why she felt the public records request fell short initially. Ms. Matheney said she thinks the list that was pulled did not generate the universe of documents that it should have and that maybe a different or additional search was in order, perhaps by zoning district, not just the Detail Fee Report. Mr. Latkovic noted that since the report was fee-based, did that mean that not everything had a fee associated with it; Ms. Matheney said that was a good question, or maybe a fee was not obtained. Mr. Latkovic said his understanding is that anything submitted has some fee associated with it, even if it's \$25. Ms. Matheney talked about when the Cipriani sign came before Planning Commission, the fee was waived. That also did not have a zoning application because it came to Planning after it went to BZA, so it was just a Planning application, and the note on the top indicated that the fee had been waived. Mr. Flaiz confirmed with Ms. Matheney that the Cipriani submittal should have had a zoning permit application, and she agreed. Mr.

Flaiz said beyond the terrible record keeping, the root cause of a lot of the problems are, for example, the fact that the giant expansion of Sal's building that did not come before Planning. The Village zoning code says that any enlargement of a commercial structure must go before Planning Commission. Mr. Flaiz gave the example of the drive-thru ATM at Citizen's Bank appearing before Planning Commission, and that they made some suggestions and approved the submittal. However, South Russell did not require Sal's Plaza to get a zoning permit, therefore not triggering a Planning Commission review for doubling the size of that building from a volume standpoint. Mr. Hocevar said there has been no expansion of that building at all, they didn't increase one inch, they changed the front façade, but the structure never increased in size. Mr. Latkovic clarified with Mr. Hocevar that the square footage did not increase, but that the top of the building was completely redone. Mr. Hocevar said that is correct, but no increase in height or anything else. Mr. Latkovic asked Mr. Hocevar if a zoning permit was required for that improvement; Mr. Hocevar said he's not saying it wasn't and whatever happened with the transition of employees with the last year, it might have just fell through the cracks. Mr. Hocevar said he would not have sent it to Planning Commission. He said he had a discussion with Bridey this week, and that from now on, anything that happens on a commercial building will be required to go to Planning Commission. He went on to say that there are some rules in the zoning book that say, if it's a similar use, they don't have to appear before Planning Commission, but he told Bridey, from now on, they're all going to Planning Commission, that way Planning Commission can get a grip on what's going on. He then referenced the statement earlier that every zoning permit has a fee and said there are situations where no fee is required.

Mr. Flaiz said, that while not disputing Mr. Hocevar's knowledge, the code says that any enlargement, not increase of a footprint, not increase in square footage, any enlargement of a commercial building, must go before the Planning Commission. The Planning Commission reviewed Citizen's Bank ATM, they have reviewed a dumpster surround on Washington Street, they even reviewed the expansion of the parking lot in front of Cultivate. He said those instances were required to come before Planning Commission, which were reviewed and approved. Some of those submittals had nothing to do with the building, some of those were not even structures. He said then you have no zoning permit required for Sal's plaza, which was such a radical alteration of a commercial building at our main intersection. He gave an example of a conditional use situation, when BP changed the service bays to an indoor cooler space, they didn't increase their square footage at all, but they came before Planning Commission, and that was not a change in the footprint or the square footage. Mr. Flaiz said his issue is he would like to be consistent, and he asked if they really needed to approve a dumpster surround, and then not have the Planning Commission review a major alteration of a key commercial building.

Mr. Flaiz then asked Ms. Matheney if she came across any instances where zoning permits should have been issued and were not. He said his understanding of the procedure is that if it is not a building permit, if it's a change of occupancy, enlargement of a commercial structure, change of use or an alteration to a conditional use, that you apply for a zoning permit. And when you apply for a zoning permit, it's reviewed by the zoning inspector, who then decides whether to refer it to the BZA, Planning Commission, and Architectural Review Board. It may be referred to all three boards. Ms. Matheney read from Section 3.01 "No structure or sign shall be erected, enlarged or moved, in whole or in part, and no use shall be established or changed prior to the issuance of a zoning permit." Ms. Budoff asked if the façade changing would fall under being changed, the sign came to Planning because the sign was being changed. Ms. Matheney said a sign is considered a structure, and brought up an issue regarding temporary signs, She said the code permits a temporary sign for 30 days, they have a separate definition, although it is still a sign, and a sign is still a structure, so there is a real question whether these temporary signs should be coming before Planning. She said the code should be amended so temporary signs do not come before Planning. Mr. Flaiz said that his understanding of the zoning code is that the definition of a structure is that it is permanently affixed to the ground, and that temporary signs are not considered permanently affixed. Ms. Matheney said she found some instances where temporary signs did come before Planning, but maybe it was because they were there for longer than thirty days. Mr. Flaiz said his only recollection of a temporary sign coming before Planning was for the gas station and that was because it was a conditional use.

Mr. Hocevar said there are certain things about the zoning code that need to be corrected and updated, and the building committee would be reviewing that. Mr. Latkovic said common sense does have to come into play, if the code isn't clear, if there is room for argument about garbage cans being a structure, then it should be fixed. He said the bigger issue is the process by which decisions are made, how the Village staff is being trained to understand these things, and how that is being communicated. Mr. Latkovic said the fact that Sal's did not come before Planning Commission is a pretty big issue, because it clearly should have. A lot of this has to do with continuity of personnel. Mr. Latkovic asked Mayor Koons if, as executive of the Village, what is the process going to be, is there going to be a handbook, or a checklist of the process. Mr. Flaiz told Mr. Hocevar that he thinks any changes to the zoning code should be initiated and approved by the Planning Commission. Mr. Flaiz then discussed his dissatisfaction with the members of the building committee.

Mr. Latkovic redirected the conversation back to Ms. Matheney and asked what her work product is expected to look like. Ms. Matheney said she would be providing the Planning Commission with copies of all the records requested per the public records request. Mr. Latkovic asked that she provide a description of what was found during the audit, the potential issues and to spend time putting some narrative about the experience her and her firm had. That should be taken and have some clear process put in place around it, including how things come before the Planning Commission. Mr. Latkovic asked if that would be something she would have before the next Planning Commission meeting. Discussion followed regarding the need to appear before the next council meeting for additional funds, in order to have the request fulfilled accurately and completely. Mr. Flaiz asked Ms. Matheney if her report would also take the records point by point. Mr. Latkovic said he would ask for council to approve an additional allocation for an expanded narrative added to the audit. Mr. Flaiz said he would like to see this addressed at a February meeting to give Ms. Matheney time to compile her report.

Mr. Galicki referred back to a comment made by Ms. Matheney when she was asked to explain the error in the original public records request from Jim, where there were a number of zoning applications that weren't pulled as part of the public record, and that she may have alluded that it stemmed from the report that was generated, which was a fees list. It was then suggested that there should be a fee for every permit, then Dave said that that is not the case, and there are permits that have no fees. Mr. Galicki asked Ms. Matheney if, as part of her investigation, she could delve into that, he said he was surprised that we are issuing permits with no fees. He wants to know if it's a matter of inconsistency, or you're my buddy so there's no fee, or is it actually codified that certain permits require a fee and certain ones don't. He asked Ms. Matheney to entail those aspects in her report, as it would provide real help to council, and perhaps others, in terms of clarification on how we charge fees, who gets charged and whether it's consistent. He went on to say that if there are certain conditions where no fee is required, is that in writing somewhere. Mr. Hocevar said it is in writing, as part of the zoning book, there is a section that describes all the fees for zoning, and when no fees are charged. Mr. Galicki said although it may be elucidated in the text, his question is if it is still being applied on a consistent basis. He said his concern is that everything is being applied consistently. Mr. Hocevar asked Mr. Latkovic if he could send anything related to a commercial use to Planning Commission, and although the code is somewhat gray in that area, he would overstep that and send everything to Planning Commission. Mr. Latkovic said he appreciates his knowledge, and that the best service he could give this Village would be to put those things in a place where it could be applied consistently and with clarity and be surrounded by transparency. Mr. Latkovic is also concerned about the flip side of the knee jerk reaction, that since we missed a couple things, we're just going to throw everything to Planning. He said he is cognizant of the zoning code and procedures and when a fee is appropriate, it should be charged, and if there is no fee, we shouldn't charge a fee. As for the gray areas, he agrees, push it to Planning Commission to have oversight and review. He went on to say he would like to come to the building department and sit with Ruth to gain understanding of the procedures. He said he does a lot of systems in many of the businesses that he runs. He would like to work with Dave and participate in the process in what it would look like to put something together as to why a particular decision was made and getting things documented. He said the biggest thing is that clearly some things that should have come before Planning

Commission did not, and some things have fallen through the cracks, and those need to be fixed. He recognized the audit as a good first step in the process, but he wants the collective goal for 2021 to be addressing these deficiencies, and to have a good process in place to achieve continuity.

Mayor Koons asked Ms. Matheney about the different number of zoning permits on the detail fee report vs her report; nineteen and twenty-two, respectively. He asked if the two lists coincided at all; Ms. Matheney responded that yes, some of it did. Mayor Koons then asked about the missing six from the public records response and asked what the properties were. Mr. Flaiz said he received an email from the Mayor of the missing six, but that the point was not them, those that he knows were missing, but rather the ones he does not know he's missing. Mr. Hocevar mentioned that some of them were withdrawn before Planning Commission. Mr. Latkovic said the appearance before council to allocate more funds on December 21, 2020, will allow Ms. Matheney to prepare a more robust report for the Planning Commission.

Discussion followed about the next Planning Commission meeting on January 14, 2021, and Ms. Matheney said she should be able to have the report by then. All members confirmed they would be available for that meeting.

Mr. Flaiz asked Mr. Hocevar about the Village ordinance requiring landlords to inform the building department of new occupancies and if that program was being followed and monitored. Mr. Hocevar stated that there has a transition of employees in the building department, as well as the Fire Inspector position. He said the Fire Inspector used to be diligent about checking businesses, and that the Village newsletter also advised business owners of our requirements. He said he has discussed measures that could be taken to get the program on more solid ground. He went on to say that the new Fire Inspector is presently visiting every business in South Russell, and advising him of any new occupancies that did not comply with Village ordinances. Mr. Flaiz said he wrote that ordinance 15 years ago, and he has issues with elected officials and employees not following the laws that were passed. He said the ordinance should trigger the landlords to report these occupancy changes for us, not only for Planning Commission purposes, but to ensure that the Village is getting all the tax revenue from income tax withholding that are entitled to. He expressed frustration regarding the apparent mismanagement and lack of oversight from council. He went on to say that he hopes the program is reinstated with stronger enforcement measures, because the Village is probably missing out on a lot of revenue, which was the point of the ordinance, in addition to alerting the Planning Commission and other boards, that people need to be obtaining zoning permits.

Mr. Hocevar mentioned the ordinance relating to home occupations, and that every one of them should be registered with the Village, but it has not been enforced in awhile. Mr. Latkovic indicated that home occupation was probably rampant, especially due to the pandemic, and exceedingly difficult to track. Mr. Hocevar agreed.

Mayor Koons asked Mr. Latkovic if he wanted to talk about the Knot Whisperer, and how her appearance before Planning Commission was after she had already taken occupancy. Mr. Latkovic asked Ms. Matheney if that would be included in her report, to which she replied that it would not due to the receipt of only the Planning Commission application on September 15, not a zoning application. Ms. Budoff asked Ms. Griswold if the Knot Whisperer came to the meeting because the paperwork was discovered. Ms. Griswold responded that when she started work with the Village on November 2, the Mayor and the temporary worker had taken in a lot of paperwork and checks within an approximate 4-6-week period, which was a lot to go through. The Knot Whisperer was in that stack. Ms. Budoff asked if there are others that should have appeared before Planning Commission, and Ms. Griswold said she did not believe that to be the case. Mr. Latkovic said it was good to know that it was caught and asked Ms. Griswold if she feels that things are becoming more organized and that a lot of loose items are beginning to shake out and be addressed. Ms. Griswold responded that the majority have been addressed, but while learning the processes of South Russell with no administrative assistant to actively train in those procedures, she has had to look at what had been done in the past in order to know the procedures. Mr. Latkovic expressed concern about the past procedures being helpful.

There being no further business, Mr. Latkovic adjourned the meeting at 8:54p.m.

There being no further business, Mr. Flaiz motioned to adjourn the meeting. Mr. Latkovic adjourned at 8:24pm.



Steve Latkovic, Chairman



Ruth Griswold, Board Secretary

3/12/2021

Date

3-12-2021

Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings January 14, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: None

Meeting called to order by the Mr. Latkovic at 7:30p.m.

Ruth Griswold conducted roll call.

Mr. Flaiz motioned to approve the minutes from December 10, 2020. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE# 21-PC-01: 477 INDUSTRIAL PARKWAY-SITE IMPROVEMENT, ADDITION OF FOUR PARKING SPACES AND NEW DECORATIVE CANOPY-PETER CARY APPLICANT, OWNER'S REPRESENTATIVE

Mr. Latkovic welcomed Mr. Cary and asked him to summarize the proposal before the board. Mr. Cary said this is basically a façade improvement, and that what they would like to do is to refresh an existing canopy with a new canopy that matches the design of the rest of the building. In addition to the canopy, they would like to add four parking spaces on the north property line, where it abuts Industrial Parkway.

Mr. Latkovic asked for clarification as to where the parking spaces would be situated. Mr. Cary said the parking spaces would basically be in the front yard, and when looking at the drawing, they would be at the very front portion of the lot. He pointed out that the site plan from Gutoskey does not show the entire site, but that it does show 90% of the building and the parking area on the east side of the building. After discussion and clarification about which of the plans that were submitted depict the new parking area, Ms. Budoff asked if there was a concern that people might back into the tree while they are pulling out of the parking spaces. Mr. Cary explained that the way the parking is designed, it will be head-in parking spaces. Mr. Galicki confirmed that the Village engineer has reviewed and approved the plans.

Mr. Latkovic said the submittal looked good to him, and that he appreciates the continued investment to that area. He also recognized that parking is sometimes a problem. Mr. Cary responded that they are trying to relieve congestion from the side parking lot area and add convenience to the front units of the building. This addition would allow six spaces that tenants can use in the very front.

Mr. Latkovic asked board members for any further questions or comments. There were none.

Mr. Latkovic made a motion to approve the application for the addition of four parking spaces and the entrance canopies as presented. Ms. Budoff seconded.

On roll call vote, motion carried unanimously.

At 7:46pm, Mr. Latkovic moved to shift the meeting into a non-public question and answer session with the Village solicitor. Mayor Koons seconded. On roll call vote from Mayor Koons, motion carried unanimously.

Mr. Latkovic motioned to move back into the public meeting. Mr. Flaiz seconded. On roll call vote from Mayor Koons, motion carried unanimously.

Mr. Latkovic suggested that the board vote to waive privilege, so the subject of the non-public meeting is able to be discussed. He believes this matter should become part of the public record and the board should be able to have a conversation about this. He said he appreciates Bridey approaching the unique situation in the appropriate way she has. He would rather be a little cautious, but having had the opportunity to spend time looking into this, and after a very productive question and answer session in the private meeting, he is comfortable with this being released. He said from his perspective, he doesn't know that there is much more to talk about.

Mr. Flaiz made a motion to waive the privilege. Mr. Galicki seconded. On roll call vote from Mayor Koons, motion carried unanimously.

Mr. Latkovic confirmed with Ms. Matheney that the PDF files from her audit would be included in the meeting record. Ms. Matheney said she would insure they are not labeled as privileged.

Mr. Latkovic indicated that there are clear issues around who is making decisions and how decisions are being made. He recognized the time of transition that occurred in the building department, and that some of the issues that were brought up were not that old. He feels that the hiring of Ruth, from the perspective of processes being followed, should be helpful. As for the decision making, he said the one in particular that bothered him was the Gurney sign, where Dave just decided to waive the fee because it was for a school. He said the board probably would have agreed to that, but it seems inappropriate to not have the board decide. He asked Ms. Matheney if Dave, in whatever role he had at the time, had the authority to waive the fee. Ms. Matheney said the only way a fee can be waived is by the Planning Commission. She said Dave could suggest it to the board, but not waive it. Mr. Latkovic went on to say the Gurney sign also did not appear before Planning Commission as they should have. He said as chairman, the next step for him, would be to go in front of council and present this, and he would like to have some follow up.

Mr. Galicki said that given the fact that they were able to digest the information that Bridey provided, but weren't really able to discuss it, he would like to suggest to Mr. Latkovic and Ms. Matheney, that potentially a little more time be taken to review the files and then discuss, as the Planning Commission board, specific

permits at the next Planning Commission meeting. He said now that privilege has been waived, there are a different set of rules, and a closer look can be taken and discussed at the next meeting.

Mr. Galicki asked if they should wait until after the next Planning Commission meeting as a body before the issue is addressed at council. Mr. Latkovic said that is a good point, the next scheduled council meeting is on January 25th. He would let council know that the information from Ms. Matheny had been discussed at a private session, then privilege was waived once they returned to a public meeting. He wants council to know that some issues were found and that the Planning Commission wants to have a broader discussion and make conclusions at their next meeting.

Discussion followed about how to follow up on past inconsistencies. Mr. Latkovic asked Mayor Koons if the executive function has improved since Ruth has been hired. Mayor Koons said in the past two months, she has been gaining an understanding of the procedures in South Russell and has been addressing issues that were not completed. He said there is not yet a flow chart. Mr. Latkovic said once this process has been completed, creating a flow chart and establishing step by step procedures is the ultimate goal.

Mr. Latkovic said they would pick up the discussion at the next regularly scheduled Planning Commission meeting.

Mayor Koons motioned to adjourn at 8:16pm. Mr. Galicki seconded. On roll call vote from Mayor Koons, motion carried unanimously.



Steve Latkovic, Chairman

3/12/2021

Date



Ruth Griswold, Board Secretary

3.12.2021

Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings February 11, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: Jay Butler of Chagrin Valley Times, Christopher Woofter, Director of Operations for Chagrin Falls Schools, Dawn Marie and Roger Pahorskey, Catherine Hattenbach, Stephen Peplin, Chris Berger, Jerry Canton, Laura Springle, Greg Heilman

Meeting called to order by the Mr. Latkovic at 7:30p.m.

Ruth Griswold conducted roll call.

Mr. Flaiz motioned to approve the minutes from January 14, 2021. Mayor Koons seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE# 21-PC-02: MR. ZACHARY MUCKLE, APPLICANT-PROPOSED INSTALLATION OF BAT BOXES AT GURNEY SCHOOL ATHLETIC FIELD

Mr. Latkovic welcomed Zachary Muckle and asked him to summarize his proposal before the board. Mr. Muckle introduced himself as a Boy Scout from Troop 241, and a Junior at Chagrin Falls High School. For his Eagle Scout project, he is interested in obtaining permission to install four bat boxes around the perimeter of the Gurney soccer fields. He said the reason for bat boxes is that bats are a natural predator to most insects, and that they are a safe alternative to using pesticides around people. He said they eat flies, mosquitoes and other bothersome insects, and that they are also useful for a healthy ecosystem. By building these bat boxes, he hopes to reduce the number of insects in that area and benefit the ecosystem greatly.

Mr. Latkovic asked if bats are native to the area, or would he be relocating them. Mr. Muckle responded that the bats are native to northeast Ohio, and that brown bats can be found in attics, or most commonly in dead trees.

Mr. Latkovic referred to the map that Mr. Muckle provided, showing where the four bat boxes would be located. Mr. Muckle indicated that they would be spread out evenly around the perimeter of the field.

Mr. Flaiz said he wanted to make a motion to waive the fee for this project. Mr. Latkovic seconded, and said that statement would be included in the approval.

Mr. Latkovic then addressed Mr. Woofter and asked him to speak about the proposed bat boxes. Mr. Woofter thanked the board for convening and went on to say that Zach has worked very hard on this project and is learning a lot about project management as well as bats. He said Zach has reached out to the administration and teachers at the school, since bats are something that are studied as a part of mammals and biology in some grades. They think it would be a nice thing to tie into the curriculum. He also said that Zach has gone to great lengths to track down the Ohio Department of Natural Resources bat expert and has talked with her on the phone a couple of times. This expert has also reviewed the project and has provided some email resources for the students. He said they even discussed the possibility of the expert coming out and showing students how to count the number of bats that are roosting, maybe next fall. He said he is very proud of the work Zach has been doing and the district thinks that it is a very good project for an Eagle Scout to do for them.

Mr. Latkovic asked Mr. Woofter what his role in the school district is. Mr. Woofter stated he is Director of Operations and Strategic Initiatives. He said he also works together with Boy Scouts that are working towards obtaining their Eagle Scout status. Mr. Woofter confirmed that the Board received a letter of support from Dr. Hunt, of the Board of Education. Mr. Latkovic responded yes; they are in receipt of that letter.

Mayor Koons asked Mr. Muckle to repeat his Troop Number; Mr. Muckle said he is from Troop 241, and that they are based out of St. Joan of Arc Church. Mayor Koons asked how high off the ground the bat boxes would be. Mr. Muckle said the mountings for the bat boxes are recommended to be on a post at least 10' off the ground, to protect the bats from predators.

Ms. Budoff asked if Mr. Muckle was expecting the bats to naturally discover the boxes, or did he obtain advice from the ODNR as to how to coax them in there. Mr. Muckle said the bats will, over the course of about a year, naturally find the bat houses. They cannot really be incentivized to roost there. Ms. Budoff asked how many bats he anticipates will find the area. Mr. Muckle said the ODNR expert said they would expect to have no more than a few hundred bats total, and they are about 2" to 3" in size. Ms. Budoff said she thinks it's a great idea and mentioned a bridge in Austin Texas where bats naturally sleep, and there is a somewhat of a night show when they come out at dusk and fly around. Mr. Latkovic said that was a lot more bats than he thought would find the boxes, even given their small size. Ms. Budoff said they are about the size of a big sparrow.

Mayor Koons mentioned another Eagle Scout as well as a number of Girl Scouts that he knows of, who are also interested in installing bat houses as part of their respective projects.

Mr. Latkovic made a motion to approve the bat boxes as presented, together with the waiver of any of the application fees that would otherwise typically be charged by the Planning Commission. Mr. Galicki seconded.

On roll call vote, motion carried unanimously.

Mr. Latkovic wished Mr. Muckle good luck with his project and asked when he planned on installing the boxes. Mr. Muckle said he was hoping to build the boxes within the next month or so, and mount them in the spring once the ground has thawed.

Mr. Flaiz said he wanted to mention that the Planning Commission sees many professional architects, builders and developers who do not present as detailed plans as Mr. Muckle has. He said he is very impressed with his submittal and thanked him for his presentation. Mr. Muckle thanked the board.

AGENDA ITEM 2: CASE # 21-PC-03: 5210 CHILLICOTHE ROAD, UNIT D-MICHAEL CIPRIANI-OWNER AND APPLICANT-PROPOSED NEW TENANT- “PREVIOUSLY ADORNED”

Mr. Latkovic welcomed Mr. Cipriani and asked him to introduce the new business. Mr. Cipriani then introduced Dawn Marie Pahorskey, the business owner of Previously Adorned, and asked her to tell the board about her business. Ms. Pahorskey and her husband Roger were both in attendance. Ms. Pahorskey said she came across the shopping center a couple months ago, when she was looking to reopen her business. She had been looking for about six and a half years for the right spot, and this site ultimately fell into place for her. She said she's been in the bridal business since she was 16 years old, and she will be turning 50 next month. She has owned two stores, one in Richmond Heights and one in Lyndhurst, and has also co-owned a shop in Maryland. She described her current shop as having a different spin, since it is couture consignment, in addition to offering special coordination of all events; bridal showers, baby showers, graduations, etc., along with all the décor rentals as well. She said her shop is not the traditional bridal shop because they offer so many different services, and she is looking forward to seeing how it will all unfold. She said her family is newer to the Chagrin area, having moved here six years ago.

Mr. Latkovic asked board members for comments or questions. Mr. Flaiz asked for confirmation as to where the shop would be situated in the plaza. Mr. Cipriani clarified that Previously Adorned would be right in between the existing Hair World and the new Hair World. Ms. Budoff asked if this would be where the former veterinarian clinic was, Mr. Cipriani said that is correct. Ms. Budoff asked Ms. Pahorskey if the shop would be for consignment or donation; Ms. Pahorskey responded that it would be a consignment shop. She went on to say she is very excited about how the shopping plaza is set up. Having Augie's for the catering side, the styling piece coming from Hair World, as well as Sal's Beverage, present a lot of dynamics so the businesses can help each other. She said she's hoping Sleepy Rooster can also eventually offer catered events, showers and such. Ultimately it is such a good fit, with every business helping each other through the process.

Mr. Latkovic asked what the store hours would be. Ms. Pahorskey said generally the store hours would be 11-6, and closed on Wednesdays and Sundays, since those are the days she devotes to looking at event spaces with brides. When she is hosting special events, the store would be closed but that information will be on her website.

Mayor Koons made a motion to approve the application for Previously Adorned. Ms. Budoff seconded. On roll call vote, motion carried unanimously.

Mr. Latkovic congratulated Ms. Pahorskey, wished her success and welcomed her to the South Russell business community. He told Mr. Cipriani that the center looks great, and he hopes to see it continue to flourish. Ms. Pahorskey thanked the board and expressed appreciation, and said she is looking forward to getting things moving.

AGENDA ITEM 3: CASE #21-PC-04: MR. NICHOLAS MARINO, SURVEYOR, APPLICANT, OWNER'S REPRESENTATIVE-PROPOSED LOT SPLIT AND CONSOLIDATION

The property owners, Ms. Catherine Hattenbach and Mr. Stephen Peplin, were also present at the meeting. Mr. Latkovic asked Mr. Peplin to walk them through what the proposal is. Mr. Peplin explained that the original lot that they were on, 500 Laurelbrook, which is Cathy's grandmother's house, was like a square that had a 45°

corner missing. That's one piece-buying that little ½ acre triangle from Jared James of 600 Bell. A screen share showed the color-coded proposal. Mr. Peplin went on to say that this triangle is not even contiguous to Jared's property, it's behind his neighbor's property and only the point of the triangle touches his property, so it didn't mean anything to him. Mr. Peplin said then 22 Forest became available, which is a regular 1-acre square lot, right behind their house. And there's another parcel right next to that, then there's a third parcel, which is right behind their house. There is another parcel next to it, and then there is a third parcel that are the woods behind their house. Mr. Peplin said his fear was that this could get sold, the house get demolished, and all the woods knocked down and someone would put up a McMansion with a swing set right next to their swimming pool. Therefore, he said he is making a defensive move; he is not a developer, he wants to preserve the area. He went on to say that he did not want the house at 22 Forest, just the land. He has a friend who wants the house but not the land. The third piece, he said there is a really odd property line between 22 Forest and the lot immediately south. The weird angle of the lot has that front yard owned by 22 Forest. They are proposing a land swap so as to have those property lines make more sense. He said it was a fluke of the development. Ms. Hattenbach said that 22 Forest cuts right into the front yard since the line is at an angle. Ms. Budoff asked for clarification on which color represents their house. Ms. Hattenbach said it was the red color with the white house on it.

Mr. Flaiz said the initial submittal was somewhat confusing, and he appreciates the color coding of the different lots. He said he doesn't really have an issue with it, but he is concerned about creating a flag lot. He said he is more worried that if this was ever split in the future, it would create a flag lot off of Forest, which is something that is not supposed to be done. He noted the access to Forest, and asked Mr. Peplin why he left that access, and if he would ever build back there. Mr. Peplin said he has some ideas, who knows if they'll ever follow through on anything, but to maybe put up a pool house, or man cave, a barn or a garage expansion. He said the access to Forest could possibly have a driveway going out that way. Mr. Peplin said his original plan was to give the buyer of 22 Forest a half-acre and he would keep the whole acre to the right, but then he found out there is a one acre minimum, so he had to give her more land than she wanted. Mr. Flaiz noted that the 50' rear setback is preserved. He then asked Ms. Matheney if they could put a condition on the approval that the Forest lot can't be split off and create a flag lot. Ms. Matheney said yes you could put that condition on it, and she knows that flag lots are not looked upon favorably. Ms. Matheney then brought up her concerns, after talking to Dave Hocesvar, about the possible requirement to amend two plats, since two separate, platted subdivisions exist in this area. Mr. Flaiz said he and Dave had spoken about this as well, and that he looked through the subdivision regulations in the current zoning and because these were platted before our current ones, he didn't see anything in there that he thought would be a problem. Ms. Matheney asked if he thought we would have to amend those plats. Mr. Flaiz then asked what neighborhood it would be a part of.

Mr. Latkovic asked if the approval by the board wouldn't be considered an amendment of the plats; they have a lot split and consolidation agreement. He asked if there is a separate plat amendment process. Mr. Flaiz said there is a plat map that they submit to the County Planning Commission when a subdivision is platted. Mr. Latkovic asked if they were saying that this is not the appropriate way to amend two different plats at the same time. Ms. Matheney said she did not know, and asked Mr. Peplin if he had reached out to the County Planning Commission, or the County Engineer. She said with the lots being in two subdivisions, after the consolidation, which subdivision would the consolidated lot become a part of. Mr. Flaiz said that is a good point. Ms. Budoff said she would presume it would be the subdivision that you live in. Ms. Matheney said that might be a fair assumption, she just does not know.

Mr. Latkovic asked what the potential problems or consequences would be to the homeowners if they are approved by the Planning Commission and there had to be some other action at the County level. Mr. Flaiz said one of the reasons you want to keep things in their separately platted subdivisions is that there are different deed restrictions. Some questions that may arise; there is now a combined lot with frontage on Laurelbrook, what if they don't allow accessory structures exceeding so many square feet in their deed restrictions, but Rolling Ridge does; can they build a man cave/barn over there. Ms. Budoff asked if the HOA has approved this as well. Mr. Peplin said the HOA is inactive. Ms. Budoff and Mr. Flaiz commented that their respective HOAs would be

very interested in something like this.. Mr. Flaiz said also, with a platted subdivision, you have a density. And if you take land out of the platted subdivision, you are affecting the original density of the subdivision.

Mr. Latkovic said he is fine with the proposal and doesn't know if other Planning Commission members have questions or potential issues with it. He addressed Steve and Cathy and suggested that in order to avoid coming back before the Planning Commission, they may want to look into it at the County level if any plat amendments are required. He asked if any surveyors had investigated this.

Mr. Marino of Marino Surveying said he spoke with Maria Palmisano of the Geauga County Planning Commission and asked her if there were any red flags. He said she told him it was pretty much whatever South Russell wanted to do. She also said she does not need to see it or approve it, so he then proceeded to submit the survey to Geauga County so their surveyor and his assistant would look at it and catch any typos or see any necessary revisions. He said it is also pertinent that there were sublots in each subdivision that are not the original subplot, one of them being the house that Steve and Cathy live in now. It is part of subplot 14 because they changed some property lines in the past. The same goes for the house at 22 Forest, and the vacant lot next to it, which is part of this. Also Justice O'Neil's house, which is the next one north; those are all part of the sublots. He said that both of these subdivisions have been chopped up a bit in the past, and nothing was done about it, probably because it did not create any issues or no one raised any concerns when this happened. He went on to say that in the past, through Geauga County, if you were changing the property line by the subplot, you would have to vacate the subplot. It was then a process that you had to go through to vacate the subplot from the subdivision, and they don't do that anymore. Basically, he gave Geauga County what they needed, indicating it did not violate any zoning as far as minimum acreage, setbacks or side yards. As for the issue of which subdivision it is in, one or both, he said he doesn't know what to do about that. He gave the example of some properties that are in both Geauga and Lake counties with the line running through the house. He does not think this would create issues with any subdivisions. He said he walked the lines with the neighbors involved and everyone is happy with the proposed changes.

Mr. Flaiz pointed out that regarding the plat, even though we are a municipality, any lot split is submitted to County Planning Commission, so if they have a problem with the plat, it would be up to them to reject it. Ms. Matheney agreed. Mr. Flaiz then spoke to the issue regarding the importance of HOAs being made aware of lot splits or removing a lot from a subdivision. He asked Mr. Peplin if they had approached Rolling Ridge HOA for consent. Mr. Peplin said he did not know anything about that, they have lived there for 14 years and never knew it existed. There was some question and discussion as to whether or not Rolling Ridge was an active HOA. Ms. Hattenbach said they do pay \$75.00 per year. Ms. Budoff said they should check with them, because in Lake Louise if you build on a lot now, you have to pay association dues going all the way back to when the subdivision was incorporated. She said it would be a good idea to check with them, in case you have to pay any fees to take property outside of their domain. She went on to say that she thinks it is a great plan, and she likes it a lot.

Mr. Latkovic asked Mr. Peplin and Ms. Hattenbach if they had already purchased all the land, to which they responded yes. He then said usually an HOA will reach out to the owners when there is a deed transfer and asked them if they had been contacted. Mr. Peplin said received something and he gave the document to his tenant. Mr. Flaiz asked if the lot would be dues exempt. Mr. Peplin said that was a good question; he was not sure. Mr. Flaiz said he thinks this is a great plan, and his only hesitation is that the HOA is not aware of it. He thinks splitting a lot in an HOA without their knowledge is problematic to him, but other than that he thinks it's great.

Mayor Koons asked Ms. Matheney if they could make a motion to approve pending HOA approval or should this be tabled until the next meeting. Ms. Matheney said it is whatever the commission feels comfortable doing.

Mr. Latkovic said although he understands Mr. Flaiz's concern about removing a buildable from a subdivision, he feels that it has been vacant for so long that it should not be an issue. Ms. Budoff said she liked the mayor's

idea. Mr. Latkovic said it's not that the HOA shouldn't know, it's whether it's appropriate for Planning Commission to hinge their approval on something from a private HOA. He said that is his concern, that it puts a lot of power into the HOA, and they might not have the right to approve this anyway.

Ms. Budoff asked Ms. Matheny if Planning Commission should approve this and the HOA gets wind of it and has a problem, would they be able to come back to the Planning Commission with the issue, or is that a private matter between the landowners and the HOA. Ms. Matheny said it probably would not come back to the Planning Commission, although by discussing it now they are putting everybody on notice. Mr. Flaiz said if the HOA came in and raised a valid objection, even though he thinks it's great, he would take into significant consideration the opinion of the HOA and vote no on it. Ms. Budoff agreed with Mr. Flaiz.

Mr. Flaiz said he would also hate to approve it conditional on their approval, if the HOA were at the meeting to weigh in, it would be beneficial. Mr. Latkovic asked the owners if they knew who ran the HOA, Mr. Peplin said they did not; but they did receive a directory that he gave to the tenant.

Ms. Budoff asked Mayor Koons if there was an association list for the subdivisions that have HOAs in the Village. He said we do not have a list, but that he is trying to contact a friend in the Rolling Ridge HOA to find out some information.

Mr. Flaiz asked Ms. Matheny if the board could approve it conditioned upon the HOA raising an objection within 30 days. Ms. Matheny said they could do that.

Mr. Latkovic said he would just approve it tonight, however, depending on how all the members feel, that option is better than having it tabled or denied. Mr. Latkovic asked members to weigh in.

Mr. Galicki said he feels comfortable with the conditional approval as last discussed, but to Jim's point, it sure would have been nice to have someone present from the HOA to weigh in on this.

Mayor Koons said he would make a motion to approve, conditional on HOA approval, and within the next month we find out if there is an HOA and if they approve or not.

Ms. Matheny asked if that would be on the Village, or the applicant, to reach out to the HOA. Mr. Flaiz said he thinks the Village should notify the HOA and find out if they have an objection. He also said if the HOA disagrees with it, then they should come to the next Planning Commission meeting to be heard.

Discussion followed about how to conditionally approve the submittal.

Mr. Flaiz made a motion to approve the submittal with the condition that if the HOA objects prior to March 9, 2021, the Planning Commission will then hear their objections and make a final decision at the meeting on March 11, 2021. Mr. Latkovic seconded.

Mr. Latkovic asked the owners if they understood the motion. Mr. Peplin said yes, he understands and if the HOA doesn't want to approve it, he still owns the land; it's just a really zig-zagged cut up mess and was even more so before they straightened out the corners. He said his fear is that someone with a little bit of power may impact his proposal. Ms. Budoff said their by-laws should detail how they would handle it, they can't just make things up. She said they will know they have a 30-day condition, and they would have to call the HOA together in order to make any changes. Mr. Flaiz said that Chagrin Lakes has by-laws that do not allow their lots to be sub-divided, and it is in the deed restrictions.

Mr. Latkovic asked Mr. Marino if he had looked at this aspect at all. Mr. Marino said he did not even give a thought to an HOA; it's a one-page platted subdivision from the 50s and he had no indication that it would be a problem. Mr. Latkovic confirmed that the lot was platted in the 50s and has been vacant all along. Mr. Latkovic feels that Mr. O'Neil will probably be quite happy that there is no longer a buildable lot next to him.

On roll call vote, motion carried unanimously.

Mr. Peplin asked if he should try and contact the HOA. Mr. Flaiz said that should be on the Village. Ruth Griswold will contact the HOA regarding this issue.

Mr. Latkovic took a short break before proceeding with old business.

Mr. Latkovic said regarding the solicitor's audit, although it had been touched on last time, the board decided to take a step back and not really discuss much until there was time to go through the report. Within each of the 19 items, there was something that caught Bridey's attention, some gray areas, some not so gray, and he would like to go through the items one at a time. If there is something that they could retroactively approve, they should do that. As for the fees that were not charged, it is probably unlikely that we would go back and collect them now. This is as much about cleaning up the records as it is about understanding what happened. If the Mayor can contribute that would be great, and we'll talk about what to do with each one of these, and throughout the process maybe come up with steps forward. Mr. Latkovic recognized a couple members of the Building Committee present, he said he appreciates them joining. He said it's important to allow the Planning Commission to get through these items and have their discussion. He said he's sure they'll have thoughts, but given that this is the first opportunity, after a high-level overview, to have the Planning Commission talk about this, he asks that the building committee members just listen for the time being.

Mr. Latkovic said he will start in order from oldest to most recent.

The first item: **The ATM at Citizen's Bank, Permit #3022 at 1194 Bell Road.** The fee was not paid, the application could not be located. They did appear before Planning Commission.

Mr. Flaiz said he knew they were going to go through the items in order, but that he has one over-arching issue with that area. He went on to say that he is partially at fault with this. Obviously, Augie's has been there since that plaza was built. He said he was talking to Dave about when Sleepy Rooster went in, they didn't discuss the fact that restaurants are not a permitted use over there. He understands that Augie's has existed for a long time and that there was a lawsuit that allowed the shopping center to go in. But we let Sleepy Rooster in and it's not a permitted use. It's not even a listed conditional use for B-2. B-2 is Residential, Offices or Personal Services. Sal's doesn't fit into Personal Services, Augie's doesn't and Sleepy Rooster technically wouldn't. He originally thought they should grant a Conditional Use permit, because Augie's is expanding, so it's arguably back on the table. He said maybe we could grant a Conditional Use permit to Sleepy Rooster. He said what he does not want to see happen is the restaurant changing hands, becoming a biker bar and maybe staying open to 2:30am and serving alcohol. He said he was thinking they should change the zoning for just the strip shopping center from B-2 to B-1. B-1 allows Residential, Offices, Retail and Personal Services. We could then issue Conditional Use permits for the two restaurants and have some control over that. He said we are not following the B-2 zoning at all at the strip center, so instead of trying to put the genie back in the bottle, we should allow retail and issue Conditional Use permits for the restaurants. These are just his thoughts, that we could rezone just that parcel to B-1. Ms. Matheney said you could definitely do that as an amendment to the zoning code. She said another way would be to have them go before the BZA to get variances. Mr. Latkovic said, to Jim's point, it doesn't fix the issue at hand if there's actually two restaurants there, one might be okay, and one clearly didn't get any approvals at all. He said he thinks Jim's idea is a good one. Mr. Flaiz said they approved Sleepy Rooster; that it should have been caught but it made it through all the fail safes. Technically it should not have been approved, but it would also be unfair to bring the people back to the board. He asked if we should allow Retail and Conditional Use restaurants in the shopping plaza, and that's the issue for Planning Commission. Mr. Latkovic said he believes that is an appropriate place to put that, and to Jim's point, he agreed that while Sleepy Rooster is great, a Panini's may not be the right fit. Mr. Flaiz went on to say that with a Conditional Use, they could regulate hours, outdoor music, etc. Mr. Latkovic said that everyone over there is grandfathered in, but if it was rezoned, and the restaurant changes hands, they would be subject to the new zoning. Mr. Flaiz said that by changing it to a B-1, then they could approve, without appearance, a Conditional Use for Augie's because they're expanding. They could then issue a Conditional Use Permit to Sleepy Rooster, and if the restaurant ever

changes hands, or if somebody want to put a different restaurant in there, the Planning Commission has the ability to have some limitations on it.

Mr. Latkovic said this discussion, as part of the process that we are going through, is a great example of having a checklist when things come before the Village. If that had been in place, the issue at hand would have been picked up. Ms. Matheney asked if they were looking to rezone just that one parcel, or to change the whole district from a B-2 to a B-1. Mr. Flaiz said just the one parcel. Ms. Matheney cautioned against having spot-zoning. Mr. Latkovic asked about the district size, and members referred to a zoning map. Mr. Flaiz said the district covers the Village property, the Art Studio, all the way to the cemetery, and then it goes down to the Leachman building and the orthodontist, then it goes to the other quadrant with the barn and the dentist office. The other side is the gas station, the medical building and the daycare. He went on to say there is that odd B-4 vacant parcel. Ms. Budoff said the gas station is also retail and they sell food and questioned if they are zoned properly. Ms. Matheney said they were subject to a judgment entry. Mr. Flaiz said the gas station would not be an allowed use under B-2 but that he thought it was grandfathered in under Conditional Use and then it got transferred. He recalled that the Village was going to terminate it when the BP closed, but they didn't. Ms. Matheney asked for Dave's thoughts on this, but Mr. Hocesvar was no longer in attendance. She went on to say that the Agreed Judgment Entry from 2016 does have certain conditions. Mr. Flaiz recalled the gas station coming before the Planning Commission and they granted them a Conditional Use and set guidelines. Ms. Matheney said there was then litigation. Mr. Latkovic recalled the Planning Commission denied it and then there was the lawsuit. Ms. Matheney said she could send the 2016 Agreed Judgment Entry, outlining things like landscaping, hours of operation, etc. but she did not see anything regarding signage, which she said is a whole other issue and can be talked about later. She said to her, that means the regular zoning code would still apply. She said it may have been granted a Conditional Use at some point, but that there is a whole other layer on top of that with the AJE that needs to be considered.

Mr. Latkovic said since there is a lot to cover tonight, and he'd like to take this up at another meeting as part of a broader solution, after gaining an understanding of what they could change and what they want to change. In looking at the zoning map, there are two areas that are zoned B-2, and he feels it would be odd to just slice the one parcel out of the map and change it to a B-1. He said maybe before the next meeting, Ms. Matheney could look into rezoning just a parcel, and provide more clarity as to what happened with the gas station, so the board could address it.

Ms. Budoff inquired as to the status on the sign issue at the Bell station. Ms. Matheney said a violation letter has been sent to the owner regarding the sign, and that they must come before the Planning Commission and BZA, since they need a variance for the rolling electronic sign. Ms. Griswold confirmed that they have ten days to respond to the violation notice.

Mr. Latkovic returned to the audit and the issue of the **ATM at Citizen's Bank, 1194 Bell Road**, stating that it seems to be a record keeping issue, indicating they came before Planning Commission and were approved. He said better record keeping is needed. Mr. Flaiz agreed that it was not an issue from their standpoint, having seen them before the Planning Commission a number of times.

Mr. Latkovic said he would keep going through the audit items one at a time.

The next issue was concerning a fee for the outdoor classroom at **1155 Bell Road, Gurney School**. Mr. Flaiz recalled them coming before Planning Commission and getting approval. Ms. Matheney said the issue was that the fees were waived. She went on to point out that sometimes with schools, while they are not exempt from zoning, they have to show reasonable efforts to comply with zoning. The issue was that Dave Hocesvar waived the fees, instead of Planning Commission doing so, as was done earlier tonight for the Eagle Scout. **Mr. Flaiz motioned to waive the fees for the Gurney School classroom. Mr. Latkovic seconded. Motion passed unanimously.**

It was decided to go through the items individually and vote on each one. Mr. Flaiz suggested rather than having a roll call after each vote, having members say aye or nay. After checking with Ms. Matheney if that would be procedurally correct, for Mr. Latkovic agreed.

The next issue was **5210 Chillicothe Road, The Vapor Dashery**. Mr. Flaiz recalled them withdrawing their application before the meeting, and asked Ms. Matheney what the problem with this one was. Ms. Matheney said there is not necessarily a problem, she just pulled everything and did an analysis of everything that was pulled. Mr. Latkovic said the issue with this one is that the computer-generated receipt shows \$500.00, but the zoning receipt shows that \$400.00 was refunded. Mr. Flaiz said he thinks it's obvious that the bookkeeping was a disaster. Any fees being waived should be waived by the Planning Commission, but accounting issues outside of that should be addressed by council. Mr. Latkovic said with the fee being refunded and not waived, no action needed to be taken on this one.

The next issue was **Muvel at 524 East Washington**. This is a gray area as to if this should have come before Planning Commission for the storefront sign when they changed from Cultivate. Mr. Flaiz asked Ms. Matheney to confirm that the only signs that should come before Planning Commission in the commercial district would be ground signs. Ms. Matheney referred to Section 3.04, and said if it is an enlargement or an erection of a structure, and if it's not just a change of occupancy, it pretty much sounds like it should come to Planning Commission. She said there is no exception in the code that would allow for only ground signs and not wall signs. You could look at the word and say, what is a "*structure*". A sign is definitely included, and it would take a definite amendment to the zoning code to make that clearer. She went on to say that the Muvel sign is the exact same font and size as the original sign so maybe it wasn't an enlargement of a sign. Mr. Latkovic asked, if Planning Commission didn't review the sign, who would. Ms. Matheney said she thought the ARB reviews all signs, but she is not sure if this went to ARB and mentioned that it would be helpful if Dave Hocevar was present to ask. Mayor Koons said he does not recall it going before ARB, but that he would check. Mr. Latkovic said from his perspective, if the ARB is reviewing these types of things, he wouldn't think it should come before Planning Commission. Mr. Flaiz said that historically, the Planning Commission reviewed ground and monument signs for businesses, because they have to look at traffic flow. He went on to say that he doesn't ever remember the Planning Commission reviewing a wall sign, as ARB reviews the signs and looks at their specific guidelines for a sign from an architectural standpoint, whereas Planning Commission looks at slightly different things. Ms. Matheney gave the example of the rolling electronic sign at the Bell Station, which is technically a wall sign but they are not at all permitted in the Village. She said they have to appear before BZA for a variance, and ARB, and she also thinks they should also come before the Planning Commission. Mr. Latkovic said there has to be some clarity brought to the issue of signage in the Village. He said the Village wants to attract good businesses, and one of the things that is frustrating when you are starting a business is the paperwork involved. He said he is able to look at it from a different perspective due to the fact that he is both a landlord and a tenant, and he finds it confusing. He feels it makes little sense why Planning Commission may review one type of sign because it's structural, or has to do with the road, and then not another sign because it's just aesthetics. He feels it should be reviewed broadly across the Village, from an ordinance perspective. Ms. Matheney said the Bell Rd sign went before ARB, so it did go through one process with the Village. Mr. Flaiz said that he thought the Bell Rd station was operating under a Conditional Use, and if that were the case, the wall signs would come before the Planning Commission. Mr. Latkovic said, at least for the Muvel sign, it was fine that they did not appear before the Planning Commission.

The next issue was **Reset Lounge at 530 East Washington**, and the problem is that no application was found, and fees appear miscalculated. Mr. Flaiz recalled approving the **Reset Lounge**. Mr. Latkovic noted it was another records issue.

The next issue was **477 Industrial Parkway (513 E Washington)** which was an application for a new sign. This did not appear before Planning Commission, and Ms. Matheney said since this is an erection of a new sign and arguably an extension of an existing sign in the business district, per Section 3.04 this would require

developmental review from the Planning Commission. Mr. Flaiz said they should have come before Planning Commission, but that they shouldn't be made to come before them after the fact and asked Ms. Matheney if they should be approving something like this, or just let it go. Ms. Matheney said the cleanest process would be to approve it, unless somebody had objections. Mr. Flaiz indicated he would like to see a picture of the sign. Mr. Latkovic said he wished Dave hadn't left, so he could better understand why it was only sent to BZA and not to Planning Commission.

Mr. Galicki asked if much of this discussion was really kind of pointless without the zoning official present. Mr. Latkovic asked why Dave left. Mayor Koons said he wasn't sure the audit was going to be gone through and that the Building Committee would represent the Village instead of Dave or another employee. Mr. Galicki said that unfortunately, the Building Committee is not the zoning expert. Mr. Latkovic noted that Dave is the one who signed the form. Discussion followed about why Dave was permitted to leave when it had been made clear that the audit was going to be addressed. Mayor Koons said that he did not go over the audit with Dave and that they were not prepared to answer these questions tonight. Mr. Flaiz commented that this has nothing to do with the Building Committee, and that the Planning Commission is willing to go through all of these issues and fix all the mistakes, which they are happy to do, but there is no point in doing that without Dave present to answer questions.

Mr. Latkovic expressed frustration and said that this is a Planning Commission issue, they are dealing with their own applications, and that as far as he was concerned, the Building Committee did not sign or approve any applications. If the Building Committee wants to fix processes based on what Planning Commission decides, that's fine. He said he was very disappointed that Dave was sent home, and asked Mayor Koons how he proposes moving forward.

Mayor Koons said the thought was to have the Building Committee go through all nineteen items and come up with a response for each one. He said the Building Committee, Dave and himself had planned to come tonight and be a part of this discussion. Mayor Koons said he thought the Building Committee was not to be included tonight. Ms. Matheney said this is a special meeting of the Building Committee and the Planning Commission, and she thought there was going to be an actual discussion with them tonight. She said Mr. Berger made the request to Danielle to Sunshine it as such. Ms. Matheney said she does not recommend it be delayed to another meeting, since we are here and ready to go through this. Mr. Flaiz expressed astonishment that the Mayor purposely made the zoning inspector unavailable tonight. He went on to question why the Mayor seems to have made this into an adversarial process, where the Village is represented by two members of council, who he picked for the committee, and by himself who is a member of the Planning Commission. He said he doesn't care what the Mayor or the Building Committee has to say about zoning opinions; the solicitor gave the legal opinion for the Village, so what type of response is he talking about.

Mayor Koons said that the Building Committee, the zoning inspector and himself were going to get together and go through each item individually and present the findings to the Planning Commission. Mayor Koons said that the last email he was aware of between Chris Berger and Steve Latkovic, was that the special meeting was cancelled.

Mr. Flaiz asked Ms. Matheney to clarify the difference between a special committee meeting and a special council meeting, since members of the committees are all on council as well. She said if there were four council members, then it would be a special council meeting. She said this has gone back and forth as to whether or not this would be a special meeting of the Building Committee or a joint meeting of the Building Committee and the Planning Commission. It was decided that since the Building Committee would be present to discuss the Planning Commission audit during the regular meeting of the Planning Commission, the cleanest way to present this was to have it as a special meeting of both the Building Committee and the Planning Commission. She said she believes a request was made by the building chair to Danielle.

Mr. Latkovic said his objective from the beginning was to try to get to a place where we could find a path forward, and to do that we needed some answers, He said he met with the Mayor and was told they would be working on this, but that didn't include having a formal Building Committee report. He said, since the Planning Commission was looking to the Mayor and Dave to try and explain what happened in certain instances, and how we could move forward, if the Mayor was not prepared to do that, it would have been nice to know that before the meeting. He said there were emails between him and Chris where he clearly said he did not want a joint meeting but welcomed the Building Committee to attend. He said he was looking forward to their comments after the Planning Commission went through the items, but clearly, without Dave present, the whole thing is thrown up in the air. He said that, whether he intended to or not, the Mayor has created an atmosphere that feels hostile and adversarial, and it just seems like something is trying to be hidden. He said that open communication about preparedness would have been good. He said he agrees there is no point in continuing to go through things without Dave present.

Mr. Flaiz said that the Planning Commission is willing to approve items retroactively to bail the Village out from their giant screw up due to mismanagement, for at least two years, of the Building and Zoning Department which is ultimately 100% on the Mayor, but to have the Mayor hide Dave from them so they can't even ask him questions just makes it all a complete waste of time. He suggested delaying yet another month.

Mr. Latkovic said he recognizes that Dave is doing something that he does not have to do, and that fact is not lost on him. The fact that he approves some sign without it going Planning Commission, that's fine. He said Dave has called him at least twice since this process started for his thoughts on sending something to the Planning Commission. He's trying to make sure he's doing the right thing. He said he truly appreciates Dave still being involved with the Village.

Mr. Flaiz said that Dave has done more for this Village than anybody who has been on council, including himself, or is serving on council now, and that he has done a ton of great things for the Village. He said all his support was stripped away from him, and that there were employees in the department that did a disservice to the Village, that being the root cause of the problem. As a contract employee, he doesn't expect Dave to be keeping track of all this paperwork, Dave was put in a terrible position, and the mismanagement doesn't fall on Dave, it falls on Bill. He said he is not interested in attacking Dave either but that he has a base of knowledge that none of them have, which is important for having this discussion.

Mr. Latkovic said he respects Dave's knowledge tremendously and would value his input. He asked Mayor Koons if he would have a response at the next meeting. Ms. Matheney said she thought the Building Committee already had a report to present, and asked Mr. Berger and Mr. Canton if that was the case. Mr. Berger replied that after talking to Steve, the answer is no. Mr. Latkovic asked what he meant by that. Mr. Berger said their intention was to provide a report of the Building Committee's discussion from last week, but we do not have an item-by-item report. He said he will commit to putting together that report and will provide it to the Planning Commission members a week before the next meeting. He said that Dave will be available at the Planning Commission meeting next month, and he can amplify any of the answers and respond to any of the issues. Ms. Matheney said that there must be a specific request for Dave Hocevar to attend the meeting. Mr. Latkovic said he would, as Chairman of the Planning Commission, formally contact Dave. Mr. Latkovic told Mr. Berger that they look forward to his report and he thinks it can be helpful to ensuring that the ordinances and regulations of the Village are being followed.

Mr. Latkovic asked members for any other business.

Mr. Flaiz brought up the discussion regarding food trucks. He said at some point, the Planning Commission has to address this since the weather will be getting warmer. Ms. Matheney agreed and said that the Farmers Market will be here soon and that they have donuts and the Hawaiian Barbecue vendor. Mr. Flaiz said he has some different ideas for the food trucks that he wants to lay out and get everybody's input on. He said he would like to differentiate between Village owned property versus HOA or private property food trucks, versus

something that we don't want such as Sal's bringing a food truck every weekend to sell tacos in the parking lot. He doesn't think it's necessary to crack down on somebody having a food truck for their birthday party, and we want the Village Fall Festival and the Farmers Market to be able to utilize food trucks on Village property, but what we really want to try and discourage is businesses having a kitchen out in the parking lot.

Mr. Latkovic asked what action would have to be taken. Mr. Flaiz said they would have to get a Conditional Use Permit. Ms. Matheney said they could look at just amending the definition of Retail and referred to Definition 106 Retail, Section 2. Mr. Flaiz said he is preparing a report that he has been working on to present to the Planning Commission, and he has looked at zoning in other communities. Discussion followed about zoning classifications, Retail vs Personal Services, and possible actions to take.

Mr. Latkovic confirmed that Mr. Flaiz will be researching other communities and will have information for the Planning Commission in order to move forward with decisions regarding food trucks.

Ms. Matheney asked if the Planning Commission would ever consider a special meeting to address the audit. Mr. Flaiz suggested starting a regularly scheduled meeting earlier to dispense with the matter, prior to scheduled applicants. Mr. Latkovic said they could decide that when it is determined how many other applicants will be attending the next meeting.

There being no further business, Mr. Flaiz moved to adjourn the meeting at 9:27pm. Mr. Galicki seconded.

Steve Latkovic, Chairman

Ruth Griswold, Board Secretary



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings March 11, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: Steve Peplin, Ken Ashba, Nick Nykulak, Brad Camposo, Chris Bell, Bill, Ann Wishart, Chris Berger, Jerry Canton, Greg Heilman

Meeting called to order by the Mr. Latkovic at 7:32p.m.

Ruth Griswold conducted roll call.

Mr. Latkovic asked for any perspectives on the possibility of holding the next Planning Commission meeting at Village Hall. He referred to the improvement of the added technology at Village Hall and suggested that perhaps even offering a hybrid option for those who are not comfortable attending in person yet. Ms. Budoff said if not next month, then maybe the month after. Mayor Koons said he had just asked the HR Committee of Council to come up with guidelines for holding meetings in Village Hall, adding that basically maintaining 6' distance with masks, and a limit of 10 is still in effect.

Mr. Flaiz motioned to approve the minutes from February 11, 2021. Ms. Budoff seconded. On roll call vote, motion carried unanimously.

Mr. Latkovic said that before starting new business, he would like to address the somewhat open matter from the last Planning Commission meeting regarding the lot splits and consolidations on Laurelbrook and Forest. He said he has spoken with the president of the Rolling Ridge HOA and they have no concerns, and that they like the idea of having all that open land. He asked that his email indicating such be added to the record, and that he considers the matter finalized.

AGENDA ITEM 1: CASE# PC 21-05: MR. KEN ASHBA, APPLICANT AND OWNER OF BELL MARKET EXPRESS-5196 CHILLICOTHE ROAD-LED READER BOARD SIGN ALREADY INSTALLED

Mr. Latkovic asked Mr. Hocevar and Ms. Griswold to walk the board members through the series of events surrounding how this situation played out. Ms. Griswold said that the applicants came in to apply for signage in August 2020, but their zoning application did not indicate the installation of an LED sign. Dave then sent them to ARB. They appeared before the ARB on September 15, 2020 and presented the LED sign along with another

sign, and they were approved. They then went and installed the signs without obtaining any permits. Ms. Griswold said that Mr. Hocevar recently required them to complete a new zoning application specifically for the LED sign.

Mr. Latkovic asked what the original application requested. Ms. Griswold said they were requesting approval for two red and yellow signs. Mr. Flaiz said it was for the large wall sign that says Market Express. Mr. Latkovic confirmed that after ARB approval, the LED sign went up. Ms. Griswold said that from a building code perspective, Mr. Hocevar never saw an application that mentioned an LED sign. Mr. Hocevar said that there are no zoning permits issued on any signage yet. Mr. Latkovic referred to the notice of violation that Dave sent after the sign had been installed after ARB approval, but with no zoning permits issued, and asked if it was after that when applicant came in with the new zoning application. Ms. Griswold confirmed that yes, Mr. Ashba came in after receiving the violation notice and applied for the Board of Zoning Appeals and Planning Commission, and that Dave also required a new zoning application that actually indicated the proposed LED sign, the first one not having done so.

Mr. Latkovic then gave the floor to Mr. Ashba and asked him to help the board understand the situation from his perspective. Mr. Ashba said he doesn't really know exactly what occurred and why we are in this situation, but that he would tell the board what he knows. He said the sign manufacturer and representatives sold him some signs, which he purchased for all his locations. He went on to say that he knew South Russell would be stricter about the sign than his other locations. He then sent the sign people to do the entire permitting process, and they are the ones who contacted people and got the whole ball rolling and set up the meeting with the ARB.

Mr. Latkovic asked if any of the sign representatives were at the meeting, to which Mr. Ashba responded no, it was just him.

Mr. Ashba said that after the ARB approval, they all thought they did all that was required. He said the sign was ordered and installed a few months later. He said he did speak with the sign contractor, and he was told they were guided by an employee who was there before Ruth, and they informed him that they did everything they were asked or guided to do. He said he does not want to blame anybody, and that he is simply passing on information. He went on to say that perhaps the building department employee may not have known the procedures in the Village, therefore passing erroneous information on to his contractor, or perhaps his contractor misunderstood. Mr. Latkovic said that while he appreciates Mr. Ashba's speculation, it is just speculation.

Mr. Ashba said at the ARB meeting, both the manufacturer and the distributors attended in order to provide technical information. He said that when Dave also mentioned the need for an electrical permit, he reminded him that all the electrical was in place when they built the building and had made provisions for future signage, so no new electrical was done.

Mr. Latkovic asked if he received the violation notice, to which Mr. Ashba said yes, he did. Mr. Latkovic asked why the sign was still up. Mr. Ashba said the notice did not indicate the sign should be removed.

Mr. Flaiz asked Mr. Hocevar if he had asked them to turn the sign off. Mr. Hocevar said he left a message for the police chief asking him to visit the station and ask whoever was on duty to turn the sign off. Mr. Ashba said that did happen. Mr. Hocevar said it was turned off for a day or two. Mr. Ashba said he was asked specifically to turn it off for a week, because of a paperwork snafu, so that is what he did. Mr. Latkovic asked him who told him that. Mayor Koons said that he did, he went over and talked manager on site and spoke with Ken on the phone, asking that the sign be turned off for a week until the matter gets settled.

Mr. Flaiz addressed Mayor Koons and said he had no business or right to do that and apologized to Mr. Ashba for receiving erroneous information from the Mayor.

Mr. Ashba said he is simply relaying what occurred, and he feels bad as to what has developed, whether it's the Mayor's scenario or his, and now he is just trying to do what's right. Mr. Flaiz quoted from the zoning code saying, "*The illumination of signs shall comply with the development and performance regulations of this code. Signs which might be identified as traffic signals or other safety devices shall not be permitted. In no case shall blinking, flashing, neon or neon-type, moving or other such signs be permitted.*" Mr. Flaiz said this was passed and has been the law in the Village for twenty years. He went on to say that he didn't expect Mr. Ashba to know our zoning code, but he wanted to point out that the Mayor shouldn't be telling people to ignore our laws.

Mr. Latkovic said we have ordinances, and we have to comply with those, and as a Planning Commission, we also have the obligation to review and approve these types of signs. He went on to say that he appreciated hearing the background. He said he was torn on this issue a little bit because he has appreciation for the Bell station, which he supported when it went in. He said from his perspective, this sign is not something that we want in the Village and is not fitting for the building, even if it is on a gas station. It is super bright and just doesn't fit in. Mr. Ashba said that it was super bright when it was first installed, and they didn't know how to operate it themselves. They knew the brightness had to be reduced, and they changed it from the factory setting of 100% illumination brightness all the way down to 15%. He said you can barely read the sign from across the street. Mr. Latkovic asked Mr. Ashba what type of advertising he puts on the sign. Mr. Ashba said they advertise specials, and basically, it is used to talk to the community. He went on to say that from the very first meeting with South Russell, before they put a shovel in the ground, he stressed that he was a community person, and he was willing to do things like car washes, and he put a camera up on the corner at the request of the Mayor. He also said that when he was unaware of the biases against the LED sign, he told the Police Department and Fire Department, and stated at the ARB meeting that if the Village wants to put a message on the board, he would be happy to accommodate, stating that he considered the sign as belonging to the Village too. He said the sign is up, and if the board makes him take it down, he will discuss that scenario as well. Mr. Latkovic said there is not much to discuss.

Mr. Flaiz noted that Mayor Koons regularly attends the ARB meetings and asked him if this exact sign was presented to ARB. Mayor Koons said, upon checking with the ARB members, they did identify the LED sign and recalled approving it. Mr. Flaiz asked Mayor Koons if he was at that meeting; Mayor Koons said yes, he was. Mr. Ashba said the presentation at the ARB included all the literature on the sign, and that the sign manufacturer and expert was in attendance to answer any technical questions.

Mr. Latkovic apologized to Mr. Ashba about the way this has been handled, saying that the Planning Commission has been given bad information about the sign and that he shouldn't have to deal with that at all. He asked what the formal ARB application indicated about the sign. Ms. Griswold said the ARB application did indicate it was for an LED sign, but that the zoning application did not indicate an LED sign. Ms. Budoff asked for clarification about the zoning application submitted without mentioning the LED sign and asked if they are normally changed on the ARB application. Ms. Griswold responded that no, the applications should be consistent. Mr. Latkovic said he thinks it is very important to get clarity on whether or not the ARB approved the moving, blinking sign LED sign. Mr. Ashba said they all talked about everything at the meeting and the minutes should reflect what transpired. Mr. Ashba asked about the zoning application submitted in August, and if his signature was on it. After discussion, it was determined that the sign contractor submitted all the paperwork. Mr. Ashba said he was not involved in the process at all until he appeared at the meeting.

Ms. Matheney addressed Mr. Ashba and said she understood why he directed his contractor to do the permitting process regarding the signs, since that is common practice. However, she said Mr. Ashba, as the property owner, is ultimately the responsible party for having accurate applications submitted. Mr. Ashba reiterated that his only involvement was at the ARB meeting, that he was not involved with any paperwork until early February 2021. He said the signature on earlier applications is that of the manufacturer, Jeff Bouvy. He thought

everything was done, based on the person he hired doing their job correctly, and thought the ARB approval was the last stage of the process.

Mr. Flaiz requested confirmation as to which Village employees are currently attending ARB meetings. Ms. Griswold said she attends them; Mr. Hocevar said he currently does not. Mr. Flaiz said he hopes that this type of situation could be avoided in the future. Mr. Hocevar said that when the sign contractor presented the sign application with photos to him, he measured the sizes of the signs in relation to the building frontage, and determined they would be okay, and advised them they must appear before the ARB. When the sign went up without a permit, the ARB paperwork was located and it was discovered they were approved at the ARB for an LED sign, which was something he had never seen before.

Mr. Flaiz said he didn't think Dave was at fault for anything here; and hopefully since Ruth is present for counter submittals as well as ARB meetings, that will provide a link and something like this shouldn't happen again. Mr. Flaiz said that he knew Dave used to go to all the meetings, but that was when he was a Village employee. He said the Village has scaled back his involvement, which is their prerogative, but it does make it difficult to know if something presented at the counter turns out to be something different that the applicant presents to the ARB. Mr. Hocevar said it was a perfect storm; Mr. Flaiz agreed.

Mr. Latkovic said that for all intents and purposes of the applicant, they thought the LED sign was approved. He said Dave did not approve it, and he did question it. He asked if there were ARB minutes or other conclusive proof that the LED was not discussed. Ms. Griswold said there are meeting minutes indicating approval of the LED sign, and since there was some confusion since the photos of the LED sign did not have the architect's approval stamp on them, it was verbally confirmed with the members of the ARB that they did approve all signs before them, including the LED. Ms. Budoff referenced the photos received via email, two with ARB approval stamps and two without, and confirmed there were no stamps of approval on the LED photos. Mr. Flaiz pointed out that ARB can approve things all day long, but that this type of sign should be approved by Planning Commission, Board of Zoning Appeals and the ARB, and disapproval by any of the boards would mean that the sign could not be installed. Ms. Matheney said that she thinks that is correct, but that the sign is going before BZA either at a special meeting this month or the next regular meeting in April.

Mr. Flaiz said he would welcome more discussion among the members, but that he would make a motion to disapprove the sign.

Mr. Latkovic asked board members for their comments and perspectives.

Ms. Budoff said she understands that the ARB minutes definitely acknowledge the LED sign, but their stamp is not on the pictures; and while she doesn't want to fill in any assumptions, she does find that concerning. Mr. Flaiz said that was a good point; he had not picked up on that.

Mr. Galicki said there seems to be a lot of procedural inconsistencies, and that he was concerned with what was revealed today about the ARB. He said it doesn't seem they are aware of what the zoning requirements are before they approve things, or they are approving them in isolation without communicating that there are other steps in the approval process. He went on to say that he thinks it points to a lot of irregularities in the processes of both the boards and the building department.

Mr. Ashba said that as a result, a person like him becomes a victim, having spent a lot of money, getting people all jacked up for nothing, and here he is.

Mr. Latkovic asked Mr. Ashba if he was told after the ARB meeting that the signs were okay to install. Mr. Ashba said he was told that by Jeff Bouvy, who went through the process on his behalf. Mr. Ashba said if necessary, he will have Jeff at the next meeting to say what occurred, if that is what needs to be done. He said in the meantime, he's got an \$8,000 sign and holes in the wall, and that is a problem.

Mr. Flaiz said it doesn't matter if the ARB approved it; he still needs additional approval from the Planning Commission, and a third approval as well.

Mr. Ashba went on to defend Jeff Bouvy and the other parties as decent people, and in order to avoid speculation, he would be willing to bring them to the next meeting so they could explain why they thought the process was done after the ARB. Mr. Flaiz addressed Mr. Ashba, saying he has not done anything wrong nor is he being accused of doing anything wrong, and that he's sorry this is happening to him. He said, simply put, this is not Brookpark Road, Mentor Avenue or Parkman, and these signs are not permitted by the zoning code because we do not want these types of signs in the Village. He said there is not another sign in the Village like that for good reason; is it distracting, obnoxious and tacky.

Ms. Budoff referred to the email from a person named Warren, complaining about the sign being a distraction. Ms. Budoff asked if he is a resident of South Russell; Ms. Griswold said that it not known. Ms. Budoff read from the January 29, 2021 email, "*the combination of the extreme brightness and the flashing from one color to another as the messages change really draw your attention away from the traffic signal...*" Mr. Ashba indicated the brightness level on the sign was still turned up at the time of that email. Ms. Budoff said the brightness is not her concern as much as the changing messages that draw people's attention, which is the reason for the sign. Her concern is when you are heading west on Bell Road, you are approaching the very busy intersection of Bell and 306, and it is very easy to be distracted and not notice the traffic light, which could cause an accident due to someone being distracted by the sign. Mr. Ashba said there are many reasons drivers are distracted. Ms. Budoff said her other concern is that the changing and flashing lights on such a sign can trigger epileptic seizures.

Mr. Latkovic addressed Mr. Ashba and said his position is to second the motion to disapprove it. He went on to say he is very torn and thinks Mr. Ashba should go back to the Village and attempt to get his money back. He said as chairman of the Planning Commission, he has an obligation to the Village. He went on to say he is beside himself as to the disaster this situation is, and the Village clearly needs to do a better job. He said at the same time, he has an obligation to look out for what's best for the Village, and he agrees with Jim Flaiz; this is not the kind of sign they want in the Village. He said had none of this happened, which is certainly clouding this meeting, he would not have supported it at the time. Unfortunately, the sign is installed and paid for, and from his perspective, he would certainly look for some kind of relief.

Mr. Ashba said he would not be seeking any damages. He said what was aggravating to him is that he had told Jeff (*approx. ten seconds of unintended muting, nothing was heard or recorded*) that this submittal probably wouldn't fly, and the reason he put him in charge was because he didn't want to waste his own time doing it. Therefore, he was very surprised when he got it to the ARB and then it got approved. He went on to describe his disconnect being that Jeff was put on notice that you folks would not be enamored by the sign, which means he should have done (*approx. nine seconds of unintended muting, nothing was heard or recorded*). He said he didn't want to go backwards, to bring Jeff to the next meeting and have him go through everything and circle back and talk about everything all over again. Ms. Matheney asked Mr. Ashba if he was asking for a continuance. Mr. Ashba said if Jeff was misled by a former building department employee, then he has a bit of a problem.

Mr. Latkovic said he understands and that if he were him, he would be upset too. But that the Planning Commission is independent of anything else that has happened, and they are given the obligation and authority to approve or disapprove these kinds of signs. Mr. Latkovic said it sounds like the Village really messed this up, but that Mr. Ashba put up a sign that he should not have, and that the sign should have been through a much more robust process before it was installed. He said he has already seconded the motion to disapprove and asked for roll call.

On roll call vote, motion carried unanimously.

Mr. Latkovic advised Mr. Ashba that his application has been denied. Mr. Ashba said he understood and left the meeting.

Mr. Hocevar said he would like to make it clear that there were never any permits issued for the signs, and that if everything had been good, there would have been permits issued. Mr. Flaiz said no one is blaming him for any of this. Mr. Latkovic said that is a fair comment, because it did go up without permits. Mr. Galicki said it would be interesting to find out who spoke to Jeff, and what was said, and what he was led to believe. He said it sounds like Jeff was pretty aggressive in trying to get the job done, and it would be interesting to try and find out more about that part of the story.

AGENDA ITEM 2: CASE# PC 21-06: MR. BRAD CAMPOSO OF PREMIER CUSTOM BUILDERS, APPLICANT AND OWNER'S REPRESENTATIVE-RECONFIGURATION OF FOUR EXISTING LOTS INTO FOUR NEW LOTS: 1556, 1572, 1576 AND 1580 BELL ROAD. PROPOSES TO BUILD TWO NEW HOMES WITH A SHARED DRIVEWAY.

Mr. Latkovic asked Mr. Camposo to give the board an overview of the plan. Mr. Camposo shared a screen showing the site plan and described the proposal. He indicated which lines showed the existing lots, and the request before the board is for permission to take four existing lots, which are sublots 3R, 4R and 1R and 2R and reconfigure them. He said they feel they would actually be adding value to all four lots by doing so. Mr. Latkovic asked Mr. Camposo to indicate what the lots would look like after the reconfiguration. Mr. Camposo used his cursor on the screen and described how the altered lots would look.

Ms. Budoff asked for clarification as to where on Bell Road these lots were located. Mr. Camposo said they were just east of Village Hall on the south side of the street. Mr. Flaiz said if you're on Bell heading towards Ashleigh, the lots were past Snyder on the right, where Bean's Backyard is. Mr. Camposo said that is correct and pointed out on the site plan the location of the Smith's houses and pond. Ms. Budoff asked what would happen to the event facility. Mr. Camposo said Mr. Smith wants to keep it and continue to have family events there.

Ms. Budoff asked for clarification as to where the proposed houses would be situated. Mr. Camposo noted the 50' existing lots have a shared driveway, which has already been installed by the gas well company. They would like to keep the existing foliage as well. Mr. Camposo pointed out on the site plan the proposed locations of the two new homes.

Mr. Latkovic asked what the bump-out on the site plan signified. Mr. Camposo said that points to one of the variances he will be asking for, which is to construct an outbuilding in front of the main building. It would be utilized as a combination man cave/home office. He said his wife wants to do some gardening around there as well, and back in the woods, it would be more difficult to accomplish that. His vision is for a classic style pole barn. He stressed that the house he is building would be for his own personal residence.

Mr. Camposo introduced Nick Nykulak, the owner of the property as it stands now. Mr. Flaiz asked Mr. Camposo to show the areas where the houses would be. Mr. Flaiz asked Ms. Matheney if the Planning Commission was just approving the lot splits or would this be considered a minor subdivision. Ms. Matheney said she does believe it's a minor subdivision and asked for clarification as to whether the Eric Haibach, the Village Engineer, has approved the plat. Mr. Flaiz said he saw where Eric had some concerns about the possible flooding issues. Mr. Latkovic read from the Engineer's email saying he doesn't "...have objections to the proposed lot split but will likely need to take a closer look at the capacity of the existing 36" culverts at the stream crossing once site plans are submitted". Mr. Marino said they are not opposed to beefing up the waterway, and asked Mr. Nykulak his thoughts on that. Mr. Nykulak said there are actually two 36" culverts running underneath the driveway, which he has been monitoring since he bought the property, to make sure they are handling the water. He said he feels they are handling the water flow fairly well.

Discussion followed regarding Section 2.07 relating to minor subdivision regulations in the Village of South Russell. Mr. Flaiz questioned if the board has to do a full developmental review. Mr. Camposo said he was wondering about that as well but noted that he's taking four existing lots and changing four existing lots and they are not adding any additional lots. Mr. Nykulak said they are just reconfiguring four lots, and changing the lot lines, still ending up with four parcels. Mr. Flaiz wanted to confirm that the Planning Commission was just looking at a lot split, or, since reconfiguration of the four lots will have two new builds, should they do a developmental review.

Mr. Nykulak said he is also asking the Planning Commission to allow them to share the driveway, which will have two entrances off the street, that will then "Y" into the main driveway. He feels this would be more aesthetically pleasing than having two asphalt driveways running back there. He went on to say that he doesn't think this is a subdivision; he feels they are reallocating four existing lots and moving the boundaries around.

Mr. Galicki asked what kind of agreement will be entered into between the shared driveway owners, in order to prevent the situation from unraveling if someone were to move. Mr. Nykulak said they have drafted up a driveway easement agreement that will get attached to the deed and will run with the land forever. The agreement addresses snow plowing, maintenance, and other concerns. Mr. Nykulak said the lawyer who works for the Western Reserve Title Agency has reviewed it and is satisfied, and it will be filed with Geauga County. Mr. Galicki said he was glad to hear it is being done with more than a handshake.

Mr. Latkovic asked if Mr. Camposo's pole barn would be accessed by a gravel driveway coming off the main driveway. Mr. Camposo said yes that is correct. Mr. Latkovic referenced Section 2.07 and quoted the first part saying, "*The division of any parcel of land shown as a unit, split into two or more parcels, sites or lots, any one which is less than 5 acres for immediate or future transfer....*" He said he does not think this proposal is splitting lots into two or more parcels, but rather reconfiguring four into four.

Mr. Flaiz questioned the pool that was mentioned on one of the plans; Mr. Camposo said he believes the pool is off the table. Mr. Flaiz asked Mr. Camposo about his profession. Mr. Camposo said he owns Premiere Custom Builders. Mr. Flaiz asked if he would be seeing clients at this proposed home office. Mr. Camposo said that is not his intent at all; he has a design studio in downtown Chagrin Falls. Mr. Camposo said having five kids at home, and after this past year, he and his wife would like a place to retreat to while still being close to the kids. He will be working out of there, but it is not a showroom and will not be a model home. He has visions of the facility growing with the family and said that he really enjoys living in South Russell.

Mr. Flaiz pointed out that the Planning Commission does not like to create flag lots, but that these flag lots were already created, and the Planning Commission would be just allowing them to reconfigure two flag lots so they would be more desirable to make an investment in the Village. Mr. Hocesvar agreed, and went on to say that each of the individual lots must submit plans to the building department for zoning approval and engineering approval. He said a variance to the Home Occupation regulations would also be needed to allow a home office to be outside of the main building, as well as erecting a structure in the front setback.

Mr. Flaiz told Mr. Camposo he has seen some of his work, and the homes he has built are beautiful. He went on to say that these lots have been empty for a long time, and he would not like to impede people who want to invest money into the tax base.

Mayor Koons asked Ms. Matheney if this situation was any different than the lot split and consolidations that were approved at the previous Planning Commission meeting. Ms. Matheney said they are being held to the exact same standards, the distinction being is that there is no HOA concern to consider, as was the case in the last one.

Mr. Flaiz said he felt the project is fantastic and is excited to see some under-utilized properties being put to good use. Mr. Nykulak said he is planning to preserve as much wooded areas as possible.

Mr. Latkovic motioned to approve the proposal. Ms. Budoff seconded.

On roll call vote, motion carried unanimously.

Old Business:

Mr. Latkovic referred to the Building Committee report as well as other documents regarding the solicitor's audit and asked the Planning Commission members if they had a chance to review it.

Mr. Latkovic asked Mayor Koons as a follow-up, if there were any suggestions, or a flow chart or anything that goes with these documents as far as indicating how things were being addressed. Mayor Koons said nothing has been done yet but that he could tell them what they're thinking. He started by saying that the first five on the list went before Planning Commission but never actually opened their businesses. He said he thinks applicants should be given a deadline after Planning Commission approval as to when their project must commence, that this loophole needs to be closed. He said a physical follow up should also be done, as well as a paper trail created, and that the approval should be given an expiration date.

Ms. Matheney clarified that the application for Nimbus Vapors was actually withdrawn prior to them appearing before the Planning Commission. She said the question on that one was that Retail is not permitted in the B-2 District, and therefore it should have been flagged for that reason. Mr. Flaiz asked if they should have been made to obtain a variance; Ms. Matheney said it would not have been only the Planning Commission that they had to appear before, but the BZA as well, because it is not a permitted use.

Mr. Flaiz said he doesn't understand the point of the Building Committee report, and it seems that they rushed to do the analysis that the Planning Commission was going to perform, which wasn't their business to do. He believes the report was done in such a way as to whitewash the situation. To the Mayor's point about closing the loophole, he said he wants Council, through its liaison, the Building Committee, and the Mayor as Executive, to compile a report detailing what processes and procedures would be implemented so as to avoid these problems from occurring again. He wants to see a flowchart created, together with outlining job descriptions, job duties and recommended to Council, to be adopted by motion or an ordinance. He went on to say the department went from having two full time building and zoning inspectors to having a part-time contracted inspector, and that the Mayor and Council have put Dave in a difficult position. He said he looks at the report from the Building Committee as being totally worthless to him, because what he wants to see is what is going to be done to fix the problem. He said Bridey's opinions and conclusions on zoning issues is the only one that matters, and he feels that this report contradicts some of her decisions. He said he is looking for some acknowledgment of past mistakes and accountability. He would like to have processes recommended to Council on how to move forward. He said the Planning Commission should then go through all the mistakes discovered in the audit and test the processes and recommendations that have been proposed and determine if the same scenarios could be avoided.

Mr. Latkovic said he couldn't agree with Jim more, and he doesn't understand why the Building Committee inserted themselves into the middle; those questions remain. He referred to the report and said there is no mention of any conclusive action that is being taken. He does not consider the audit done, and the Planning Commission has to finalize their work. He asked where the process stood.

Mayor Koons said first it was necessary to identify what went wrong, and as mentioned regarding the first five items, there was no way to end the process, they were just left hanging open.

Mr. Latkovic said the problem was not because of the applicants being withdrawn; his concerns are about refunds being issued, or incorrect fees being charged. He expressed frustration with the report and said he stopped reading after realizing no conclusions had been made as to how to avoid these mistakes from happening again.

Mayor Koons said they had simply identified what went wrong with the nineteen different situations and are trying to determine how to move on from there.

Mr. Flaiz expressed concern about the processes and procedures being undermined by Mayor Koons' involvement, referring to him telling Mr. Ashba to turn the L.E.D. sign off for a week. Mr. Latkovic said the whole audit shows this all starts at the top. He said he feels it is not important to go through the Building Committee report, because he clearly thinks there is a bigger problem in the Village. If you want to address what was actually in the audit report and the issues that were found and how they are going to be addressed, they will take it up next time.

Mr. Hocevar said he feels the continuity between the current administrative employee and himself will help avoid future errors and discrepancies. Mr. Latkovic said he appreciates that Dave is trying to do the best he can, and that his involvement is very important. He said he is outraged at what happened in the case of Mr. Ashba, and that as a Village, they owe it to the business owners and the residents who elect officials, who then appoint the volunteer board members, to insure something like that doesn't happen again.

Mr. Flaiz asked Mr. Hocevar how many hours a week he averages in South Russell. Mr. Hocevar said he estimates it to be about 20 hours a week. Mr. Flaiz said the Village went from two inspectors at 80 hours a week to one inspector at 20 hours a week. He went on to say that the amount of work the Building and Zoning Department has is underestimated, stating that there are many additions in his neighborhood alone. There are many different things that go through the office and it is fundamentally unfair to go from 80 hours to 20 hours. He said one solution he would offer is to have the solicitor review the applications. He said Bainbridge just hired an additional full time zoning inspector to work under the current one for 18 months prior to her retirement. He said this indicates how difficult it is to go from 80 hours to 20 hours, and it is no wonder errors and inconsistencies occur.

Mr. Latkovic asked Ms. Griswold if she could begin to share the approved minutes of all boards to PC members, and likewise share PC minutes to BZA and ARB, for the benefit of cross-communication. Ms. Griswold said she would begin to do that with all the signed minutes.

Mr. Latkovic said when the audit process was started, there were many unknowns and some issues have been made clear. He said the PC will try to put together a summary report. He asked Dave and Ruth if they, as they go through the process, have been working on creating a checklist, or process flow that would outline different scenarios surrounding the directions a submitted application takes. Ms. Griswold said they have been doing that, and their next step would be to create a document, handbook and a flowchart.

Mr. Galicki said it is easy to be very dismissive of these issues but expressed concern and referred to an employee of a similar department in a neighboring community whose embezzlement of funds over a period of 20 years was discovered. He said what this little audit has done has illustrated that there are a lot of holes in the process. He pointed out that support for having a building department in the Village has been justified by saying that it would preclude the Village from having some of the problems in other communities. But what has been seen tonight, despite the fact these organizations are in place, it seems the processes are lacking and filled with inconsistencies. He said he would hate to find out, through forensic analysis, that there are missing funds over the last 20 years. He said in the back of a lot of their minds is the concern that the issues identified are just an example of a larger problem, and therefore he believes it is wise to press on and straighten out the processes, gain discipline in the administration of the department, and make the Village a better place to live and work.

Ms. Budoff and Mr. Flaiz complimented Mr. Galicki on his statement.

Mr. Flaiz said that he believes the PC should go through the permits and Bridey's legal analysis once Council and the Mayor work collaboratively to define processes and procedures. He said he would also like to hear a plan regarding providing the building department with a succession plan, as well as any structural changes that should be made. He asked the other board members' opinions as to whether they feel 20 hours a week for a

building and a zoning inspector was sufficient. Mr. Galicki said they have had open requests for both a zoning inspector as well as a part time building inspector. He said some months ago they went through an interview process for zoning inspector, and the recommendations were given to the Mayor. The Mayor decided he wanted to appoint Nancy Grattino as the zoning inspector. Since Nancy left for another position, that process has come to a standstill. He went on to say that the process for obtaining a part time building inspector to augment and provide a succession plan for Dave, should he ever decide to retire, has come to a stop as well, and the last he heard was that there were no qualified candidates applying for that position. He went on to say that there is no mandate from Council that says 20 hours a week. The fact of the matter is that they have kicked the can down the road, failed to appoint, and there appears to be a lot of obfuscation, but Council was willing and supported the advertisements for these unfilled positions.

Ms. Matheney confirmed with Ms. Griswold that she was hired as an assistant zoning inspector, in addition to the administrative duties. Ms. Griswold said yes, and that Dave has been teaching her a lot about the zoning code, and also expressed concern about time being taken away from the administrative duties, were she to devote more time to the zoning inspector areas.

Mr. Hocevar said that, regarding the 20 hours a week, Council has never put a limit on his hours, and he makes himself available whenever time allows. He went on to say that he would estimate 70% of municipalities are seeking building officials and zoning inspectors, and that they are very difficult to find. He said if he knew of a good candidate who he could train for the job, he would go to Council and suggest the hiring of that person.

Mr. Flaiz agreed with Dave's statement about availability of inspectors and suggested that Council discuss obtaining a full-time zoning inspector that Dave could teach, and work with Ruth, and then they could focus on zoning, allowing Dave to continue the part time building inspections. He said he has always been an advocate of the Village keeping the building department, and if Dave were to leave tomorrow, the County could be the backup for the building aspect, but there is no back up for zoning. Mr. Hocevar agreed and said that the Village zoning code is one of the most complicated ones in northeast Ohio. He said training a part time person, if not a full time one, would take some time due to the complexities.

Mr. Galicki said he believes, as the Council representative to the Planning Commission, that Council would wholeheartedly support the hiring of a zoning inspector and that there were at least four candidates that were previously interviewed for that position, prior to the decision being made to support Nancy Grattino, which did not work out and has not been resurrected since.

Mr. Flaiz said without offering a full-time position with benefits, you will never get good candidates in this environment. He said he would like to see the Council representative of the Planning Commission bring the issues before Council at a meeting. He said he would like to analyze Bridey's report after receiving policies, procedures and flowcharts from the Mayor and Council. As part of that, he'd like to see the plan of how things will move forward, so that the Planning Commission and other boards would be assured that these instances would stop happening. He also would like their response on the hiring of a zoning inspector.


Mr. Galicki said he would bring it up at the next Council meeting.

Mr. Latkovic addressed Mr. Flaiz about the matter regarding food trucks. Discussion followed about various scenarios. Mayor Koons said that the Village may want to consider having an agreement with a food truck operator who has already obtained a certificate from the City of Cleveland, since the Fire Marshal has indicated to him that such a certificate is considered the gold standard of food truck inspections.

Mr. Flaiz said he has a sense of what the board members want, and having done extensive research, he will put together his report for the Planning Commission members to review before the next Planning Commission meeting, per Mr. Latkovic's suggestion.

Ms. Matheney said she wanted to discuss the issue of spot zoning which was brought up at the last Planning Commission meeting, as she had done some research regarding the issue. She said she recommends the matter be looked into further before anything is decided regarding Cipriani Plaza.

There being no further business, Mr. Latkovic moved to adjourn the meeting at 9:33pm. Mayor Koons seconded.



Steve Latkovic, Chairman



Ruth Griswold, Board Secretary

4/8/21

Date

4-8-2021

Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings April 8, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: Mike Cipriani, Danny Jenks, Karen Reingard, Amy Armour

Meeting called to order by the Mr. Latkovic at 7:32p.m.

Ruth Griswold conducted roll call.

Mr. Flaiz motioned to approve the minutes from March 11, 2021. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE# PC 21-07: As required by Section 3.05(b) of the Zoning Code, Mr. Paul Beegan of Beegan Architectural Design is requesting the Planning Commission schedule a date for a public hearing to review their proposal for a gated patio seating area outside of Augie's Restaurant, 5210 Chillicothe Road, Unit G.

Mr. Latkovic asked Ms. Matheney to explain the procedures necessary for a Conditional Use Permit. Ms. Matheney stated that since Augie's is applying for approval for an outdoor restaurant, that is actually considered retail and requires a Conditional Use Permit. The Zoning Code process dictates that a public hearing is set within 60 days of the application. She said the only action that can be taken tonight is to set a hearing date, and not a review of the outdoor patio and restaurant.

Mr. Latkovic asked for clarity as to why this submittal is required to obtain a Conditional Use Permit. Mr. Hocevar said that since they want to serve food and beverages outside of the building, they need approval for a Conditional Use Permit. Mr. Latkovic confirmed that this is needed even though the existing restaurant itself is not a Conditional Use. Ms. Matheney stated that is correct.

Mr. Latkovic asked Ms. Matheney if the special hearing could be set for the next regularly scheduled Planning Commission meeting. Ms. Matheney said yes, but that there also must be a separate published legal notice for

that meeting, and that contiguous property owners, as well as the applicant, must all receive 20 days advance notice of such meeting.

Mr. Latkovic said he would like to set the public hearing date for May 13, 2021 at 7:30pm, and asked board members if they had any objections. There were none.

Mr. Flaiz motioned to have the public hearing at the next regularly scheduled Planning Commission meeting on May 13, 2021. Mr. Latkovic seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 2: CASE# PC 21-08: Mr. Paul Beegan of Beegan Architectural Design-Applicant and Owner's Representative-Proposed interior expansion of Augie's Restaurant-5210 Chillicothe Rd-Unit G

Mr. Latkovic asked the applicants to introduce themselves and tell the board about their proposed expansion. Mr. Michael Cipriani introduced himself as the landlord representative, and Mr. Danny Jenks, as the owner of Augie's. Mr. Paul Beegan, of Beegan Architectural Design, who was attending via Zoom, introduced himself and Amy Armour, also of Beegan Architectural Design who will be presenting the Augie's expansion for the board.

Ms. Armour started the presentation by thanking the board and said that their firm has been very excited to work with Augie's and are very proud that they have been able to withstand the past year with all the challenges of Covid. They are excited to see them expanding, prospering and helping with the economic development of the Village. She referred to the plans and indicated the expansion would include moving into the former hair salon that has relocated to a different space in the shopping center. The purpose of the expansion is to increase the seating area, bringing the number of seats to 64 in the dining room area and 6 at the bar area, for a total of 70 seats.

Mr. Latkovic said the proposal would basically double the existing space and asked what the present seating capacity was. Mr. Jenks said right now it is around 30, but it was pretty tight, especially with Covid restrictions in place. Mr. Latkovic noted that all the expansion would be for serving space, since they are not adding any additional kitchen space. Mr. Jenks said they would be enlarging the kitchen slightly, but it would be at the back wall area. Mr. Latkovic asked if the whole interior would be remodeled as part of the overall project. Mr. Jenks said yes, they are improving the entire space.

Mr. Latkovic then addressed the parking at the plaza. Ms. Armour indicated there are a total of 80 parking spaces. Mr. Flaiz said he knows the plaza is borderline on the parking situation, but Augie's is more of an evening destination. Sleepy Rooster is closed at that time, Hair World is not busy then and the bridal shop is not impactful. He went on to say that he understands there is a parking concern, but that it works well between the businesses since Augie's customers will be using the parking lot when most of the other businesses are not. Mr. Hocevar agreed, and said that is a good point. He said per the zoning code, Hair World and the bridal boutique each require 7 parking spaces, which would not be utilized for those businesses.

Mayor Koons confirmed that a 70-seat capacity restaurant would require 35 parking spaces; Mr. Hocevar said that is correct.

Mr. Latkovic noted that there is parking in the back, and a rear entry to the restaurant. He asked about the new door in the front of the building, and how it would be utilized. Mr. Jenks said that will be used as their new take-out door.

Mayor Koons asked Mr. Jenks if they anticipate any issues with the expansion. Mr. Jenks said he did not foresee any issues.

Mr. Latkovic asked board members if they had any additional comments or questions there were none.

Mayor Koons made a motion to approve the interior expansion of Augie's Restaurant as submitted. Mr. Galicki seconded. On roll call vote, motion passed.

Old Business:

Mr. Latkovic asked Ms. Matheney for guiding rules regarding the minutes taken at a meeting. Ms. Matheney said Section 121.22 of the Ohio Revised Code indicates minutes are required to be taken. The Village can enact ordinances in addition to that, for instance, stating that all meetings must be recorded. She added that the minutes do not need to be verbatim, they can be summarized as long as they describe exactly what took place during the discussion. She said all meetings must have minutes, whether it's a special meeting or a regularly scheduled meeting.

Mr. Latkovic asked what if a meeting was never "called to order". Ms. Matheney said the Village does follow Robert's Rules of Order, but that is not necessarily required by Ohio law. Mr. Latkovic asked what if no one in that meeting, that was called or not called, ever actually said anything. Ms. Matheney said there should still be minutes, reflecting who was present, that there was no discussion, and when it ended, even if there was not an adjournment.

Mr. Latkovic referred to a copy of the minutes from a special Building Committee meeting, and said he found it bizarre, since the meeting was never called to order, at least not during the Zoom call, and no one ever actually spoke, at least not as part of their role during that special Building Committee meeting, and yet there are minutes that selectively take things out of the Planning Commission meeting and put them into one page.

He then referred to the 11 pages of detailed Planning Commission meeting minutes from the March 11, 2021 meeting and compared it to the supposed Special Building Committee meeting one page summary, that selectively talks about what was said at the Planning Commission meeting. He said this was very disturbing and asked the Mayor, as Chair of the Building Committee, how this would happen, as it is a complete misrepresentation of everything. He went on to say, if someone were to ask what happened at the Special Building Committee meeting, the Building Committee minutes do not represent an accurate summary.

Ms. Matheney said that technically two meetings took place at the same time: The Planning Commission meeting and the special Building Committee meeting. The meeting minutes from the Planning Commission are those that were approved tonight, and the other meeting minutes, which she was not sure were approved or not, are from the special Building Committee meeting.

Mr. Flaiz said the Building Committee held a meeting, but never convened the meeting, no members spoke, and they never adjourned the meeting, but yet they created minutes from the meeting, which were, in his opinion solely intended to criticize the Planning Commission.

Ms. Matheney said as long as they noticed it as a special meeting of the Building Committee, the whole committee was there, but they do not necessarily have to speak. She said they are required to create minutes for a special meeting.

Mr. Flaiz said that as the Planning Commission, they could then have a special meeting during a council meeting, not appear on video, not convene the meeting, attend but not say anything, not adjourn the meeting, then create minutes to criticize council.

Mr. Latkovic said he did not even know the Building Committee was at the meeting and said this should not be going on in the Village and asked what the purpose of it was. Had their minutes indicated they were there but did not speak, he would understand. He said Jim summed things up perfectly, in that they selectively pulled things out of the meeting just to criticize and said this is the least productive thing that should be happening in the Village. He said he is trying to run the Planning Commission efficiently and resolve a number of things. He

said this should be an embarrassment and is not representative on how this Village should be run and didn't know what Chris Berger's intentions were in doing this, together with his statement to Council.

Mr. Flaiz said that in addition to the minutes, the chair of the Building Committee made a statement that was critical of his assessment of the Building Committee's role in managing the building department. He went on to say that the Building Committee is comprised of two former social studies teachers and one lawyer. He said between the three of them they do not have a fundamental understanding of the separation of powers and the roles of an executive branch official and a legislative branch official. He feels with their backgrounds, there should be an understanding that two council members should not be directing the executive motions of the building department. He went on to say that the Planning Commission is trying to straighten out issues and address some problems that were discovered by their all-volunteer board. He said instead of properly addressing them, the Building Committee has become an apologist for the Mayor and is trying to cover up everything. He said he believes Dave is doing the best job that he can, given the limited engagement that the Village has contracted with him, and that Ruth is doing a good job and things are improving, but that he still has serious concerns about leadership and direction.

Mayor Koons asked what specific performance issues Mr. Flaiz has with the building department. He said the Building Committee is not apologizing for him, because he has nothing to apologize for. He went on to say that there has been vast improvement in the building department, and that he takes the title of Building Department chair very seriously, and that they have accomplished a lot. He said there has not been one complaint, either from residents, contractors or business owners about the building department. He noted there was a record set last year with 334 permits and almost \$94,000 of revenue. He went on to agree that there were some issues and mistakes that were made. He asked Mr. Flaiz to spell out the nineteen issues so they could be addressed at the May meeting.

Mr. Flaiz asked if Mayor Koons would authorize an audit of all the residential permits for the last three years, because that would likely show another disaster. He went on to say that they only looked at a very small window of commercial permits and discovered a multitude of problems, and of thirty permits, nineteen of them had problems. He said this points 100% to a leadership and management issue, and that the Mayor has never accepted responsibility for the issues. Mr. Flaiz said he has been very willing to go through the items with the Planning Commission and retroactively fix the problems, one of them being the Rotary Sign that Mayor Koons illegally had put up.

Mr. Galicki said there is no further documentation needed regarding the nineteen issues; what is lacking, and has been lacking, ever since the solicitor identified those issues is corrective action, so they do not occur again. The issues remain unresolved because the Planning Commission requested, but have not seen, policies and procedures put into place to avoid future mistakes. He went on to say if there are no problems, Mayor Koons should welcome anybody taking a look at the books and conducting a forensic audit that would take a look at money trails. He said if the findings are positive, then the answer is put to bed. But the obfuscation and the continued effort to try and keep outside eyes from the building department has only caused more questions, not only among Planning Commission members, but members of Council as well.

Mayor Koons said he has never tried to keep outside eyes from the building department, and upon receiving the public records request in October, before any administrative assistant was hired, he fulfilled it the best he could, and kept nothing back.

Mr. Latkovic said it's important to keep in mind that upon reviewing the information presented as a result of the public records request, it was immediately determined to be insufficient, thereby prompting their request to the solicitor to conduct the audit. He said he is very disappointed in the Mayor's response tonight. When looking at the totality of it, he has been taking this job seriously, without picking sides, and wanted the process of getting to the bottom of things to go as smoothly as possible. He wanted to see a plan to have the deficiencies addressed and a solution determined to serve the residents in the best possible way. He said the document that was

provided to the Planning Commission regarding the nineteen items never explained how the processes were going to be corrected, and no admission of error or accountability was ever taken. He said the Mayor continues to take no responsibility for any of the shortcomings, and at the first meeting when everyone was ready to go over the items, the Mayor had sent Dave home, making the review impossible. Mr. Latkovic said he doesn't know whose fault all this is, but that the Mayor is in charge, and whether all the permits are right or not, the way he has conducted things have made the Planning Commission feel as if things are trying to be hidden. He then asked Mayor Koons if he approved the Building Committee meeting minutes, to which the Mayor responded no. He said this has become to feel like one big game, but at the end of the day, some permits were wrong, the Planning Commission didn't review and approve some things they should have; those things are fixable. Mr. Latkovic said the Mayor is doing things he does not find appropriate, and he's defending them. He said he has tried to make this as streamlined as possible, but the Mayor can't even take accountability for the items he knew should have come before the Planning Commission, such as the Rotary. He said as the Planning Commission, they have no power to do anything about the audit, or the building department, but he does have the ability to run the Planning Commission until his term is up. He said they will keep trying to understand and correct what they can. He implored the Mayor to step back and take a look at this. The Planning Commission needs to have an understanding of how the Village will ensure reviews come to them when required and asked the Mayor if he had anything to present to them tonight.

Mayor Koons said, moving forward, the building department will be doing three things differently; one of them is to complete the loop after an application is submitted and make sure that application is followed up on after an appearance before the Planning Commission. He said that would take care of the first six or seven applicants who applied to the building department and went before the Planning Commission, but never took occupancy. He said there were no procedures in place for termination, and that will be part of the forms when they apply.

He said the second thing is to discontinue having Planning Commission review signs in the Village, since that is something the Planning Commission should not have to deal with. Mr. Latkovic asked if that were something the Planning Commission would need to take action on to amend the zoning code; Mayor Koons said yes, it would take an amendment to the zoning code. Mr. Flaiz said the Planning Commission amends the zoning code, not the Building Committee. Mr. Latkovic confirmed that Mayor Koons would make a proposal to the Planning Commission to discontinue sign reviews. He said the third one is looping in new businesses with the fire code inspection process, with the assistance of the Fire Marshal. He said he would go through all the items on May 13th.

Mr. Flaiz said that the Planning Commission in general, and Steve in particular, has been asking, for months, for a flow chart and for specific procedures the building department would have to prevent future issues, which is how they wanted to see this addressed moving forward. He said no proposed zoning change has been presented at a Planning Commission meeting, and that the Mayor, Council and the Building Committee have given them none of those items. Instead of coming up with a flowchart and written policies and procedures, the Building Committee concocted minutes and the Building Committee chair presented a four-page written statement to Council criticizing the Planning Commission. Mayor Koons said they would see something on May 13th.

Mr. Flaiz addressed Ms. Matheney regarding Augie's Conditional Use application and said that under the B-2 zoning, restaurants are not a permitted use and not even a Conditional Use, so technically restaurants are not permitted in the plaza. Yet, the Planning Commission approved Sleepy Rooster, and Augie's has been there for a very long time. He said he believes the Planning Commission should seriously consider rezoning the plaza and the Village Hall campus, due to the events that occur there such as the Farmer's Market. He said he fully understands the issue of spot-zoning but asked which is worse: changing those two parcels to a B-1 or allowing restaurants in a B-2 district.

Ms. Matheney asked Mr. Flaiz if his proposal would be to change those two parcels from a B-2 to B-1. Mr. Flaiz said yes, it would be to rezone the plaza and the Village campus to B-1, and perhaps include MC Art

studio. They could then issue Sleepy Rooster and Augie's their Conditional Use permits to operate their restaurants. He said by doing that, it would be legal. He went on to say that the other restaurants, such as Burntwood Tavern are operating under a Conditional Use, which was confirmed by Dave Hocevar.

Ms. Matheney said restaurants are technically not defined in our current code, rather, the definition of Retail seems to fit restaurants. Mr. Hocevar agreed. Ms. Matheney referred to Chapter 5 in the Business District, indicating that restaurants are a Conditional Use in a B-1 District, but also one of the permitted uses in the Business District is Retail, and retail sales include "...baked goods, confectionaries, groceries, meats, foods, dairy products, etc..." and also "...serving and consumption of food and beverages..." which describes a restaurant. It also says, "places where food or beverages are not consumed within a building may be permitted if a Conditional Use Permit is granted." Ms. Matheney stressed there is no specific definition of a restaurant in the code, therefore they may want to amend the code to eliminate the word "restaurant", or to define restaurants.

Mr. Flaiz said B-2 does not allow Retail, but it allows Personal Services, so technically Sal's should not be operating. He then referred to page 54 under Conditional Use regulations and the only Conditional Use permitted in a B-2 is a Bed and Breakfast, whereas permitted Conditional Uses in B-1 are "*Residential, Gas Stations, Restaurants, Commercial Amusements, automotive sales, mortuaries...*".

Mr. Latkovic asked when this was adopted, and Ms. Matheney said she wasn't sure, but that there have been many updates, although they may not all be reflected in the Codified Ordinances on the website. She said on the Conditional Use regulations, if you go to the B-1 District and look at what is permitted, it does say restaurants are a Conditional Use in the B-1 District and Retail is permitted. She went on to say that maybe there is just an inconsistency in the code.

Ms. Budoff asked what businesses are currently in the plaza that do not need a Conditional Use Permit. After discussion, it was determined that only Hair World falls under Personal Services. Ms. Budoff said the MC Art Studio also has a daycare, and Mr. Flaiz said that is also allowed also under B-2.

Ms. Matheney said because there have been piecemeal updates to the code, she would highly recommend a review of the entire code. She said there are some inconsistencies, and there are some references that do not have definitions. Mr. Flaiz suggested that, under the existing code, the cleanest thing to do would be to rezone the plaza, Village campus and the Art Studio to B-1 and then grant Conditional Use permits to Augie's and Sleepy Rooster, with no appearance necessary. Ms. Matheney agreed that would be the easiest solution. She asked if they were also considering rezoning the vacant property belonging to the Village on the southwest corner of 306 & Bell. Mr. Flaiz said that in his opinion, that vacant lot should be considered in the rezoning as well.

Mr. Latkovic said prior to next month's meeting, it would be helpful if Bridey could send them some recommendations regarding any glaring problems in the zoning code that deal with the issues they have discussed. He said from his perspective, it does make sense to rezone these areas, and he thinks it would be helpful to have some time to consider that and be able to refer to information in front of them, such as a parcel map, and review the suggestions.

Mr. Latkovic asked for any new business.

Ms. Matheney referred to the fencing rules in the Residential District, Section 4.01(b)(4) of the Zoning Code. She said the Building Committee has had some discussions regarding fencing along side and rear lot lines, requiring the fencing to be set back at least 3' from the property line. She said there is a question as to whether this should be changed. Mayor Koons said homeowners have expressed their preference to have the fence right on their property line, so as to not have any property on the other side of the fence to maintain. Mr. Flaiz said he recalled that the point of the 3' buffer was to allow for maintenance issues. Mr. Hocevar said that was probably part of it, but that South Russell is one of the only communities in the area requiring a 3' buffer, and he has

many residents complaining about the requirement, and agrees that looking into revising that would be a good idea.

Mr. Flaiz said other communities where residents have limited yard area may allow the fencing to go right on the property line, but that is not the case in South Russell. He said if the fence would be right on the property line, any maintenance of the fence, whether it's for painting or repair, would necessitate trespassing onto the neighbor's property. He went on to say that a resident always has the option of obtaining a variance if they do not want to install their fence 3' off the property line.

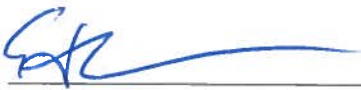
Mr. Latkovic asked if residents are primarily installing decorative split rail fences, or privacy fences. Mr. Hocevar said the styles vary, but regardless of type, there are never any positive comments about the 3' requirement. Mayor Koons said they will be getting an application for a 6' board on board fence that is proposed to be right on the property line, and they will be sent to the Board of Zoning Appeals. Mr. Latkovic confirmed that neighbors would be notified and said he would be curious as to how the neighbors feel about it.

Mr. Flaiz expressed concern as to how the fence would be installed or maintained without trespassing, as well as the number of lawsuits between neighbors due to property line issues. He said because of the 3' buffer in South Russell, those issues do not come up.

Discussion followed about the issues surrounding fence placement and ordinance changes. Mr. Latkovic said he could see both sides of the issue, and if they move towards changing the requirement, a public hearing would be held, and people would be made aware of the hearing and should be strongly encouraged to attend.

Mr. Flaiz said he did not agree on zoning changes for individual property owners, and that if one has special circumstances that require a variance, that is what the Board of Zoning Appeals is for. If the requirement is changed, the neighbors would not get any notification of the fence being installed on the line. Mr. Latkovic said perhaps they could differentiate between fence types, as to where they would be allowed, perhaps a split rail fence would be okay on the line, but not a solid privacy fence.

Mr. Latkovic asked the board members for any other new business. There being no further business, Mr. Latkovic adjourned the meeting at 8:40pm.



Steve Latkovic, Chairman

5/13/2021

Date



Ruth Griswold, Board Secretary

5-13-2021

Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING RECORD OF PROCEEDINGS

May 13, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheny – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: Mike Cipriani, Danny Jenks, Karen Reighard, Amy Armour

Meeting called to order by Mr. Latkovic at 7:32p.m.

Ruth Griswold conducted roll call.

Mr. Flaiz motioned to approve the minutes from April 8, 2021. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE #PC 21-07(A): 5210 CHILICOTHE ROAD-UNIT G-AUGIE'S RESTAURANT-Karen Reighard and Amy Armour of Beegan Architecture-Applicants and owner's representatives are seeking approval for an outdoor dining patio adjacent to the existing restaurant.

Mr. Latkovic thanked Mayor Koons for the placement of orange cones that outline the proposed patio area, and said it was very helpful when he drove past. He asked the applicants to begin their presentation.

Amy Armour introduced herself and Karen Reighard, both of Beegan Architecture, Mike Cipriani, owner of Cipriani Plaza and Danny Jenks, owner of Augie's. She said the last meeting of the Planning Commission she had attended via Zoom, and she thanked the board for the opportunity to be there tonight in person.

She began her presentation of the proposed patio, indicating it would be located on the north side of the building, with a drive aisle of 20'. The patio would consist of 28 seats, enclosed by fencing with two gated areas and bollards for protection. She said the entrances into the building would remain as they are.

Ms. Budoff asked if the cones currently placed in the area represent the entire proposed patio addition. Ms. Armour said the patio and fencing would not go any further past where indicated, but that the bollards would be placed on the outside of the fencing. Ms. Budoff asked what the bollards would be made of, and if there would

be any cement. She expressed her concern as she recalled a recent incident where a car drove into the front of a restaurant. Ms. Reighard said the bollards would consist of poured concrete and would be spaced 3' to 5' apart. Mr. Latkovic asked how far down the bollards would go. Mr. Cipriani said although he hadn't seen the plans, they should go 42" deep. Mr. Flaiz asked if they would use the method of placing a hollow steel pipe into the ground and then pour the concrete into it. Mr. Cipriani said yes, and then a cover is usually installed over it. Mr. Flaiz asked if there would be covers over the bollards for Augie's patio. Ms. Armour said they could install covers over the bollards in whatever color is required. Mr. Flaiz confirmed that the fencing would be installed on the inside of the bollards; Ms. Armour said yes, that is correct.

Ms. Budoff asked if there was really enough room for two cars to pass through the area next to the patio. Ms. Reighard said the 20' area allows 10' per car and she said a typical residential street is 20' wide. Mayor Koons said most of the streets in South Russell are 24' wide, but that there are some streets that are only 20' wide in the Village.

Mr. Flaiz referenced the parking and loading regulations for a two-lane access drive and noted that the minimum width is 20' and the maximum is 24', which indicates this proposal does fall within the parking and loading regulations of the Village.

Mr. Cipriani said, for context, a parking space is 9' wide, which allows for the opening of doors as well.

Mr. Latkovic asked if there was a plan to put any markings, such as a "SLOW" sign, on the pavement. Mr. Cipriani said they would certainly be open to that. Mr. Flaiz said he thinks arrows would be helpful. He had visited the area earlier that day, and he drove in through the bank area, which he felt was the route most people visiting the plaza take. He said there was a lot of two-way traffic through there, and he momentarily played chicken with another car, but they did both successfully pass each other within that space. Mr. Cipriani said he thinks marking it off with the cones to give people a reference was a great idea. Mr. Flaiz said again that arrows would be nice. Mr. Cipriani agreed and said lines as well may be helpful.

Mr. Cipriani addressed the parking issue, and said he realizes they are asking for a variance of 20 spaces. He said the leases for the Sleepy Rooster and Augie's are very specific as to their hours of operation. He said for instance, if Augie's has a special event, they must first notify him, and he has the option to require that they use valet parking and limit the number of people. He said to him, the hours of operation are key to the parking, and that he doesn't want to negatively impact his other tenants. In his experience with shopping centers, he has learned a lot of lessons over many years, and the language in his leases reflect that. He went on to say that if the diner doesn't make it, and three years from now they get a different tenant in there, they would be restricted to the same hours, or it could become a retail storefront. He said there is no way that he would ever allow those two businesses to be operating at full capacity at the same time.

Mr. Flaiz said it's a nice problem to have, and if someone had told him ten years ago there would be a parking problem at the plaza, he would have laughed. He said he's been to the Sleepy Rooster a number of times, and when it's busy, the parking lot is about 2/3 full. Mr. Cipriani said for Mothers' Day, the Sleepy Rooster took reservations and there were no problems, unlike many other restaurants.

Ms. Budoff asked if there were issues with people using the parking at the bank. Mr. Cipriani said no, the only real issue is in the mornings with the convenience store. He said there are two signs for 10-minute parking for them, and for the most part, patrons of the diner do respect that. He said the people at the convenience store do not hesitate to speak up about it, but there are good relationships between tenants throughout the plaza.

Mayor Koons asked if the patio would be something that could be put in on a trial basis. Mr. Latkovic said for a permanent infrastructure, such a thing would be difficult. Mr. Cipriani said there would be too much time and money spent for just a trial basis.

Mr. Latkovic asked Mr. Cipriani how he encourages people to utilize the parking in the back. Mr. Cipriani said he has a few signs indicating there is additional parking in the rear, and he wouldn't have any problem adding

more of those signs. He said there are 33 parking spaces in the back. Mr. Latkovic asked if the Sleepy Rooster had a rear entrance. Mr. Cipriani said yes, they do, there is an awning over the doorway and the owners promote the parking in the rear. He said even if their regular customers park in the back, that would be a big plus. He added that there were three dumpsters in the back, and they are now down to two, and are currently working with Republic to remove another one to free up more space for parking. He said the bank has their dumpster on his property, and they will have to find a way to relocate it. He said he had offered to share a dumpster with the bank, but they are required, due to security issues, to have a locking dumpster.

Mr. Flaiz asked if it would be possible to create parking by the drive-up mailbox. Mr. Cipriani said it would cause issues with people backing up out of the other parking spaces, and that it is also a two-way traffic lane. Mr. Flaiz suggested parallel parking spaces. Mr. Cipriani said he would look at that possibility, and he would even be willing to remove some of the grassy area to accommodate what could become four parking spaces. Mr. Flaiz said he would hate to see more pavement, Mr. Cipriani agreed.

Mr. Latkovic asked why the new stamped concrete would be even with the existing asphalt and not raised. Ms. Reighard said it would be for wheelchair access. Mr. Latkovic said the front of the building has a raised sidewalk. Mr. Cipriani said there is a ramp in the front center of the shopping center, between the two handicapped parking spaces. Mr. Latkovic asked if there would be a ramp on the side going down off it, or would they have to enter through the front gate. Ms. Reighard said they would be able to use the front or back gate. Mr. Latkovic asked if the side door would be accessible for patrons to use the restrooms. Mr. Jenks said that door would be only for servers. Mr. Latkovic said if a customer on the patio would need to use the restroom, they would have to exit through a gate and enter the restaurant through the front door. He went on to say that a patio customer in a wheelchair would have to come out of the gate, go to the front of that and go to the middle of the center. After that statement, discussion followed between the architects, Mr. Cipriani and Mr. Jenks regarding handicapped accessibility. Mr. Latkovic said he doesn't know what is required per ADA. Mr. Cipriani and Mr. Latkovic both suggested ramping the end sidewalk toward the front of the patio for easier accessibility for both wheelchairs and walkers.

Mayor Koons asked Mr. Hocevar if they were creating a monster due to the parking situation. Mr. Hocevar said with the patio addition, the site would be 20 parking spaces short. He said the board has the option of regulating the occupancy load, or leaving it as submitted. Mr. Hocevar distributed a document to board members regarding his calculations on the parking. Mr. Latkovic noted that the required parking for Sal's is 12, and that he doesn't ever see that as being needed for that space. Mr. Hocevar said the current Village zoning regulations for parking could be updated and confirmed that parking requirements are based on square footage, except for restaurants, which are based on seating capacity. Mr. Flaiz asked if the parking spaces in the back are striped, Mr. Cipriani said yes, they are, and the area is fairly well lit, with lights above every door. He said he would be open to adding additional lighting to promote rear parking. Mr. Flaiz said he doesn't feel more lighting is necessary and clarified that the employees utilize the rear parking lot. Mr. Jenks said yes, all employees do park in the rear. Mr. Cipriani said despite many conversations with Sal's, they are the only one who does not park in the back. Mr. Flaiz noted that is just one car.

Discussion followed regarding the parking regulations vs the practicalities.

Mr. Cipriani said he understands that the Planning Commission cannot set a precedent with the parking allowance, and that their approval would need to be based on the hours of operation, due to the different types of businesses in the plaza. Ms. Budoff asked if the restaurants are open at the same time. Mr. Cipriani said the Sleepy Rooster closes at 2:00pm, and Augie's opens at 11:00am, and said Augie's lunch business tends to be carry out, and their seated patrons tend to be for dinner.

Mayor Koons asked Mr. Jenks, from his experience, if he anticipates any headaches due to the interior expansion, proposed patio, and the subsequent increased seating capacity. Mr. Jenks said he went to culinary school, and he has worked at Blue Canyon in Twinsburg, which has 500 seats. He went on to say that he is more comfortable in a restaurant with a large sit-down volume rather than in a carry out pizza restaurant. He

said the big thing for him is the expansion of his kitchen, which will have two pizza ovens and other additional equipment necessary for the increased volume. He said he feels they have been working toward this expansion over the last six years.

Mayor Koons asked Mr. Cipriani if he sees people parking on Village property and running across 306, if available parking becomes an issue. Mr. Cipriani said he can't imagine that happening. Ms. Budoff said even going across Bell Road from the gas station would be a problem. Mr. Cipriani said he knows the owner of the office building that is right behind the plaza, and he thinks they would be open to helping out, it would be income for him if there were an event that would require valet.

Mr. Latkovic said it is hard to tell from the drawings, but the giant white fence in the back makes it feel less accessible. He said he would recommend considering signage on that fence that would work aesthetically, indicating there is quick and easy access to parking and entryways in the back. Mr. Cipriani agreed that would be a good spot for a sign. He went on to say that the owner of the hair salon could have her customers enter through the back, since many of them are elderly and they have a zero-clearance walkway, making access easier.

Mr. Flaiz noted that with the expansion and patio, Augie's would be a huge restaurant, and asked Mr. Hocevar how this compares to the seating at Panini's. Mr. Hocevar said this would be larger than Panini's. Mr. Flaiz asked why they are extending the patio fencing along the front of the restaurant. He suggested gating it elsewhere. Mr. Latkovic agreed and said it would look better and save them some money. Discussion followed about egress.

Mr. Latkovic asked what color the bollards would be painted. Mr. Cipriani said they are available in many colors, and some of his other tenants like the bollards painted to match their colors, and there is also reflective tape that can be added to the bollards. Mr. Latkovic said you could actually use black reflective paint. After discussion, it was determined that some sort of reflective materials should be used on the bollards,

Mr. Latkovic asked about their ideas for lighting the patio area, as it was not on the plans. Ms. Reighard said lighting could be added to the outside of the building, and sometimes, if umbrellas are being used, they have lighting added to the inside of them. Mr. Flaiz said the area is currently pretty well-lit. Mr. Cipriani said after they put light fixtures on each of the poles in the parking lot, together with the LED lights under the canopies, the area does light up nicely. He said they would have to do some additional lighting along the side.

Ms. Budoff asked if they were going to install a canopy over the patio. Mr. Jenks said they have thought about installing a retractable awning but that nothing is definite.

Mr. Flaiz said when he first saw the plans for the patio, he was not comfortable with it, but now he is okay with the patio. He said what worries him is the overall size of the restaurant. He asked Mr. Hocevar what his opinion was. Mr. Hocevar said the Planning Commission has the option to regulate the number of seats. He said that the Plans Examiner will also look at the ingress and egress, and the length of travel. He went on to say that because they would be getting a Conditional Use Permit, the Planning Commission can also put a time limit on the renewal of the permit.

Discussion followed regarding the stipulations the Planning Commission would require.

Mr. Flaiz asked the hours of operation of Augie's. Mr. Jenks said they are closed on Mondays, and are open on Tuesday, Wednesday and Thursday from 11am-8pm, Friday and Saturday from 11am-9pm. Mr. Flaiz said one of the things the Planning Commission has done on Washington Street, as part of their Conditional Uses, was to limit hours of operation in order to control the parking. Mr. Jenks said he is not looking to become a 2am bar, and that the bar is an area primarily used for the storage and distribution of the alcohol. The seating at the bar is used primarily by people who sit and have a drink while waiting for their carry-out pizza.

Ms. Budoff said that although Augie's closes at 9pm, she feels that people will stay later. Mr. Jenks agreed, and said they stop seating at 9pm, they may stay until 10 or 11pm, but he doesn't think much past that.

Mr. Flaiz said what always worries and concerns him about having a restaurant there does not relate to Augie's, but rather if Augie's leaves, and a "Coyote" type place takes over their space. Ms. Matheney said given that concern, the board may actually want to consider moving on the rezoning before you decide to grant a Conditional Use Permit because a Conditional Use is non-assignable and non-transferrable.

Mr. Flaiz brought up having restrictions on outdoor music, and Ms. Budoff thought motorcycle parking should be addressed, since it is an issue in Chagrin Falls.

Mr. Latkovic asked Ms. Matheney if the zoning change had to go before any board other than the Planning Commission. Ms. Matheney said Council would have to approve the zoning change. Mr. Latkovic said if the zoning change were adopted tonight, it could not be rezoned prior to Augie's possible approval, since it has to go before Council. Ms. Matheney said yes, that is correct, and there are notifications that are required as well.

Mr. Flaiz said he did not want to hold them up, and asked Mr. Jenks when they wanted to start the project. Mr. Jenks said they haven't even started the interior portion of the project yet, and that is his priority. He said he hopes to begin that work in a week or two, with his goal for completion to be a few months. He said he considers the patio as Phase II, and that it may be next year before it is installed. Ms. Budoff said that would allow them to see if any parking issues arise. Mr. Latkovic said the three-hour overlap during lunch is what it is, and from his perspective the patio is a great project. He said he understands Mr. Flaiz's concern about the size of the restaurant, but that a long-time business rooting down in the Village is good for the tax base and for employees, and this is the kind of thing the Village wants. He went on to say that the point made about not having the hours overlap is important. Mr. Latkovic confirmed with Ms. Matheney that if this case were conditionally approved tonight, it would terminate if Augie's ever left. Ms. Matheney said that is correct, a Conditional Use, unlike a Variance, does terminate with the business.

Mr. Flaiz asked Ms. Matheney about the correct procedures given the rezoning of the parcels that is also moving forward and asked if they could approve Augie's without the zoning first being changed. Ms. Matheney said procedurally, her preference would be to have the rezoning done first. Mr. Flaiz asked if they could approve Augie's conditional on the rezoning going through. Ms. Matheney said yes, that could be done, but cautioned that if the rezoning does not go through, it would impact their project. Mr. Flaiz said the rezoning has to go through, as there have been two restaurants operating illegally in the plaza for many years. Mr. Latkovic asked Mayor Koons if he thought Council would support the rezoning. Mayor Koons said he feels they would definitely be supportive. Mr. Flaiz said the Village campus would be included because of the operation of the Farmer's Market is dicey.

Discussion followed regarding the possible conditions that would need to be placed on Planning Commission approval. The lack of sufficient parking in relation to the hours the businesses are in operation was discussed. Mayor Koons expressed concern about granting approval without first addressing issues within the code. Mr. Latkovic said he understood his concern, and the reason he would suggest the board consider giving conditional approval is to avoid the applicants from having to appear before the Planning Commission again.

Mr. Flaiz said he had hoped the board could give clear direction to the applicants, and once again asked Mayor Koons if he felt Council would support the zoning change. Mayor Koons said he did not think it would be a problem. Mr. Galicki agreed, and said it would be basically legalizing actions that have been in place for decades.

Mayor Koons asked Mr. Cipriani if he would consider speed bumps, either permanent or temporary. Mr. Cipriani said he would consult with the Police Chief for his opinion as to where the best locations for speed bumps would be. Mr. Jenks said he would not be opposed to speed bumps, since it may deter people from cutting through the lot.

Mr. Flaiz went over the conditions that were discussed, starting with, at the north driveway, requiring a yellow dividing line and directional traffic arrows on the parking lot, plans examiner review and approval of plans, reflective paint or tape on bollards, hours of operation for patio seating no later than 10pm, no outdoor music,

installation of a speed bump on the north access drive, location to be determined by the plaza owner, in consultation with the Police Chief.

Mr. Flaiz asked if there were any other issues. Mr. Hocevar brought up the parking issue, reiterating that with the patio approval, the plaza would be 20 spaces short. He asked if the Planning Commission would want to limit the occupancy load to what the regulations say. Mr. Flaiz said if the Sleepy Rooster had dinner business, he would be looking at this very differently. He went on to say that they had been presented with a similar situation on Washington Street with Snap Fitness and Cultivate, who both had differing hours of operation. Mr. Hocevar said if the Planning Commission is good with it, he's good with it, he just needed some direction. Ms. Budoff said she is fine with the parking situation. Mr. Flaiz said there isn't an overlap, and there is not going to be 50 people there at once. Mr. Jenks said his lunch business is mostly customers picking up slices of pizza, and people are in and out. He said his dinner business begins at 4pm, and he hopes to upgrade the menu.

Mr. Flaiz complimented Mr. Jenks and said Augie's is better than it has ever been with him running it. Mr. Jenks thanked him.

Mayor Koons asked Ms. Matheney if the Village was weakening themselves by not taking on the parking issue and instead just keep giving allowances. Ms. Matheney said that it's okay to give allowances. She said she does recommend something be done to address the parking issues and that she does think the parking lot will be crowded, but that's also a good thing. Mr. Jenks said his only real concern are Fridays, Saturdays and Sundays, and if they find they need to restructure something, they will. Mr. Flaiz said he has been to the Sleepy Rooster when it has been full, with 10 people waiting for a table, and the parking lot is around 2/3 full, and that's just the front parking lot.

Mr. Latkovic said he is also not concerned about the parking, but asked Ms. Matheney what her suggestion would be. Ms. Matheney said she would suggest limiting the seating to be more consistent with the regulations. It was determined that the seating would have to be cut by 40 seats in order to be in compliance with the current regulations. Ms. Budoff suggested limiting seating during the overlap hours. Mr. Latkovic said to limit seating during specific hours would be very tricky. Discussion followed over the required parking spaces per code vs the actual number of spaces needed per business. Mr. Latkovic pointed out that, per code, Sal's requires twelve parking spaces, which is probably 10 too many. It was also thought to be unlikely that Hair World and Previously Adorned need their required 6 parking spaces per business.

Mr. Flaiz asked Ms. Matheney if the Planning Commission could review the parking situation one calendar year after the completion of the project. Ms. Matheney said yes, they could do that. Mr. Flaiz said if, at that time, it is determined to be a problem, they would review the allowed seating capacity. Mr. Flaiz added to the list of conditions that the Planning Commission will review, solely for seating capacity and parking issues, one year from completion of exterior and interior of renovations.

Ms. Reighard said another reason the patio would be installed to be even with the asphalt is so the owners could choose to no longer use the area for a patio. Mr. Hocevar said the Commercial Building Review by the Plans Examiner may very well put a seating limit on the outdoor patio due to length of travel.

Mr. Latkovic motioned to approve the submittal with the following conditions: at the north driveway, provide a yellow dividing line, add directional traffic arrows on the parking lot, install a speed bump on the north access drive, the location of such to be determined by the plaza owner in consultation with the Police Chief, that the Plans Examiner review and approve the plans, that reflective paint or tape be added to the bollards, that the hours of operation for patio seating be no later than 10pm, that there be no outdoor music, , and that the Planning Commission will review, solely for seating capacity and parking issues, one year from completion of both interior and exterior renovations. Ms. Budoff seconded. On roll call vote, motion carried unanimously.

New Business:

Mr. Latkovic addressed the Council initiated amendment to Section 4.01(b)(4) of the zoning code to allow fences to be placed on the property line, as opposed to the current regulation requiring fences to be at least 3' from the property line.

After review, discussion and clarification of procedures with Ms. Matheney, Mr. Flaiz motioned to recommend a modification to the council-initiated amendment regarding fences in Section 4.1(b)(4) of the Zoning Code. Mr. Latkovic seconded. On roll call vote: Mr. Latkovic-Yes, Mr. Flaiz-Yes, Mr. Galicki-Yes, Mayor Koons-No, Ms. Budoff-Yes.

Mr. Latkovic next addressed the proposed initiation of Chapter 13. Mr. Flaiz had performed extensive research over a period of months, and discussion followed regarding his findings and proposed addition of Chapter 13 into the Zoning Code. Minor changes were made to his proposal.

Mr. Flaiz motioned to adopt and recommend approval of an amendment to the Zoning Code to enact new Chapter 13 regarding regulations of Food Trucks, which also included amendments to Sections 2.01 (106) (2) and the first sentence of 3.01 of the Zoning Code to address the use set forth in Chapter 13 excepted from the definition of retail and requiring a zoning permit. Mr. Latkovic seconded. On roll call vote: Mr. Latkovic-Yes, Mr. Flaiz-Yes, Mr. Galicki-Yes, Mayor Koons-No, Ms. Budoff-Yes.

Mr. Latkovic then opened the discussion regarding the proposed rezoning of three parcels that have been discussed at many previous meetings.

Mr. Latkovic made a motion to recommend an amendment to the zoning map to rezone parcel numbers 29-706406, 29-108179 and 29-705300 from the current B-2 District to the B-1 District. Mayor Koons seconded. On roll call vote, motion carried unanimously.

There being no further business, Mr. Latkovic adjourned the meeting at 10:10pm.



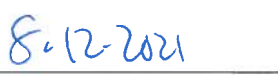
Steve Latkovic, Chairman



Ruth Griswold, Board Secretary



Date



Date



Village of South Russell

5205 Chillicothe Road

South Russell, Ohio 44022

440-228-6700

PLANNING COMMISSION MEETING RECORD OF PROCEEDINGS

August 12, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocesvar, Building Official, Ruth Griswold, Board Secretary

Visitors: None

Meeting called to order by Mr. Latkovic at 7:31p.m.

Ruth Griswold conducted roll call. All present except for Mayor Koons.

Mr. Flaiz motioned to approve the minutes from May 13, 2021. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

Mayor Koons arrived at 7:33p.m.

Mr. Latkovic began the meeting by addressing item #1 under New Business, regarding split rail fencing on the lot line, and Council's request to have the Planning Commission provide clarity as to whether to allow chicken wire, mesh or other material attached to the fencing.

Mr. Flaiz said he watched the Council meeting, but it wasn't made clear to him if Council was okay with the concept of just split rails on the property line, but not other types of fencing. Mr. Galicki said Council deemed that any fencing other than split rail would not be permitted on the property line. Given that, the question arose if the split rail fence on the property line would then

be permitted to have chicken wire attached to it. Ms. Budoff said most split rail fences have wire attached, since the intent of the fencing is usually to keep a dog in the yard. Mr. Flaiz agreed with Ms. Budoff.

Mr. Galicki said some people would say that the whole intent of split rail fencing is to not have anything added to it, if it is situated on the property line. He went on to say that if the split rail fence has chicken wire attached to it, it should be 3' off the property line. Ms. Budoff asked for what purpose. Mr. Galicki replied for cutting grass and maintaining the fence.

Mr. Latkovic said he would presume that whoever would want the split rail fence on the property line would also like it to still afford the ability to keep something in, whether it be children, dogs, or other animals. Mr. Flaiz said he does not think that allowing some sort of wire is unreasonable. Mr. Latkovic suggested the wording should be different.

Ms. Matheney said Council did not take a vote to allow the split rail fences on the property line; what they did instead was table everything and asked Planning Commission to determine if attaching wire or mesh to the fencing should be a consideration.

After reviewing the definition of split rail fencing in the zoning code, Ms. Matheney said residents at the public hearing said they would want wire or mesh attached to split rail fencing for the practical purpose of containing animals, or to protect gardens. She reiterated that there was no vote by Council on the issue of split rail fencing on the property line. Mr. Flaiz asked how many Council votes would be needed to approve the recommendation. Ms. Matheney said it would take four votes to approve.

Mr. Galicki asked Ms. Matheney if the Village were to approve the placement of split rail fencing on property lines, would HOA rules or the zoning code take precedence. Ms. Matheney said the applicant would still need HOA approval after being granted zoning approval by the municipality. Mr. Galicki asked what would happen if an HOA strictly forbade any fencing, but the applicant got zoning approval. Mr. Flaiz said it would be up to the HOA to enforce their rules. Ms. Matheney said each entity would be responsible for enforcing their rules.

Mr. Flaiz said part of the problem is that historically, the Village would not issue a building or zoning permit if the structure was contrary to the HOA rules, but that has recently changed, much to his consternation, as president of his HOA. He said even though fences are prohibited in his neighborhood, as well as in Kensington Green, without board approval, the Village could still issue a zoning permit for a fence. He said he believes this practice is wrong and does not know why this policy change was implemented by this administration.

Mr. Flaiz said the rationale for keeping fences 3' off the property line was for maintenance. He said does not think a split rail fence on the property line, with chicken wire attached to it, would present a maintenance issue. Ms. Budoff said it is difficult to mow the grass around a split rail fence regardless of where it is.

Mr. Hocevar said this issue was instigated by the Building Committee due to a number of complaints from residents who wanted their fence on the lot line but did not want to go through the process of obtaining a variance. He went on to say that the issue of having just split rail allowed on the property line, with or without chicken wire, was discussed at the Building Committee meeting that morning. He said they all came to an agreement and thought it best to just leave the ordinance as it is today, and have residents request a variance if they wanted it on the property line. He said that would also allow the HOA to weigh in on the decision.

Mr. Latkovic asked Mr. Hocevar if he meant that everything regarding the fence ordinance should be left alone, including the possibility of allowing split rail fences on the lot line. Mr. Hocevar said that is correct.

Mr. Flaiz said he is annoyed that the Village would issue a building or zoning permit on items that are prohibited by the HOA, and by doing so, they are basically saying to the HOA, hire your own lawyer and use your own money because we are going to give permits even though it violates your HOA restrictions. He said for many years it was not done that way.

Mr. Hocevar said the Board of Zoning Appeals would consider the HOA requirements prior to granting a variance. Mr. Flaiz said he would hope that the BZA would not issue a variance for something prohibited by an HOA, but that the Village should not even issue a permit for such an item. He said for instance, in Chagrin Lakes, they do not permit accessory structures. He asked Mr. Hocevar if the building department would issue a permit for a shed, when five years ago they would not have done so. Mr. Hocevar said that is correct. Mr. Latkovic asked what had changed. Mr. Hocevar said the legalities involved had changed. Mr. Flaiz said the administration changed it and prefers the HOA to spend money on lawyers instead of refusing permits for items not allowed by an HOA.

Mr. Flaiz asked for confirmation that the Building Committee did not want to change the fence ordinance at all. Mr. Hocevar said that is correct; the discussion regarding the variables involved led the Building Committee to decide that the ordinance should be left alone, allowing the Board of Zoning Appeals decide on a case-by-case basis. He said the changes were proposed in response to complaints that had been received, and those applicants, at the time, were made aware of the option to go before the BZA.

Mr. Galicki questioned if a variance that is granted contrary to HOA rules would allow the applicant to install a fence. Mr. Flaiz said the Village won't enforce the HOA requirements, so it gets pushed back to the HOA to contend with.

Mr. Latkovic said that is a slightly different, although important, issue. He went on to say that from his perspective it sounds like leaving the fence ordinance alone is the right way to go, although it seems rather confusing as to how it all played out. He said to Jim's point, if someone is issued a permit by the Village, it does not restrict an HOA from enforcing its own provisions, but it would require the HOA to pursue legal action to prohibit a resident from doing something against HOA rules since the permit had been issued. He asked Mr. Hocevar if HOA approval is

required prior to issuing a fence permit that complies with the ordinance. Mr. Hocevar said HOA approval is requested from the applicant. He said if they refuse or are unable to obtain HOA approval, he defers to Ms. Matheney as to whether the Village could still issue a permit without HOA approval.

Ms. Matheney said that has always been a question. Mr. Flaiz said he thought the Village did not ask for HOA approval any longer. Ms. Matheney recalled at the last Board of Zoning Appeals meeting the board required HOA approval of the applicant, and the Planning Commission also asks for HOA approval.

Mr. Latkovic said although the topic is very interesting, he does not want to continue discussing it. He said regardless of the policy of the Village when it comes to requiring HOA approval, it is not a subject that will get resolved this evening. He said he believes everyone should have a voice in it, and if members want it to inform their vote otherwise, that would be totally appropriate.

Mr. Flaiz asked Ms. Matheney if the Village Zoning Code could prohibit the Village from issuing a zoning or building permit if it contravened the HOA deed restrictions. Ms. Matheney said she was unsure, and she would have to look into the issue. She added that her own community struggles with that question as well. Mr. Flaiz stated that as HOA president, he has often signed off on blueprints, but has not done so in five years. Mr. Latkovic questioned if the Village wanted to subject their authority and oversight to that, as far as actually codifying the HOA requirements. Mr. Flaiz used the example of someone in the Kensington neighborhood wanted to put up a chain link fence, a permit is issued by the Village and the HOA doesn't find out about it until it has been installed, and the HOA then has to fight with the property owner. He said in the past, the Village would have required HOA approval prior to issuing the permit. Mr. Latkovic said it does open up a lot of questions as to the Village's obligation to understand HOA requirements. He said he thinks it would be good practice as a Village to encourage compliance with HOAs and respect their regulations.

Ms. Budoff said she thinks it should be the resident's responsibility. She said she had contractors working on her roof and had thought they were doing all the appropriate things until she found out they did not get a permit. She reiterated that it should be the resident's responsibility to find out when permits are needed and to contact their HOA.

Mr. Galicki said he agreed in principle, but what about the resident that doesn't care about any HOA rules and insists on installing a chain link fence in spite of their rules. He noted that a council member who lives in Kensington Green has a chain link fence. Mr. Latkovic said that that chain link fence has been there forever.

Ms. Budoff expressed concern about allowing fences on the property line and outlined a scenario where two residents have fences that abut each other, perhaps due to not liking the look of the neighbor's fence, and then maintenance, including work by the utility company, becomes difficult. She said she feels having a 6' wide area between neighbors' fencing is necessary.

Discussion followed regarding procedures necessary to address the zoning code change. Ms. Matheney said technically Council initiated the change, then the Planning Commission revised it and made a recommendation to Council. Council then tabled it and did not introduce it as an ordinance. She said she therefore believes it is up to the Planning Commission to act on it.

Mr. Galicki said in light of what Mr. Hocevar shared about today's Building Committee meeting, which is comprised of the same people who introduced the zoning change, is it the intent of that particular council person to now withdraw the proposal.

Mr. Flaiz said Council initiated it, the Planning Commission essentially rejected it by recommending a revision, so the one they initiated has been rejected, and since the PC sent it to Council, he felt they should act on it. Ms. Matheney said they tabled it and want the PC to discuss the chicken wire and mesh issue. She said it now sounds like two members of Council want to drop the recommendation.

Mr. Latkovic said regarding the proposed changes to fence ordinance Section 4.01(b)(4), there seems to be a lack of administrative direction when the Planning Commission sends something as a recommendation to Council for action, but no action is taken. He said in this instance, Council did not do what it was supposed to do. Ms. Matheney said the language of it is, Council has to act after three meetings, or a waiver thereof. Mr. Latkovic said that the problem is that the public has been denied the opportunity of understanding Council's position on what the Planning Commission wanted to do. Ms. Matheney said the public was at the meeting. Mr. Latkovic said his point is that there was not an up or down vote on the Planning Commission's recommendation. He said the appropriate thing Council should have done would have been to reject the proposal and asked Planning Commission to re-initiate.

Mr. Galicki said up until this evening, he believes it was the expectation of Council that the Planning Commission would provide a definitive answer on the allowance of chicken wire on the split rail fencing on the property line or not. He said what has really thrown a fly into the ointment, is the Building Committee wanting to just forget the whole thing. He believes Council acted in good faith by asking Planning Commission for their thoughts on the allowance of chicken wire, and that as of Monday night, that was every Council member's expectation. He said it is only due to the most recent Building Committee meeting that things have now changed.

Mr. Latkovic asked Mr. Hocevar what precipitated the Building Committee's position at their last meeting. Mr. Hocevar said the chicken wire issue was discussed and it was decided it would be too difficult to police. He gave an example of a new resident moving in and adding chicken wire to an existing fence. He said the department would not be able to control it as they should and thought it better to leave it alone, with the resident always having the option of obtaining a variance. Mr. Latkovic asked Mr. Hocevar since the Building Committee's initial request was to have all fencing be permitted on property lines, if their current position is due to the Planning Commission's amendment to only allow split rail on the property line. He said it seems since the outcome isn't going the way the Building Committee wanted it to go, they just want to leave it how it was. He said the difficulty in policing the chicken wire matter seems like a bad argument

to him. Mr. Hocevar said they just looked at the overall picture, and residents not wanting to give up some of their property. Mr. Latkovic said the Planning Commission addressed that issue and voted that the appropriate middle ground would be to allow split rail fencing on the lot line, since it has a less-intrusive nature and still affords the ability to provide maintenance, and property owners who want a different type of fence on the lot line can always request a variance. He said apparently chicken wire makes a lot of difference with split rail fencing. Mr. Hocevar said the question of what you can and can't do with regards to chicken wire would mean more policing and it may be best to leave the ordinance as it is.

Ms. Budoff said it is not actually chicken wire, it is a green rubber coated wire. Mr. Latkovic said they haven't even discussed the different types of chicken wire, and what type of wire they are talking about would clearly be part of the question. There's the actual chicken wire, or it could be a heavy corrugated metal, or it could be green, gray, three feet or six feet. He questioned how detailed they would get. Mr. Flaiz said that was a good point.

Mr. Latkovic asked Ms. Matheny what would happen if the Planning Commission did not take any action on this matter. She said it would go back to Council for action. Mr. Flaiz said someone needs to introduce it to Council, it would then go through three readings, then Council would have to vote on it thirty days after the third reading. Mr. Galicki asked about the definition of chicken wire that was requested by Council. Mr. Flaiz said that would not be in there, he should just introduce the original revision. Ms. Matheny said it is possible that Council would vote to pass the ordinance. Mr. Flaiz and Mr. Latkovic said that would be fine too.

Mr. Latkovic asked if the Planning Commission could amend their own vote. Ms. Matheny replied yes because Council tabled it and did not introduce it. Mr. Flaiz said then the Planning Commission could revise their recommendation. Mr. Latkovic asked Mr. Galicki if he wanted to revise the recommendation of Planning Commission to include chicken wire. Mr. Galicki said Council wanted to know if the Planning Commission wanted to okay the chicken wire, and define it, or not have any issue with it at all.

Discussion followed regarding the several types, styles and colors of the product that is most often referred to as chicken wire, of which there were many variables. Mr. Latkovic said it would be like opening a Pandora's box.

After discussing what would be the best action to take, it was verified with Ms. Matheny that a withdrawal of the Planning Commission's recommendation would be okay.

Ms. Budoff motioned to withdraw the Planning Commission's recommendation to Council. Mayor Koons seconded. On roll call vote, the motion passed unanimously.

Mr. Latkovic then moved on to item #2 under New Business: Planning Commission Certification Procedures, and asked Ms. Matheny to explain.

Ms. Matheney said this issue has come up a couple of times, as Board of Zoning Appeals and Planning Commission meetings are sometimes cancelled if there are no applicants, and there may be meeting minutes pending, waiting to be approved. The code indicates that once the actions of the board are certified by the secretary on a certain form, it is returned to the applicant and the zoning inspector then issues the permit. The question is: What is certification? Is it when the meeting minutes are approved, or upon obtaining a signature from the Planning Commission Chair, or an okay on the draft minutes? She said recently, cancelled meetings have brought up this question as to when certification occurs, and the timing of the same. Ms. Matheney said this is not defined in our code, and this is a little different than the fiscal officer attesting to Council action once a document is signed. She said there are some forms mentioned in the code that we don't necessarily have, adding to the concern of what constitutes certification.

Mr. Flaiz said, from being on the Planning Commission for a long time, he always thought that certification occurred when the Chair signed the plans. He recalled plans being signed at the meetings, which then allowed Dave to issue the permit and the work could begin.

Ms. Matheney said the language in the code is the same for Planning Commission and the Board of Zoning Appeals. The BZA waits for the meeting minutes to be approved, which is at least another 30 days, but can be even longer if meetings are cancelled.

Mr. Latkovic said at these public meetings, he would think that when the board takes the step forward legally approving whatever is before them, unless otherwise stated clearly, it should be at that point that legal authority is given.

Mr. Flaiz noted that in Townships, the BZA usually waits until the minutes are approved, because the decision may be appealed to Common Pleas Court. Mr. Latkovic said that process is probably written in the Township code. He said if not, it could be argued that when it is approved by the body, unless otherwise stated, then legal approval has been given. He said in South Russell, the practice of having the Chair sign off on the plans at the meetings makes a lot of sense and creates an accurate record.

Mr. Flaiz asked what happens after the BZA approves an applicant to, for example, construct a garage closer to the property line than allowed, would the contractor be permitted to begin the work or would they have to wait for the approval of the meeting minutes. Mr. Hocevar said although this came up recently, it has never been an issue before, and the contractor would begin the work after the minutes were approved. He said Ms. Matheney was recently consulted on this matter because of an applicant who obtained Planning Commission approval years ago and never began the project but wanted to move forward now.

Ms. Matheney said the property that brought this question to the forefront is the barn at 306 and Bell. The applicant obtained developmental approval from the Planning Commission years ago, and while she is not sure if it was ever actually certified, a permit had never been issued. She said the plans have not changed and therefore, she does not feel the applicant should have to go

back to the Planning Commission. She went on to say that there is definitely an expiration date on a zoning permit, but not on certification of the Planning Commission's actions.

Discussion followed regarding the many businesses that were proposed to occupy the barn before the Planning Commission approved the site for office space. Mr. Hocevar said the owner of the barn has a lot of requirements to meet on the interior before being issued a building permit.

Ms. Matheney said she is concerned because it is not clear in the code as to when the actions of the Planning Commission become certified, and that the Planning Commission may want to consider making it clear. She noted that certifying action of the Planning Commission is not subject to appeal rights, unlike the BZA.

Mr. Flaiz said the BZA concerns him, because of the clock when it comes to the appeals. He said applicants shouldn't have to wait 60 days for certification, but he does understand waiting until after their minutes are approved. He said he feels once the Chair of the Planning Commission signs off on the plans, that action should be enough to certify their decision, as he wouldn't want to hold anybody up.

Mr. Latkovic said clarity on board certification is needed for everybody's benefit and suggested creating a form for such purpose. Ms. Matheney said there is an area on the application forms for the Planning Commission, BZA and the ARB for the secretary to certify the action of the board, but she had assumed that certification occurred after the minutes were approved.

Mr. Flaiz said when he was approved at the ARB for projects at his house, they were able to obtain the permits and start the work without having to wait for any minutes to be signed. Mr. Hocevar said historically they did issue permits after ARB approval without waiting for the minutes, but he wanted to make sure that was legally correct to do so. Ms. Matheney said it is important to be consistent with procedures. Mr. Flaiz said he hates red tape and does not want to hold anybody up. He said in his opinion, once action is taken at a meeting, the action can be certified on a form by the building department and that would be fine.

Mayor Koons asked if there was anything holding us back from doing what Mr. Flaiz suggested. Ms. Matheney said currently that is not being done with the BZA, they wait for the minutes to be approved and then the action is certified. She said when there are conditions on the variances, it can be difficult to get those 100% correct without the minutes. Mayor Koons said an ARB applicant who receives approval can obtain the permits the next day and asked if the delay after the BZA was necessary since the neighbors had been notified of the variance request. Ms. Matheney said she believes it has just been a pattern of practice. Mayor Koons suggested eliminating that pattern and allowing the applicant to the BZA to obtain the permit soon after the meeting. Mr. Flaiz said in the absence of the approved minutes, some official documentation from the Village must be issued in case a neighbor wants to appeal the decision to Common Pleas Court. Mayor Koons said when the approval of minutes is delayed due to cancelled meetings, this becomes a problem.

Mr. Flaiz asked if this has been an issue with the BZA. Mr. Hocevar said there was a situation with a new house on the west end of the Village that obtained a number of variances and an affected property owner inquired about the appeal process. He said the language was not clear as to if the appeal could move forward or if permits could be issued prior to having the minutes officially approved, which is why the matter of certification came up.

Mr. Flaiz said, to Mayor Koons' point, the certification procedures for BZA should be treated differently than the Architectural Review Board and the Planning Commission. Ms. Matheney agreed.

Mayor Koons said when the BZA takes action and grants a variance, there should be a time period of thirty days before the permit would be issued to allow for the appeal process.

Mr. Latkovic said the applications submitted to appear before the boards should notate "approved" or "denied." Ms. Matheney said she believes they do. Mr. Latkovic asked why that could not become the record of the board's action, if somebody wanted certification prior to the meeting minutes being finalized. That formal document could also be used to file an appeal. He said after every Planning Commission meeting, he always signs the plans and that is also an official record of the board action. Mr. Flaiz pointed out that there is an area on the zoning permit application that indicates actions of the boards.

Mr. Galicki questioned whether Common Pleas Court would require the transcript of the board decision. Mr. Flaiz said since the appeal must be filed within a certain number of days, and if the minutes are not yet approved, the person could tell the court that they need an extension on the filing until the minutes are approved.

Ms. Matheney said the conditions on the approvals are still a concern. She said there have been a number of variances granted with very specific conditions and making sure they are written exactly right is very important. Mr. Flaiz agreed and recalled instances when the Planning Commission members, although rarely, tinkered with conditions prior to approving the minutes. Ms. Matheney used Augie's as an example of an approval by the Planning Commission that had multiple detailed conditions. She asked if the conditions are written on the plans. Mr. Latkovic said he does not do that, and that is a very good point. Mr. Flaiz asked if the conditions are written on the application. Ms. Griswold said no, but the conditions are attached, and it is noted as such. Mr. Latkovic asked how long that would take administratively to complete that form. Ms. Griswold said she has always completed the minutes and had them approved prior to attaching them to the application.

Mr. Latkovic said it seems as though the board is subjecting their own approval to the subsequent approval of the minutes, which doesn't seem appropriate. Ms. Matheney said the decisions still require certification. She referenced Section 3.04(1)(c), which reads, "*Action: Following a review of the application and reports thereon, the Commission shall within the time limit as set forth in paragraph (b) approve, conditionally approve or disapprove the application.*"

Commission action, including any conditions thereto shall be certified by the Secretary on Form Z-1 to the applicant and the Zoning Inspector.

Ms. Matheney noted that the code reads the same throughout when addressing certification procedures.

Mr. Latkovic said after the board takes action and the secretary signs the application, with conditions certified, the application should be given to the applicant and should suffice as certification. He asked Ms. Griswold if that is being done. She said yes, but it is unclear as to when that certification can occur, and whether it must have the approved minutes attached. Ms. Griswold said a conditional approval by the ARB includes plans that have been marked up according to the board's requirements and given to the applicant with the permit. She said the approved minutes, when signed, may be provided for clarity.

Mr. Flaiz said, as with his own experience following an ARB meeting, prompt action after a board decision should be encouraged. He said although the code is not artfully drafted, he believes the intent is to have a signature on the application, with conditions noted, serve as certification.

Mr. Latkovic said he does see a problem in that the code does not provide a time frame in which a certification must take place. Mr. Flaiz said, along those same lines, he has always wanted to amend the code to indicate that any board decision expires after twelve months if no action is taken by the applicant. He went on to say that there have been instances when applicants obtain approval from the Planning Commission, and then years pass without the approval being acted upon. He said they could be granted an extension or be required to come back before the board. He asked Ms. Matheney her opinion.

Ms. Matheney said a zoning permit should be issued after certification by the board, and the zoning permit does expire within six months of issuance. She said the board could put a time frame between the board action and the issuance of a zoning permit. She said as long as the plans are the same as when the applicant received approval, she's not sure if they should be required to come back.

Mr. Latkovic asked where the certification statement appears in the zoning code. Ms. Matheney referred to pages 19c, 21c and 23c. Discussion followed as board members reviewed the areas of the code. Ms. Matheney said she could draft something, but past practices have been for certification to occur after the signing of the plans, although that doesn't necessarily apply to the BZA. Mr. Latkovic asked Ms. Matheney to draft some recommendations and present at the next meeting. Mr. Flaiz said any proposed changes should allow the applicant to begin their project when the secretary certifies it on the application form.

Mayor Koons asked Ms. Griswold if the notification letters that are sent to surrounding residents prior to a BZA meeting also informs them of their right to appeal a BZA decision within thirty days. Ms. Griswold said no, it does not indicate that on the letter. Mayor Koons said they should be informed of that. Ms. Matheney said at the beginning of a BZA meeting, the Chair does talk

about giving sworn testimony and also the right to appeal any decision of the board. Mayor Koons said perhaps the Chair should also talk about appeals after the decision has been rendered and inform the applicant that they cannot start work until after thirty days.

Mr. Flaiz said he does not think there should be a thirty day wait on the applicant's permit just because a neighbor might want to appeal. He said it is incumbent upon the neighbor to file an appeal and obtain a stay. He said even though it may cost their neighbor money, because they may have to put up a bond, this is how the appeal process works.

Mr. Latkovic asked if an appeal period was addressed anywhere in the code. Ms. Matheney referred to section 3.07(d) which reads, "*Decisions of the Board shall be final within the Municipality, except that an appeal therefrom may be taken to the Court of Common Pleas for Geauga County in accordance with the laws of the State of Ohio, by any proper and interested party, including the Municipality. A Notice of Appeal shall be filed with the Secretary of the Board.*" She questioned if "final" meant approved minutes. Mr. Latkovic said, since it says "*within the Municipality*" his interpretation is that it means there is no other power within the municipality that can do anything about that decision. Ms. Matheney questioned when the time of that final decision would start. Mr. Latkovic said he feels it is when the decision is made. Mr. Flaiz said he believes it would be when the secretary certifies the decision on the form.

Mr. Hocesvar relayed a situation where the builder of a new house obtained a variance but, after consulting with his legal counsel, decided to wait before digging the foundation due to the property owner who had indicated she may appeal. The contractor wanted to avoid the possibility of having to tear out what was started, so he waited until the minutes were officially approved. Mr. Flaiz said that he understands the contractor would be running the risk of that, but it should be incumbent on the Village to provide certification. Mr. Latkovic summarized the issue at hand, and said the question is, when does the thirty days start; after the board decision, or after the minutes are approved. He asked how much time had transpired between the decision and the approval of the minutes. Ms. Griswold said two months had passed before a meeting was held and the minutes were approved. Mr. Flaiz said that scenario is very difficult for a builder.

Ms. Budoff asked why a ten-minute Zoom meeting couldn't be scheduled just to approve the minutes. Mr. Flaiz said Zoom meetings are no longer being allowed for public meetings.

Mr. Flaiz asked Ms. Matheney if she would be drafting something clarifying that the time period for any appeal would begin when the secretary signs the form certifying the action of the board. Mr. Latkovic said has to be clarity provided behind the certification, and the applicant must be aware of what has been approved. He said the intent is to provide both the applicant and party interested in an appeal with a clear understanding of what has been approved, and of the time frame allowed for appeal. He said the challenge is if there ends up being a discrepancy between the certification on the form and the approved minutes. Mr. Flaiz said the secretary has to be very careful in taking down the conditions at the meeting. Mr. Latkovic said rather than have it provided by the end of the meeting, it would be wise to allow a day or two for the secretary to review the recorded minutes. He asked Ms. Griswold if that would be reasonable, and how much

time would be needed to have that transcribed. Ms. Griswold said she has done that a couple of times in the past and feels confident she could have the conditions certified withing a few days. Mr. Latkovic suggested allowing 5 business days, beginning on the day after the meeting. Ms. Griswold asked if the conditions should be approved by the chairman prior to her certification. Ms. Matheney said that was a good question, since, for instance, the meeting minutes were approved tonight and the form can now be certified by the secretary, but that action was being delayed until the meeting minutes were approved. Mr. Flaiz noted that Augie's was not in a rush to get the patio project started. Mr. Latkovic suggested that Ms. Matheney include language that provides flexibility, allowing the chairman of each respective board to make adjustments and also afford the opportunity to vary from a very rigid rule for unforeseen circumstances.

Mayor Koons said the appeal process should also be outlined on the letter that the affected neighbors receive prior to the meeting. Ms. Matheney agreed but also said she would have to be careful to not have it offer legal advice. Mr. Flaiz suggested the statement informs them of their right to appeal and then include the section number of the Ohio Revised Code. Mayor Koons said he would ask Mr. Maistros if he could also summarize the appeal process not only at the beginning of the meeting, but also after the approval has been granted. Mr. Latkovic agreed and said although the Planning Commission amends the code, it does impact both the BZA and ARB. He said it would be appropriate to ask the other boards for their perspective to ensure any procedures that would be established are realistic and fit in with how their boards function. Mr. Flaiz agreed and said it should be run past them at their next meeting.

Mr. Flaiz asked board members how they feel about having an expiration date added to board approvals. He said he doesn't believe it is a good idea to have approved items linger without any action taken on the applicant's part. He said in the past, the Planning Commission has put an expiration date on specific items as a condition. Discussion followed and Mr. Latkovic asked for quick research of other municipalities as to their procedures when it comes to having time frames on board approvals. He said that would assist in deciding what would make sense moving forward.

Mr. Latkovic addressed item #3 under New Business: Planning Commission Approval and Pending Issuance of Permits ad asked Ms. Matheney to explain. Ms. Matheney said this is very similar to certification procedures but pertains specifically to the barn project across the street. She said they came before the Planning Commission in 2017 and approval was granted for office space. She said there was no zoning permit issued at that time. Now they want to proceed with the improvements, using the same plans from four years ago, and they want a zoning permit. She said once the zoning permit has been issued, there is a certain amount of time in which the work has to be done, although extensions can be requested. She said the time frame between the decision of the board and the issuance of a permit speaks to what Mr. Flaiz brought up regarding possible expiration of board decisions.

Mr. Flaiz confirmed that although the site was approved for offices, the individual tenants still must appear before the Planning Commission. Ms. Matheney said that is correct. Discussion

followed regarding when tenants are required to appear before the Planning Commission, and it was verified that individual tenants must initially appear prior to occupancy of the new office space, but thereafter, providing the use remains the same, i.e., new dentist moving into space formerly occupied by a different dentist, subsequent tenants do not have to appear.

Mr. Latkovic then referred to Ms. Matheney's memo that outlined Zoning Code Recommendations to Consider.

Mr. Latkovic noted the late hour and said they would begin to address each item, and whatever items remain should be organized on a list in the order of importance. He began by addressing the first recommendation:

- *Consider changing references to individual ordinances throughout the Zoning Code*

Ms. Matheney said that references to ordinances appear throughout the code, but that practice is very difficult to keep up with and she would recommend eliminating it. Mayor Koons asked if there would be any negative response to this. Ms. Matheney said some people like to see when things were changed. She said another issue may be the publishing company the Village has, and how often they update the book; she thinks it may be once a year. Mr. Latkovic noted the amendments are all on the website. Mr. Flaiz said he is fine with deleting the references to individual ordinances, and most zoning codes do not reference ordinances.

- *The B-1 and I-1 Districts-are they separate? Zoning Map shows an overlay of the B-1 & I-1-1 District (Section 1.03 of the Zoning Code)*

Mr. Latkovic said he is unaware of the history behind this, although it seems unnecessary to have an I-1 District. Mr. Flaiz said they used to have factories in that area. He said he has always viewed it as an overlay. Ms. Matheney said it actually has a separate category. Mr. Flaiz said he is aware of that, but it is for office and research laboratories, and offices are allowed under the B-1. He questioned if the Village would ever want industrial in that area again. Mr. Hocevar agreed that things have changed over the years.

Mr. Latkovic said as far as he can tell, I-1 is different in that there is a Conditional Use for metal and non-metal production and distribution. Ms. Matheney said it also includes wireless cell communication and asked if there were any current businesses for metal and non-metal production in that area at this time. Mr. Hocevar said there used to be, but at this time there are no such businesses. Mr. Flaiz noted the space that CrossFit now occupies used to be a machine shop.

Mr. Latkovic said the practical implication of removing I-1 is that there would be no Conditional Use to consider for metal and non-metal production. Ms. Matheney said she was just wondering why it was on the map as a B-1/I-1 District, and in the code they are separate, and that she had not considered the removal of I-1. Mr. Flaiz said there is also an overlay of the cluster in the northeast quadrant, and that his first thought when he saw the memo item, was if the Village still

needed an I-1 District. He went on to say that the area is now more of an entertainment district and questioned if the Village would want a manufacturing business in that area.

Mayor Koons asked if a furniture refinishing business would be permitted. Ms. Matheney read the definition of industrial use from the code, and it was determined that it would fall under that category. Mr. Flaiz asked if there was still a furniture business in the area, and Mr. Hocevar said he is no longer there, and the business was just for storage. Mr. Flaiz recalled complaints regarding chemical odors. Mr. Hocevar said that was due to the illegal storage of highly combustible PVC tubing, and they are in the process of relocating. Mr. Flaiz said if the I-1 zoning was eliminated, any businesses presently in that area that fall under industrial zoning, a Conditional Use would be grandfathered in. Ms. Matheney said you could still have a Conditional Use under the B-1 Business District.

Mr. Latkovic said there is a lot of space back there, and it would be interesting if someone wanted to use that area for a reconditioning or welding shop. He said while the idea of industrial use doesn't mesh up, it makes sense to retain some aspect of Conditional Use to allow for Planning Commission approval. He added that it is confusing to have that overlay.

Mr. Galicki confirmed that the reason this was brought up for discussion was only because of the duality of the zoning, and not because someone was told they could not locate their business there. Ms. Matheney said that is correct, and the text of the code should match the map. Mr. Galicki asked if there would be any harm in maintaining it as an overlay. Mr. Flaiz said that may allow a business with offensive odors to locate there.

Discussion followed regarding the definition of I-1 and the fact that metal and non-metal would still be a Conditional Use.

Mr. Flaiz suggested adding those Conditional Uses to B-1. Mr. Latkovic said that would clean it up. Mr. Flaiz said he does not think an industrial use is appropriate for the Village in 2021. Mr. Hocevar said the current building and fire codes are very restrictive and greatly limit the businesses that could be located there. Mr. Flaiz said if the tenant chose to meet the codes, they could carry on an activity down there, and Mr. Hocevar agreed, although he said it would be extremely costly.

Mr. Latkovic said any business, such as a rubber company, would still have to appear before the Planning Commission for a Conditional Use, and the Planning Commission could simply deny the application due to the offensive odors, but a research laboratory may not be denied.

Mr. Flaiz said he feels the nature of that corridor has drastically changed within the last 20 years, but whatever the Planning Commission decides to do is fine.

Mr. Latkovic said by moving the definitions of uses under B-1, it would clean things up a bit and light industrial would no longer appear in the code.

Discussion followed regarding adding metal and non-metal production to B-1 or eliminating it completely. Mr. Galicki said he had no problem eliminating it. Mayor Koons said he felt light

industrial should be kept in the code, just in case. Ms. Budoff said she agrees with Mr. Flaiz that the area has changed a lot in the last 20 years. She said her concern is what may possibly happen in the next 20 years. She said although different tenants now occupy the spaces, the building itself is still a factory, and may employ a lot of people. Mr. Galicki said another side of that is the vision for the community, and he has always wondered why that factory was even there. He said it has been there forever under various names. He pointed out similar changes in Bainbridge; the factory that will be the future home of Arborwear, and the winery tucked in amongst research labs and light industrial activities. He said the winery is nicely tucked away and doesn't identify the entire neighborhood and is a good mixed-use. He said it all depends on the vision for the future, and what type of industry, if any, would be permitted.

Mr. Flaiz said, as Mr. Latkovic proposed, the solution may be to add metal and non-metal production and distribution as a Conditional Use to B-1 and eliminate industrial.

Mr. Latkovic said, as legal clarification, it should also read as "Metal Production, Non-Metal Production, Distribution Operations".

Ms. Matheney asked if research laboratories would be included. After reading the definition of research laboratories, discussion followed, and the board decided to remove research laboratories.

- *Section 1.05 of the Zoning Code provides that the Zoning Map shall be on file with the Zoning Inspector-recommend that Zoning Map be on file in Village records or on file with the Building Department*

Mr. Latkovic and the board agreed that the above clarification should be made to Section 1.05.

- *Section 2.01(12) and (113)- the Building Inspector is defined as both the Building Inspector and the Zoning Inspector, which may need to be amended*

Mr. Latkovic said he spent some time researching this, and his recommendation is to eliminate all references to Building Inspector and to change them all to Zoning Inspector. He referred to Section 3.01(c) and noted the titles are cross defined. Mr. Galicki said he thought it was written that way to identify Mr. Hocevar specifically for the time he was employed by the Village, when he held both positions. He said he is now a contract employee and is the Building Inspector but not necessarily the Zoning Inspector. Mr. Latkovic said the problem is that there is no difference in job responsibilities, and it is confusing. He said "Building Inspector" is referenced 24 times and "Zoning Inspector" is referenced 39 times. Mr. Latkovic said there are drastic differences between these two roles, but the Zoning Code does not differentiate. He said "Building Inspector" is referenced a number of times under Conditional Use for Oil and Gas Purposes, for Penalties, Recreational Vehicles and as previously noted in Section 3.01 (c). He said there is not a discernible difference between these roles in the Zoning Code, and since there is an actual practical difference, it should be clarified with the Zoning Board.

Ms. Matheney said she believes there are two different job descriptions, enacted by Village ordinance, for both positions.

Mr. Flaiz clarified that Mr. Latkovic's suggestion was to make all the references in the Zoning Code to the Zoning Inspector.

Mr. Hocevar said in the past, the Building and Zoning Inspector have been the same person, performing both jobs.

Mr. Flaiz said the way things are going, the Village may have to someday contract with the County Building Department, but as he has often said, the Village will always need a Zoning Inspector, even if the Building Department is contracted out. Mr. Hocevar agreed that there should be some type of separation in the code in case a Zoning Inspector needs to be hired.

Mr. Latkovic said this may be a bigger issue than thought and they may need to spend some time differentiating what should be in the Zoning Code as far as responsibilities. Mr. Flaiz said the Building Inspector should not be mentioned in the Zoning Code, other than where it is indicated that the Building Inspector issues a Building permit. Options and ramifications were discussed. Mr. Flaiz noted that the Oil and Gas Code has been pre-empted by State law, and many of the references to Building Inspector are in there. Mr. Latkovic said they should look to just removing that from the code entirely. Ms. Matheney pointed out that that is an issue listed on page two of her memo.

Mr. Latkovic said if the situation is ever that the Building Inspector is contracted with the County, they need to ensure that the only reference in the Zoning Code is to the person responsible for Zoning.

Mr. Flaiz asked Ms. Matheney to check the code for all references to Building Inspector. He said they may want to change all references from Building Inspector to Zoning Inspector, eliminate Building Inspector references, and delete Building Inspector from the definition of Zoning Inspector. Mr. Latkovic noted that the vast majority of such references are in 7.02

Mr. Latkovic then referred to Section 4, page 33, (J) under Parking of Recreational Vehicles: "*A recreational vehicle parked or stored outdoors must be adequately screened, if visible from any adjoining premises, as approved by the Building Inspector.*" Mr. Flaiz said that should be approved by the Zoning Inspector. Mr. Latkovic and Ms. Matheney agreed.

Mr. Latkovic then referred to Section 7.02 (W), starting on page 99. He said there are a whole slew of references that can be skipped there, since the whole thing will be eliminated.

Mr. Latkovic then referred to Section 7.02(x), page 108, Violations and Penalties. He quoted the portion that says, "*At the hearing, the Building Inspector shall present the grounds upon which it is claimed that the Zoning Code or any order, term or condition of the conditional use permit has been violated by the applicant*". It was agreed that the code should read Zoning Inspector.

Mr. Latkovic then referred to the last sentence in Section 3.01(c) page 17: " *No building permit shall be issued by the Building Inspector prior to the issuance of a zoning permit.*" He said "by the Building Inspector" should be eliminated.

Mayor Koons referred to Section 2.01 (69), page 9, and everyone agreed that the error should be corrected, and read 5.02 instead of 502.

Discussion of the Zoning Code recommendations would continue at future meetings.

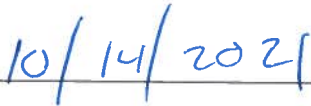
There being no further business, Mr. Latkovic adjourned the meeting at 9:27p.m.



Steve Latkovic, Chairman



Ruth Griswold, Board Secretary



Date



Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings October 14, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, Dennis Galicki, Mayor William Koons, Ph.D.,
Elisa Budoff

Member Absent: James Flaiz

Other Officials: Bridey Matheney, Solicitor; Dave Hocesvar, Building Official; Ruth Griswold, Board
Secretary

Visitors: Christian Kalinyak of PonyBoys LLC; 447 East Washington Street; Ryan Scanlon, 5260
Chillicothe Road

Meeting called to order by Mr. Latkovic at 7:29pm.

Ruth Griswold conducted roll call.

Mr. Galicki motioned to approve the minutes from August 12, 2021. Mayor Koons seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE # PC 21-10: As required by Section 3.05(b) of the Zoning Code, Mr. Christian Kalinyak, applicant for the property owned by Morning Star Holdings LLC, located at 506 East Washington Street, is requesting the Planning Commission schedule a date for a public hearing to review his proposal for a new tenant for an existing restaurant.

Mr. Latkovic addressed Mr. Kalinyak and Mr. Scanlon and asked them to tell the board a little bit about their plans for a new restaurant. Mr. Kalinyak said he and his partner, Mr. Scanlon, have taken over the former Violante's Restaurant at 506 East Washington. He said their concept will be modern Mexican, and their main goal right now is to be open for the holiday season, and they would like to open the week before Thanksgiving. He said he understands there has to be a public hearing scheduled, and that he is unable to obtain the building permit until after the hearing. He said they are hoping for the earliest date possible.

Ms. Matheney said a public hearing must be set withing 60 days, and that notices must be sent to contiguous property owners and legal ads must also be published no later than 20 days prior to the public hearing. She said

the public hearing is to consider the Conditional Use Permit, and a special Planning Commission meeting for Developmental Review could immediately follow the hearing. She noted the next regularly scheduled meeting on November 4, 2021, does not allow sufficient time for the required notifications.

Discussion followed regarding possible dates for the public hearing. After Mr. Latkovic confirmed availability of board members, it was decided to hold a **Public Hearing on Tuesday, November 9, 2021, at 7:00pm**, and to also reschedule the Planning Commission Meeting from November 4, 2021, to **November 9, 2021, at 7:30pm**.

Mr. Latkovic addressed the applicants and asked if they, as business owners, understood the reasons behind the Conditional Use procedures, and the necessity for a public hearing. Mr. Kalinyak and Mr. Scanlon said they did. Mr. Latkovic said he appreciated them coming in and will see them next month.

Mr. Latkovic then referred to the first item under Old Business; the **Review of the Solicitor's Zoning Code Recommendations**. He said there are a lot of important items to go through, and per his earlier email, he would like to delay diving into the substance of it until all members are present, with the understanding that if someone wanted to bring something up that would be okay as well.

Mayor Koons referred to the **Examples of Expiration of Approvals**, and asked Ms. Matheny if the one-year expiration was fairly consistent and standard with the six communities she researched. Ms. Matheny said yes, that is the standard, clarifying the result was just from the examples she pulled, and that it may be different throughout the State of Ohio. Mr. Latkovic said it seems pretty reasonable.

Mayor Koons then referred to the **Date of Certification**. Ms. Matheny said she wanted to point out that the certifications of the BZA would be tied to the approval of their minutes, which makes it different from the Planning Commission with respect to amendments, Conditional Use Permits and Developmental Approval. She said at the last meeting in August, the period of 5 days was discussed as being reasonable for the Board Secretary to prepare a motion and to certify the action of the board. It was agreed that 5 days for certification was sufficient and reasonable.

Mayor Koons said he has no problem with the proposed amendments to the **Definitions of Building Inspector and Zoning Inspector in Zoning Code**.

Referring to the **Recommendations regarding the Business/Industrial Overlay District**, Ms. Matheny advised looking at it more closely, due to one of the tables in the Zoning Code. She said there are a lot of regulations that would apply or would not apply, and a lot that should be considered, and that it would also require changing the zoning map. Ms. Matheny recommends further consideration of this by the board.

Mr. Latkovic then addressed the item under **New Business: Discussion of Air BnBs/Rented rooms**. Mayor Koons inquired if an issue came up regarding short-term rentals. Ms. Budoff said that she brought it up because it has become an issue in Lake Louise. She said one of the residents has been doing it for years, and the rental is advertised as being situated in a lake community, with access to the lake. She went on to say that this is a concern since the lake should only be used by residents, and some parents of young children are concerned about randos entering the community and using the lake. Ms. Budoff said when she searched the Air BnB website, she discovered another one across the street and down Bell Road a bit. She said she sent those links to Steve, and she doesn't know if there are others in South Russel, but she is bringing it up because neighbors asked her if there were any regulations in the Village.

Mr. Galicki asked Ms. Budoff if the neighbor who has the Air BnB uses the property as their primary residence. Ms. Budoff said the house has an in-law suite, and it is advertised as having a separate entrance. She said the

description in the advertisement also indicates there is a private trail to the lake. Ms. Budoff said that means they would be walking through all the neighbors' backyards, since there is no private trail to the lake.

Mr. Latkovic said he mentioned this to Jim Flaiz and they both agree it is a good topic to discuss, and that it makes sense that the Village would address the issue and have some sort of regulation and oversight. He said he doesn't feel it would have to be shut down, but regulated so the Village knows where the properties are, and if neighbors have any issues, that there be some recourse.

Mr. Latkovic thanked Ms. Matheney for sending the helpful information from other communities regarding short term rentals. He read bullet points of items included in the various regulations:

Permit Registration Process, Renewal, Local Representative, Fees, Purpose of Rental, Parking Issues, Info Packet for Renters, Defining and Addressing Nuisances, Hosting Platform Obligations, Limit on Number of Nights, Inspection Rights, Differentiations/Restrictions on Individual Rooms vs Whole House.

Ms. Matheney said in the current zoning code, renting of actual bedrooms is permitted, although it cannot include any cooking facilities. She said a short-term rental ordinance could be considered an accessory use to the Residential zoning in the Residential District.

Mr. Galicki said as they craft the legislation, they should be mindful of Ms. Budoff's concerns regarding intrusion on neighboring properties. He expressed concern, and news stories have brought this to light, of a short-term rental house or unit being rented for one purpose, and then having a hundred people show up for a party and disrupting the community. He said it's important to be concerned about, and respectful of, the property rights of the surrounding neighbors, and in keeping South Russell Village a nice community.

Ms. Budoff said she would think the hosting platforms would inform their clients of rules in their respective areas. She said many residents in South Russell belong to Homeowners Associations, and at what point would the HOA step in with certain rules regarding use of lake facilities for instance.

Mr. Latkovic said that is a good point, and that perhaps the permissive aspect to use your home as a short-term rental would be subject to HOA approval, since he wouldn't want the Village regulations to trump HOA rules. Ms. Budoff said she emailed a member of her HOA about this issue, and his response was that he wouldn't want to interfere with someone's right to make a profit, but he wasn't sure if he'd like randos in his neighborhood around his kids. Mr. Latkovic said it is important to try and strike a balance, and it is understandable that people clearly enjoy their property rights. He said there is a lot of respect for that, and at the same time, people don't like it in their backyard.

Mr. Latkovic said although the legislation will not be crafted tonight, he would like to go through the bullet points and address what would be appropriate conceptually, if this endeavor should move forward. He confirmed with board members that something should be crafted regarding short-term rentals.

Mr. Galicki said he noticed amongst the sampling of ordinances from different communities, that there was nothing from Chagrin Falls. Ms. Matheney said they do not have an ordinance. Mr. Galicki said there has been a lot of controversy in Chagrin Falls, especially in the older area of the Village, where many properties have out-buildings, garden houses and/or former garages that owners have wanted to convert to short-term rental use. He said he is aware of a lot of pushbacks as a result. Ms. Matheney said she is aware of the controversy, and that their Historic Districts are very highly regulated and strict.

Ms. Matheney went on to say that when short-term rentals are addressed in townships, it is always in their Zoning Code, and other municipalities have it in their Codified Ordinances under Business Regulations. She said South Russell would need to decide how they would address it.

Mr. Latkovic said from his perspective, any new legislation should replace whatever presently exists in the codes and become the central place for anything that is residential rental based.

Discussion followed and board members agreed that the legislation should only address short-term rentals for thirty (30) days or less.

Mr. Latkovic began addressing the bullet points, beginning with the **registration** aspect. He said he would prefer any property owners offering short-term rentals be required to register their home. Board members agreed. Mr. Latkovic said once this is adopted, the Village would need to inform the community of the requirements. Mr. Galicki recalled when the Republican National convention was held in Cleveland, many people had never considered renting their homes before, but the market became flooded because of the need. Ms. Budoff said when you search VRBO or AirBnB websites for the dates desired, only available ones will come up. Mr. Latkovic said those sites often don't provide an accurate address, but just the general area. Mr. Latkovic and Ms. Budoff agreed that it is necessary to spend some time to pinpoint available rentals in a given area.

Mr. Latkovic asked Mr. Hocevar for his opinion and perspective on short-term rentals. Mr. Hocevar said he thinks it is a great idea, and that a lot of thought should be put into any new legislation. He said there are many short-term rentals in the area, and not just for vacationers, but some people will rent a house as their property undergoes renovations. Mr. Latkovic asked Mr. Hocevar what his concerns would be. Mr. Hocevar said he would not be concerned about any rentals other than those for 30 days or less, but the short-term rentals would introduce transient individuals and differing purposes for the rental, and for the Village to have some control is a good idea. Mr. Latkovic asked if he would want the right to inspect the property, with a 3- or 5-day notice, or just to inspect in response to a nuisance complaint. Mr. Hocevar said a nuisance complaint already allows the Village to inspect, and that Home Occupations are restricted in many ways, and they also allow the Village to inspect. Mr. Latkovic asked if he felt an annual inspection for renewal of a short-term rental should be required. Mr. Hocevar said a registered complaint, on the Village complaint form, should prompt an inspection. Ms. Budoff expressed concern regarding the Village's liability if a renter dies in a fire in a short-term rental, which did not have working smoke detectors. Mr. Latkovic said that is no different than the Village being held liable if a restaurant burns down and the Village had performed an inspection. Ms. Matheney said you could require a renter to provide proof of insurance, and even have the Village named as additional insured. She said this would also provide important contact information. Ms. Budoff said she feels the property owner should be responsible for having all the necessary elements in place for the safety of the tenants. Mr. Galicki asked if the Fire Code addressed short-term rentals, and said he knows that the operation of an Inn would require professionally installed fire systems with sprinkler heads. Mr. Latkovic said that is a good point, and maybe, conceptually, short-term rentals should be thought of as the same as any other business, since the property owner is using their home as a business. Mr. Latkovic asked Mr. Hocevar about the Fire Code as it relates to short-term rentals. Mr. Hocevar said it is governed by occupant load, usually for over 25 people, and it also has to do with the type of construction. He said he would look at the Fire Code and consult with the Village Fire Marshal, Sean Davis.

Mr. Latkovic said outlining details regarding the registration, permitting, and inspection process for short-term rentals would be helpful to have. He asked the board if they think a **local rep** should be required as is the case in other communities, and if it is currently required for a business owner to name a representative. Ms. Matheney said it is not a requirement for businesses in South Russell to do so. Mr. Hocevar said it may be something to look at.

Mr. Latkovic asked Mr. Hocevar what he felt the **annual registration fee** should be. Mr. Hocevar said many of the fees are currently out of date and are being looked at. He said \$50-\$100 sounds reasonable. Mr. Latkovic said that is a lot less than other communities. Discussion followed and comparisons continued regarding fees. Mr. Latkovic said it may be that it is decided to be broken down to the initial permit fee, with an annual renewal fee. He said the **inspection process** also must be thought through. Mr. Hocevar agreed and said many cities perform annual rental inspections.

Mayor Koons referred to some of the legislation from other communities and noted that they are able to perform inspections only with the approval of the homeowner. Ms. Matheney said that is a whole other issue, since it

could be considered an unreasonable search and seizure, and the point-of-sale program in other areas of Ohio has been challenged on that basis. She said it is a constitutional right to refuse to have your property subjected to an inspection it can be a complex process, and she is not sure if the Village wants to get into that area. Mr. Latkovic said the Village could require certain other things to allow their participation in the business community. He suggested having **registration and permitting**, and the permit application, signed by the property owner, could explicitly agree to the proposed rental space having annual inspections.

Mr. Latkovic then addressed the **restriction of use** aspect of a short-term rental. He said he feels it would be better to not regulate the use, but to have them comply with existing laws regarding noise and parking, and to avoid creating nuisance conditions. He asked others for their thoughts. Ms. Budoff said she agrees that any renters should comply with all the current ordinances. Mr. Hocevar said the police department enforces noise complaints effectively.

Mr. Latkovic again addressed the issue of **requiring a local rep** for all short-term rentals if the property owner is not available. The local rep, basically a property manager, would be someone for the police to contact in the event of a nuisance situation. He said of the examples given, there was only one community that required it, and it stipulated a maximum response time from the representative of one hour. Mr. Galicki said he thinks it would be a good idea, Mayor Koons and Ms. Budoff agreed. Mr. Latkovic said he is on the fence about it, as to how far the Village wants to go against the individual's property rights to do as they wish with their property, and of over-regulating and the red tape involved. He asked Mr. Hocevar if he could ask his friends in the business if they are familiar with how this works. Mr. Hocevar said he would do that.

Ms. Budoff expressed concern regarding human trafficking and how the perpetrators may utilize short-term rentals. Mr. Latkovic said illegal activities may be one of the reasons some communities simply prohibit short-term rentals, since it's impossible to regulate and know everything, and there is the possibility of renters doing things that are illegal.

Mr. Latkovic then addressed the issue of **parking**. He said he didn't think any additional restrictions were needed, and asked board members what they thought. Discussion followed. Mr. Latkovic then brought up the issue of an **information packet for renters** and said that parking rules and regulations could be part of that, along with noise restrictions and such. He said he likes the idea of requiring an information packet to be presented to all renters. Mayor Koons agreed and said it should have valuable information for the renter. Mr. Latkovic said the property owner would be responsible for providing such information to each tenant.

Mr. Galicki remarked on the increased popularity of Air BnBs among the younger generations. Ms. Budoff agreed and said especially since Covid, more people prefer the smaller options that include a kitchenette, rather than a large hotel and going to restaurants.

Mr. Latkovic then addressed the issue of **nuisances**. He said he feels that nuisances are pretty well handled in the Village, and asked board members if they thought it should be separately addressed for short-term rentals. Mr. Galicki referred to the "Grounds for Denial" in the **Dublin**, Ohio ordinance, which speaks to nuisance examples, but said he doesn't think the Village needs to address nuisances separately.

Ms. Budoff asked about the "Bed and Breakfast" part. Ms. Matheney said the Village does have regulations regarding Bed and Breakfasts in the Zoning Code. They are required to obtain a Conditional Use permit and there are many regulations regarding fire safety and food. She said Bed and Breakfasts should most likely be exempt from the short-term rental ordinance. Mr. Latkovic agreed.

Mr. Latkovic said he has utilized short-term rentals many times, and most often there was a formal rental agreement that needed to be signed and sent back in order to secure the rental.

Mr. Latkovic then addressed the issue of **platform obligations**. He said he does not think the Village should become involved in this area. After discussion, all board members agreed.

Mr. Latkovic then addressed the issue of putting a **limit on the number of rental nights**. He said many of the communities most consistently mentioned 30 days; one had a rule of no more than two weeks per year. Discussion followed between board members about the different time periods involved. Mr. Latkovic said he did not get a good sense of how the various restrictions were working. He referred to the **Mayfield Village** ordinance which states, *"No short-term rental shall be permitted to be rented for more than thirty days in each calendar year."* Mr. Galicki said that seems to be poorly written and questioned if they meant 30 days at a time, or 30 days total for the entire year. Mr. Latkovic referred to the **Hudson** ordinance which states, *"Short-term rental means any room or dwelling that is rented wholly or partly for a fee for less than thirty consecutive days by persons other than the permanent occupant or owner from which the permanent occupant or owner receive monetary compensation..."* Mr. Latkovic asked what would happen if someone wanted to rent for more than thirty days. Ms. Matheney said she thought maybe after thirty days it would become a long-term rental. Mr. Latkovic said **Dublin** and **Oxford** also have short-term rentals defined as being thirty days or less. Ms. Budoff said **Hudson** requires an inspection by the Fire Department. Mr. Latkovic quoted the **Dublin** ordinance, *"Short-term rental operators are prohibited from renting any room or dwelling to transient guests for more than two weeks total in a calendar year. The short-term rental may be rented up to two times a year, in increments up to seven days each. If a property owner wishes to rent a room or dwelling for more than two weeks in a calendar year, such rental must be to the same tenant and for a lease term of at least 30 consecutive days."* He said he believes this is quite helpful, and that his thinking is leaning toward legislation that is less time-based and more substantively transactional based.

Mr. Latkovic reviewed the ordinance from **Cincinnati**, and discussion followed regarding the 30-day duration of occupancy that is repeated throughout the communities that regulate Air BnBs. Ms. Matheney said she believes that after 30 days, it would then be considered a month-to-month lease situation, which the Village does not regulate and perhaps that is the reason the 30-day occupancy is the limit for short-term rentals. Mr. Latkovic agreed. He said Cincinnati's ordinance seems to capture many important elements. Mr. Latkovic asked board members if they agreed on the **30-day limit**. Discussion followed. Mr. Latkovic said if the home is being offered as a short-term rental, then the property must be registered. If the property owner decided to rent the house for longer than that, that would be fine. If a home is only offered for lease on a month-to-month basis they would not have to register as a short-term rental.

Mr. Latkovic then addressed the issue of **inspection rights**. He suggested referring back to **Cincinnati's** ordinance. Ms. Matheney said the right to refuse the inspection must be clearly spelled out in any ordinance requiring an inspection. Mr. Latkovic asked if that applied if the property owners did not live there. Ms. Matheney said it would only apply to an owner-occupied property. Mr. Latkovic said on the application for short-term rentals, the question must be asked if this dwelling is their personal residence, and if not, the Village could inspect. Ms. Budoff asked how an in-law suite, which is a part of their personal residence, would be classified. Mr. Latkovic suggested having the requirement on the permit application and taking it from there.

Mr. Latkovic asked for board members' perspectives on whether to allow the renting of an individual room vs the entire house. Ms. Matheney said the current Zoning Code allows the renting of one room, with no qualifier as to duration, and Bed and Breakfasts are allowed with a Conditional Use permit. She recommended if short-term rentals are regulated, that individual rooms are either exempt, or incorporated into the new legislation. Discussion followed amongst members regarding classifying short-term rentals as a business or addressing it in the Zoning Code. Mr. Latkovic said if the regulations are defined the way **Cincinnati** has done it, it would naturally exclude property owners who do not advertise online. He said he liked their **definition of the short-term rental**, which includes advertising through a website or a mobile application, although Cincinnati is the only one that has that.

Mr. Latkovic said the consensus is that there is no meaningful difference, from a substantive standpoint, between renting a room vs whole house, through an online platform.

Mr. Latkovic asked if Village legislation regarding short-term rentals would include being subject to any HOA restrictions. Ms. Matheney said it is a question as to how it would be policed, and how would the Village know what the HOA restrictions are. Mr. Latkovic said if the Village adopts something that allows residents to register to have a short-term rental, the HOA could still control it and not allow it. Ms. Budoff asked if HOA approval should be requested as part of the application for the short-term rental permit. Mr. Latkovic recalled concerns expressed by Mr. Flaiz in the past, regarding instances where the Village issued permits without the applicant having obtained HOA approval. Mr. Galicki said the issue was regarding a form that used to be required, which was brought to the Village showing HOA approval prior to permit issuance. Mr. Latkovic said from his personal perspective, if the HOA is going to enforce something they are going to enforce it, and any permit issued for short-term rentals should be made public and searchable online, without divulging personal information.

Mr. Latkovic then addressed the issue of **penalties**. Discussion followed regarding suspension, revocation and penalties. Ms. Matheney referred to the penalties in the **Oxford** ordinance and quoted, *“Failure to comply with any section or provision of this chapter shall be deemed a violation. Enforcement of any of the provisions of the chapter may be by civil action and/or criminal prosecution. Whoever violates Section 743.02 is guilty of a minor misdemeanor.”* Mr. Galicki said he liked the all-inclusiveness of that and noted that Oxford has a lot of student houses or fraternity annexes. Mayor Koons said he was surprised that Oxford’s ordinance is only a page and a half. Mr. Latkovic said Oxford combined the definitions of Air BnB and Bed and Breakfast into one, and they just require registration.

Mr. Latkovic said they have discussed a lot of possibilities for the South Russell ordinance regarding short-term rentals, and asked board members for any other thoughts. Mayor Koons said he noted many points of discussion. Ms. Budoff and Mr. Galicki expressed appreciation for the matter being brought to light. Mr. Latkovic asked Ms. Matheney if she could provide a draft of the legislation, and asked Mayor Koons to list the items the board considered. Mayor Koons read the following from his notes: **1) Annual Registration 2) Permit 3) Qualifications 4) 30 Day Maximum, 5) Inspections? 6) Penalties 7) Host Requirements 8) Packet info to include information about the Fire Code, Evacuation Routes, Noise, Police 9) Fee 10) Insurance 11) Local Agent 12) Parking 13) Police Notification 14) HOA?** Mayor Koons said the list of items could probably be combined and reduced to about six.

Mr. Latkovic said regarding the HOA, he doesn’t think anything needs to be put into the legislation, but that having the Village provide a list of the properties registered as short-term rentals is important. He asked Ms. Matheney to let them know if she sees HOA mentioned in other short-term rental ordinances. He asked her to have the penalty section enforceable but not Draconian, and aligned with other penalties in the Village. He said in his opinion any legislation that is created should become part of the Zoning Code vs Business Registration.

Mr. Latkovic then addressed the next item under New Business: **the live streaming of future Planning Commission meetings on YouTube**. He said, as Chairman, he was told he could make the decision, but he wasn’t comfortable with that and thinks it’s appropriate to make sure no board members had any issues with it. He said he is all for live streaming the meetings. Ms. Budoff said since anyone can attend the meetings, they should also have access to view the proceedings. Mr. Galicki said he feels none of their business should be secretive, so he would have no problem with the live streaming. He confirmed with Ms. Matheney that anyone who wishes to speak at the Planning Commission Meetings must be present to do so.

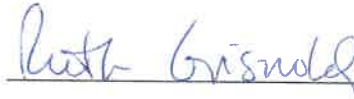
Mr. Galicki motioned that going forward, all Planning Commission meetings be live streamed and available to the public. Mayor Koons seconded. On roll call vote, the motion passed unanimously.

There being no further business, Mr. Latkovic adjourned the meeting at 9:03pm.



Steve Latkovic, Chairman

11/9/21
Date



Ruth Griswold, Board Secretary

11-9-2021
Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING
Record of Proceedings
Public Hearing and Special Planning Commission Meeting
November 9, 2021 at 7:00PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney, Solicitor; Dave Hocesvar, Building Official; Ruth Griswold, Board Secretary

Visitors: Christian Kalinyak, 447 East Washington, Chagrin Falls 44022; Ryan Scanlon, 5260 Chillicothe Road, South Russell 44022; Alexander (illegible), 1717 East 59, Apt 503, Cleveland 44114; David & Sandy Cameron, 135 Murcott Circle, Chagrin Falls 44022; Ed Gottschalk, 200 Industrial Parkway, Chagrin Falls 44022, Greg Heilman, 5105 Chillicothe Road, South Russell

Mr. Latkovic called the Public Hearing to order at 7:00pm.

Ruth Griswold conducted roll call.

Agenda Item 1: Case #PC 21-10: Mr. Christian Kalinyak of PonyBoys LLC, applicant for the property owned by Morning Star Holdings LLC, is seeking approval for a Conditional Use Permit for a proposed new tenant in an existing restaurant space located at 506 East Washington Street.

Mr. Latkovic asked the applicant to begin the presentation for Pony Boys Restaurant. Mr. Kalinyak introduced himself and his chef, Ryan Scanlon. He said they are proposing a modern Mexican cuisine restaurant to be located in the former Violante's space.

Mr. Flaiz asked Ms. Matheney to explain why this proposal requires a Public Hearing and why they require a Conditional Use Permit. Ms. Matheney said restaurants in the B-1 District are required to obtain a Conditional Use Permit, which requires a Public Hearing. The Public Hearing was scheduled for tonight at the last Planning Commission meeting, and contiguous property owners were notified, and a legal ad was published prior to the

hearing tonight. She said the regular Planning Commission could be conducted after the Public Hearing is closed.

Mr. Latkovic asked the applicants what their proposed hours of operation would be. Mr. Kalinyak said they plan to be open Monday thru Saturday, 11:00am-with the kitchen closing at 10:00pm, and the bar closing before midnight. They plan to be closed on Sundays. Mr. Latkovic asked Mr. Kalinyak to tell the board his plans for seating capacity. Mr. Kalinyak said the site is approximately 1800 square feet, and they are proposing 64 seats on the inside, and plan to open a patio in the spring of 2022, which will seat about 20 people.

Mr. Flaiz clarified with Mr. Hocevar that the proposed patio was not part of the submittal tonight, and that if they add a patio, they will have to appear before the Planning Commission. Mr. Hocevar said that is correct.

Mr. Latkovic asked how many parking spaces would be provided. Mr. Kalinyak said there would be 15 spaces on site, and they have a contract with KMK for 25 additional valet parking spaces behind them. Mayor Koons asked Mr. Hocevar how many parking spaces this restaurant would require. Mr. Hocevar said they must have one parking space for every two seats, and they would be 21 on-site parking spaces short, with the valet contract picking up 25 spaces. Mr. Flaiz said there is nothing in the code regarding valet, and this proposal does not comply with the parking regulations of South Russell. Mr. Latkovic said parking in that area is a problem.

Ms. Budoff asked if the valet contract for Burntwood overlaps with the Pony Boys proposal. Mr. Flaiz said that is a good question, and he referred to copies of minutes he had requested from the Planning Commission's approval of Burntwood in 2010 and 2011. He said Burntwood submitted a valet proposal from the same property owner pledging spaces for their restaurant.

Ed Gottschalk, owner of 200 Industrial Parkway, said KMK does not own any parking spaces, they are tenants of his and that he has spoken to them about this regarding the valet for Burntwood. Mr. Latkovic asked Mr. Gottschalk if KMK had authority to agree to have their lot utilized for valet parking. Mr. Gottschalk said no, as tenants of his building, they do not have the right to do that. He said because he is the owner of the two buildings, people are screaming at him regarding the valet parking situation.

Mr. Gottschalk said if the valet agreements would work, it would not be a problem, but that patrons and employees tend to park in the spaces reserved for valet. He said Burntwood has been a problem. Mr. Flaiz said since the valet plan had been approved by the Planning Commission, he was unaware of there being a problem, and asked Mr. Gottschalk which of his properties were having issues. Mr. Gottschalk said for the most part, everyone tries to get along, but if you drive back there, you will see numerous signs saying No Burntwood Parking. He said those signs are consistently ignored, and he knows that patrons and employees will park as close as they can if they can get away with it, which he understands, but that the Gallery Building, KEI Car Body and Integrative Resources have sometimes been overwhelmed with Burntwood parking. Mr. Gottschalk said he is open to finding a solution, but that valet itself is not the only problem.

Mr. Flaiz said he was on the Planning Commission in 2010 and 2011 when Burntwood was approved, and he felt the Planning Commission made a huge mistake in 2010, which he thought they remedied when Burntwood had to reappear before the board after creating their illegal patio in 2011. He said the Conditional Use permit issued to Burntwood was conditioned upon them having off-site valet parking agreements, but now he has been made aware that KMK is not permitted to enter into valet agreements. Mr. Gottschalk said Burntwood has had different agreements through the years, but now has valet parking in the CrossFit and Snap Fitness fenced area, which he said provides plenty of room. He said he also feels Burntwood has calmed down since their opening and the first couple of years afterward.

Mr. Flaiz said he thinks the proposal before the board tonight is impacted by the current Burntwood parking situation. Ms. Budoff said she would like a better understanding of where valet parking is, and who owns the land that is being utilized.

Mr. Latkovic said he agrees that parking is an issue, and that people are present here tonight regarding this concern. He referred to an overhead view of the area on the large screen and asked the applicants to identify the areas proposed as the parking for Pony Boys Restaurant. Mr. Kalinyak said his restaurant has a valet agreement with KMK at 300 Industrial Parkway for 25 spaces. Mr. Latkovic said Mr. Gottschalk said that is not possible since they are only tenants and not owners of the building. Mr. Gottschalk agreed and said that until 5pm, that parking lot is full, and that ultimately the landlord, not the tenant, controls the parking. Mr. Latkovic said this presents a problem, and asked Mr. Kalinyak if KMK is getting paid or receiving some consideration for the use of that parking lot. Mr. Kalinyak said not that he is aware of. Mr. Latkovic said KMK is agreeing to something that they are not permitted to, and another problem is that Pony Boys would open at 11:00am, when KMK's lot is full anyway. Mr. Flaiz asked if they are agreeing to this out of the goodness of their heart. Mr. Kalinyak said Mr. Scanlon's wife works for KMK.

Mr. Kalinyak said he could contact Peter Carey, who manages the building where Village Martini & Wine Bar is located, because he has also agreed to provide valet parking spaces. Mr. Kalinyak said there is a large parking lot behind the building that has 20-30 spaces.

Mr. Latkovic again referred to the large screen and pointed out potential parking areas for Pony Boys, as well as existing areas utilized by Burntwood and Hunan. He said the applicants need to figure out other options. Mr. Gottschalk said he has had conversations with Mr. Kalinyak and Barry but have not heard from them recently. He went on to say that designating areas for valet is not the problem, but that some employees and the average person who do not want to valet park are causing the issues by parking in other retail businesses.

Mr. Latkovic then asked how the valet traffic pattern would work for Pony Boys. Mr. Flaiz said that is an issue that concerns him, and the reason Burntwood's valet works is because they have ingress and egress points, as well as a turnaround. He said he visited the proposed Pony Boys site earlier to maneuver the parking lot, and once you're parked, there is no opportunity to loop around. He said he and many others enjoy visiting Hunan's, but that it is a nightmare to maneuver in that lot as well, and the Pony Boys site is significantly narrower, and with cars parked on both sides, he feels valet would be impossible.

Mr. Latkovic said he really likes the concept and wants to see this work, but that he is very concerned about the parking situation, and that bringing 30 more cars into the area is significant. Mr. Hocevar said that the Village engineer looked at the plan and indicated that there was enough room to turn around. Mr. Flaiz noted that they would need to valet 21 cars on a weekend night. Discussion followed regarding the practicalities involved with a packed, narrow parking lot with only one driveway, and whether valet service would be able to successfully function. It was determined that although the ability to pull out of the parking lot from the rear is possible, that property behind the building is owned by KEI, not Mr. Violante. Mr. Flaiz said being able to pull through the back of the parking lot could be a potential solution.

Mayor Koons said that the plans drawn up by the architect show a deficit of 19 parking spaces. Mr. Flaiz said that they are actually short by 21, providing for two employee parking spaces. He said that is huge problem with the Village regulations, because in reality they will have 6-8 employees on busy nights. Mr. Flaiz asked Mr. Cameron how many employees Hunan typically employ on a weekend. Mr. Cameron said they have about 14 employees, and they don't even have a bar.

Mr. Kalinyak asked if he could offer his home, which is across the street from the area, for employee parking. After discussion, it was determined to not be a feasible solution since it is a residential property. Mr. Latkovic

asked Mr. Kalinyak if he had spoken to any office building owners across the street regarding valet sites for evening parking. Mr. Gottschalk said it would certainly open up the congested area around the restaurants. After discussion, it was determined that distance, together with valet employees running across Washington at night would be problematic. Mr. Latkovic asked Mr. Gottschalk if the parking area for Cross Fit is filled with cars from Burntwood valet. Mr. Gottschalk said no, not like it had been in past years, and that if all the cars utilized valet, there would be plenty of room. Mr. Latkovic said Pony Boys restaurant would have to count on a lot of valet parking.

Mr. Cameron said he feels it is difficult for the board to understand the parking problem, but as restaurant owners, they live it every day, and for three years the number of people was absolutely crazy. He went on to say, to Mr. Gottschalk's point, that there are four different types of patrons: People who readily utilize valet; People who park in an appropriate spot, People who will park wherever they can, regardless of restrictions, and hope they don't get caught, and People who will park wherever they want and don't care about the rules. He said they had to hire security to police their parking lot for 2-3 nights a week, and it cost them \$8,000 a year. He said if they wanted the security more often, it would be about \$30,000 a year. Mr. Cameron said as far as valet employees go, their goal is to be fast and efficient, so they sprint through his parking lot, almost knocking people over, and then zoom out of Industrial Parkway at 35mph, which is also extremely dangerous.

Mr. Cameron said he is very happy that Mr. Kalinyak is opening his restaurant, and he feels it will enhance the area, but he doesn't want it to adversely impact his business and cost him money to police the area.

Mr. Gottschalk noted that part of the problem is perception, since downtown Chagrin Falls has public parking all over, whereas in South Russell, all the parking lots are private, so people feel they can park wherever they want as long as it's not a handicapped spot. He said there is a fine balance, and it may work most of the time, but when it starts getting overloaded, people get angry. He said no one wants to argue with customers or other business owners, and the valet parking would solve a lot of issues, but the problem is the people who don't use valet, and nobody can control that.

Mr. Flaiz asked Mr. Cameron how many seats Hunan has. Mr. Cameron said they have about 70-75 seats. Ms. Budoff asked if they have valet. Mr. Cameron said they do not need it and Mr. Gottschalk explained that Industrial Parkway is a private road, and all the parking behind them can be utilized for Hunan parking, and they also have an understanding about sharing parking spaces with KEI.

Mr. Cameron said since Pony Boys is having a bar, many times patrons will meet there and one person drives each car, whereas his restaurant is more of a family restaurant, with a number of people per car, and they also do a lot of carry-out business.

Mr. Flaiz asked Mr. Kalinyak how many seats they would be proposing for their future patio. Mr. Kalinyak said they hope to eventually have 20 seats outside. Mr. Flaiz said this site is just too small for all that seating and that they need to have more valet spots than on-site spots. Mr. Flaiz referred to the overhead view of the site, noting that even though Burntwood has ingress, egress, and a staging area for valet, they still occasionally get backed up onto the street. He pointed out the significant difference in the depths of Pony Boys' building vs Hunan's, as well as the width of their lots. He said although Hunan's is the deeper and wider lot, it is still a challenge to maneuver in and out of parking spaces. Mr. Flaiz said the ingress and egress, to him, is the biggest deal breaker.

Mr. Latkovic said the problem is, this area needs a parking garage, although he is not endorsing or suggesting that as a realistic solution. He said there is a lot of restaurant density, and the area wasn't designed for it. He thinks from a lifestyle perspective, the corridor is patronized and enjoyed by residents, and he would like the applicants to brainstorm and find a parking solution. He said with 64 seats, it's a little less seating capacity than

Hunan's, which is 2500 square feet and Pony Boys is 1800 square feet. Mr. Cameron asked how many seats Violante's had prior to closing. It was thought to be about 75.

Mr. Flaiz said he thinks the Pony Boys restaurant will be extremely successful, and looking at it with that lens, along with a bar and a future patio, it could be compared to Panini's, which during busy times, has twice as many people as there are seats.

Mr. Latkovic asked the applicants how concerned they are regarding this issue. Mr. Kalinyak said they are concerned, and they know it's an issue. He said the Fire Marshal, Sean Davis, cut their occupancy down to 50 seats, and he's going with the 64 from the architect, but at the end of the day, Sean denotes what that number is. He also told them they could only have one person in the kitchen, and he will need four.

Mr. Flaiz said if the Fire Marshal rated occupancy for fire safety at 50 people, then that is what it has to be. He said if all the seats are filled, he would be at 64, then you have people standing around the bar and coming in for take-out as well.

Mr. Kalinyak said they're the little guy, and he's not trying to cause a problem, but Burntwood's occupancy is 225. Mr. Gottschalk said Burntwood was a mistake, but no one knew it back then, it looked great on paper, and their own success was the downfall. He said now that it's settled down, it's not so bad. Mr. Cameron said compared to the deluge of parking problems there were for the first few years of them being open, they don't feel it that much anymore.

Mr. Galicki asked about the previous statement that Integrated Manufacturing is out of the picture as far as parking spaces. Mr. Gottschalk said Industrial Parkway is private, and that numerous buildings in the area have access to and easements on the road and help pay for the maintenance. He said at one point Integrated gave up spaces and it became a disaster, with vehicles blocking access and landscape being destroyed. Mr. Galicki said he assumes that the people who are avoiding valet parking, are probably parking there anyway. Mr. Gottschalk said they tend to go to numerous sites in the area.

Mr. Latkovic asked Mr. Kalinyak what would make sense financially if he were to scale back the interior seating. Mr. Kalinyak said it would not make sense to scale it back at all. Mr. Latkovic referred to the seating plan and said it is very tight, and that parking is definitely an issue. He said it sounds like there has to be discussions among the property owners to try and produce viable solutions, using the experiences over the last ten years. He said he thinks some of the problems are a policing matter, and that the Village should help if they can. He said he agrees with Jim, that this restaurant will be a huge success and the seating itself doesn't even account for the future patio, take-out patrons, or people waiting for seating to open up.

Mr. Flaiz said this is a Public Hearing, and addressed Mr. Cameron, as the representative for Hunan. He asked if he understood that plan approval for Pony Boys would require 2/3 of their parking to be off-site via valet and was he in favor or opposed. Mr. Cameron said he was opposed. He said it would be different if it were a breakfast and lunch place, since Hunan opens at 3, because his parking would not be impacted.

Mr. Flaiz asked if anyone else attending the Public Hearing would like to be heard. No one responded.

Mr. Latkovic said since this is a Conditional Use Permit, he doesn't believe the parking regulations are an absolute, but clearly many spots must be off-site, and he doesn't know how you would have a successful valet and have 14-15 parking spaces occupied. Mr. Flaiz read from Section 7.01: *"General Standards: Conditional Uses shall not be approved unless the Commission finds that such uses comply with the following standards: (e) The use shall comply with all applicable provisions of this Code including parking and loading, sign, development and performance regulations and the following supplementary regulations."* Mr. Latkovic clarified the point he was trying to make which was that the Planning Commission can be more restrictive, and

just because parking complies with the designated number of spots, given the way this is playing out, the Planning Commission does not have to approve. He said he really wants the applicants to find a solution because he thinks this restaurant would be good for the Village, and they have the support of the landlord and a neighboring restaurant. He said after the feedback given during this Public Hearing, he can't in good conscience approve this. He said the owners of the restaurant could be the ones most negatively impacted if potential patrons are frustrated with the parking options. Ms. Budoff agreed and said they would not want to get labeled as the restaurant with good food but horrible parking, which can turn people away. She said if they can fix the parking situation, it would greatly help your business.

Mr. Flaiz said he feels the Planning Commission has an obligation to the existing businesses in the area. He said Pony Boys is proposing a large number of seats in a small building with a small parking lot, and it would place an undue burden and have a significant negative impact upon the existing successful businesses, which would not be right.

Mr. Latkovic asked Mr. Kalinyak, aside from the approval process, what his timeline looks like. Mr. Kalinyak said they were hoping to open for business on December 10th. Mr. Latkovic said that does not seem likely.

Mr. Flaiz said he feels this is the wrong space and location for a busy and popular Mexican restaurant with a bar 80+ patrons, and that it would be better suited to a small sushi restaurant that seats 20.

Mr. Latkovic said he doesn't want to say there is no opportunity here, he loves the concept, but sees a difficult situation with obtaining approval. He said he doesn't know how this site will accommodate having about 60 seats as a starting point, in addition to a future patio. He said he would be happy to continue the Public Hearing if the applicants would like to try to find some solutions and come back before the board. He said this evening was an opportunity to hear different perspectives, both from the Planning Commission and the neighboring businesses.

Mr. Flaiz said unless the seating capacity comes in under 40 seats, which he doesn't believe is economically feasible, he would never vote to approve it, and doesn't want to string anybody along. He said this is the wrong space for this restaurant, and it would be unfair to the other businesses to approve it.

Mr. Galicki said he agrees, and he is all in favor of continuing the meeting to allow the applicants to investigate opportunities and options and present before the commission again. He said there are significant questions to be answered regarding the problems highlighted this evening involving ingress and egress, the existing seating plan and the future patio plan which would compound the existing parking problem.

Mr. Latkovic said he feels the proposed seating plan is creating the problem, because there is a misalignment with the density of what the applicants want to do with the restaurant and the available parking. He encouraged the applicants to talk to the people at the meeting tonight, as it sounds like there is a group that is willing to brainstorm together and draw on their past experiences. Mr. Latkovic said he fears that economically, a restaurant such as Jim suggested would never happen, and it's hard to know what to do with this property otherwise. The Village certainly does not want to see the building remain vacant, and he thinks it is in everyone's best interest to find a good use for it. He said he would be happy to spend time brainstorming outside the meeting, as he personally thinks it's worth the time to try to find a solution for this particular spot.

Mayor Koons expressed concern about the Village processes holding up economic development. Mr. Flaiz said the Village has rules that all incoming businesses must abide by.

Mr. Flaiz made a motion to continue the Public Hearing until December 9 at 7:00pm. Mayor Koons seconded. On roll call, motion carried unanimously.

Mr. Flaiz moved to adjourn the Public Hearing. Ms. Budoff seconded.

After a short recess, Mr. Latkovic called the Planning Commission meeting to order at 8:30pm.

Ruth Griswold conducted roll call.

Mr. Latkovic motioned to approve the minutes from the Planning Commission meeting on October 14, 2021. Mr. Galicki seconded. On roll call vote, Steve Latkovic-Yes; James Flaiz-Abstain; Dennis Galicki-Yes; William Koons-Yes; Elisa Budoff-Yes.

Mr. Flaiz, having not been present at the last meeting, asked for clarification on the concern regarding short-term rentals in Lake Louise. Ms. Budoff said it is not just in Lake Louise, but she brought it up because a neighbor had approached her and asked if the Village had any regulations. She said a Google search shows several homes in South Russell advertised as short-term rentals.

Mr. Flaiz referred to Section 4.01(b)(3) of the Zoning Code, where it says *“Not more than one room may be rented by the resident family in a dwelling unit to not more than one person, provided: (a) The exterior character of the dwelling is not changed. (b) The required off-street parking is provided. (c) Such occupancy complies with all other applicable Municipality, County and State law.* He said since the code currently prohibits this activity, this is an enforcement issue, and the Village needs to be enforcing the code. He asked if that had been addressed since the last meeting.

Ms. Budoff said since this is a new issue, other communities were researched to determine how they were addressing the short-term rental business. Mr. Flaiz said renting an entire house on a short-term or a long-term basis is very different than renting out an in-law suite, which essentially turns a house into a commercial enterprise. Ms. Budoff said there are also people renting out bedrooms.

Mr. Latkovic said if someone is doing something that is prohibited by the existing zoning code, that should be enforced by the Village. Mr. Hocevar said this had never been brought to his attention, and in the 30 years he has been here, he has never received any complaints regarding short-term rentals. He said if he had addresses of the homes that may be in violation, he would be glad to send the resident a letter.

Ms. Budoff said, to the best of her knowledge, there have not been any official complaints, she just happens to know that it is going on. Mr. Latkovic said he’s not surprised that there aren’t any complaints, because he doesn’t think Air BnBs in South Russell are being rented for blow-out parties. Ms. Budoff said the one in her neighborhood is very highly rated, but again expressed concern about the ad indicating there was a private path and access to the lake, which isn’t true, and the renters would be going through back yards of residents to get to the lake. Mr. Flaiz said he is surprised their HOA would allow this. Ms. Budoff said their HOA did not know it was going on and does not currently have anything prohibiting short-term rentals. She said they know the Village is talking about it and she thinks they are waiting to see what the Village comes up with.

Mr. Latkovic said he would like to finish addressing short-term rentals and move the Zoning Code Recommendations to the next meeting. Mr. Flaiz asked Ms. Matheny if Council had done anything with the Planning Commission’s changes from the previous meeting. Ms. Matheny said no, because no action was taken, and her recommendation would be for the Planning Commission to rethink the overlay of the Business District and Industrial District. She said it is very complex and believes further discussion is needed. Mr. Flaiz said he has checked off the first five items. Ms. Matheny said a few of the items were clerical and she has proposed

language regarding the finalizing and certification of meeting minutes. She said when the Planning Commission reviews the language, they can take action and make a recommendation to Council.

Mr. Latkovic said he knows at some point they have to devote time to addressing the Zoning Code Recommendations, and asked Ms. Matheney if board members would like to, could they share notes with her before the next meeting. She said they could do that.

Mr. Latkovic then referred to the short-term rental ordinance drafted by Ms. Matheney, based on the discussions during the last meeting on October 14. Ms. Matheney gave an overview of the proposed new Chapter 14, and said she left out anything having to do with inspections of the premises, due to the administrative search warrant aspect.

Discussion followed regarding proposed Section 14.02 Definition of Short-Term Rental. Ms. Matheney crafted this section based on the Planning Commission wanting to stay away from limiting how many rentals were permitted per year. Ms. Matheney said she did not include the Renting of Rooms and Bed and Breakfasts, since they are otherwise provided for in the current code.

Ms. Budoff asked how the Renting of Rooms is different than an Air BnB bedroom. Mr. Latkovic said he thought the Short-Term Rental Ordinance would replace the other section in the code regarding rentals. Ms. Budoff said many people who have extra bedrooms offer them as Air BnBs. Mr. Flaiz said personally, that is what he has a problem with, since it would essentially be using their house to operate a hotel, but he wouldn't have a problem if someone wanted to rent their entire house for a weekend. He said he knows there has not been a problem in the Village yet, but where he works they represent all the townships, and there was a really bad one in Auburn that went into litigation. It was a big colonial located in a very nice neighborhood, and essentially the person was operating a Bed and Breakfast, parking became a problem, people were constantly in and out, and the neighbors were complaining. Mr. Flaiz said he would not, however, want to stop somebody from renting their house. Ms. Budoff said she understands Jim's concerns, but it might be different if the house had an in-law suite with a separate entrance from the main house.

Discussion followed regarding the current Zoning Code sections 2.01(103) and 4.01(b)(3).

Mr. Latkovic said whatever is decided, he strongly encourages consolidation of the codes, otherwise it will be really confusing. He said short-term rentals as it relates to Air BnBs should include having a rented room. A Bed and Breakfast should be addressed differently because it includes the cooking of food. Ms. Budoff said she thinks limiting the number of occupants per room to two people is more realistic.

Mr. Latkovic clarified that the current Zoning Code does not allow anything other than renting a single room to a single person. He asked Mr. Hocevar if he has ever come across this situation Mr. Hocevar said no, he has not. Mr. Flaiz said the code was designed to prohibit anyone from renting multiple rooms in their home, and essentially running a hotel.

Mr. Latkovic directed the discussion to what they want to regulate and what they don't want to regulate. He said as a starting point, if someone leases their house long term, they do not want to regulate that. If someone leases their house for 31 days, there is nothing in the Zoning Code that addresses that. Mr. Latkovic suggested, under 14.02, amending the draft of the ordinance to read "...less than a calendar month.." instead of "...less than thirty (30) consecutive days.." He said he wants to avoid getting too technical, but he wants the zoning to be consistent with their expectations. The board members agreed.

Mr. Latkovic then asked the board if members wanted to allow someone to rent out less than their entire home. Mr. Flaiz said he thinks the Ordinance regarding Renting of Rooms should remain, and still permit the renting of only one room but changed to allow two people. Mr. Latkovic said he thinks the Rented Room Section of the

code should become part of Chapter 14. Discussion followed among board members how to best structure the ordinance. Mr. Flaiz suggested it should indicate that no more than one rental agreement can be in place at any given time.

Mr. Flaiz asked when the Village allowed the renting of in-law suites, which basically turns the home into a duplex. Mr. Hocevar said when a separate dwelling unit is attached to the house, it should be the same family residing in the in-law suite, but it would be difficult to police if it was being rented out. Mr. Flaiz cautioned against allowing the renting out of part of a house, essentially anyone with an in-law suite now has a duplex that could be rented out to many different people. He said he would not want that in his neighborhood. Ms. Budoff said she thinks the HOAs are waiting for the Village to regulate it before they decide how to restrict it. Ms. Matheney said the HOAs are separate, and they can regulate it without the Village doing so. Mr. Flaiz said his HOA prohibits rentals.

Mr. Latkovic said at the previous meeting, it was decided to allow people to benefit from the use of their home, although there is some risk involved. He said some investors purchase homes for short-term rental use, but the way the ordinance is crafted, it is quite restrictive, and nuisances would be addressed quickly. Mr. Latkovic said people may be aware of it happening, but as yet, this has not been an issue in the Village. Ms. Budoff said the one near her has been going on for years and she was not aware of it until the neighbors asked her about any Village restrictions. Mr. Latkovic said there has been no official vote on any of this, nor has there been any explicit consensus that this should happen, and if Mr. Flaiz thinks this should be tabled, that would be fine. Mr. Flaiz said he is bothered by the partial renting of a house, and he doesn't mind the Air BnB rentals if it's for the whole house. He said his concerns are property owners of single-family homes who have, or will build, an in-law suite allowing them to run a hotel-like business. He said duplexes are not permitted in any subdivision in South Russell but having an in-law suite would be a way around that. He said he feels the Short-Term Rental Ordinance should not allow partial rentals.

Mr. Galicki noted that the situation Mr. Flaiz described would preclude the use going on in Ms. Budoff's neighborhood, since it has a kitchenette. Mr. Latkovic and Ms. Budoff both said they did not have a problem with the in-law suite being used as a rental. Mr. Latkovic said he appreciates the different perspective that Mr. Flaiz brings, but he thinks a long-term rental would be a problem in an in-law suite, not a short-term rental.

Mr. Latkovic asked Ms. Matheney what part of the zoning code restricts a person from renting out their in-law suite. Ms. Matheney said in a residential district, only certain uses are permitted, and a commercial use is not a permitted use. Mr. Latkovic asked how that differs from renting out the entire house on a long term lease, or renting out the in-law suite on a long-term lease, since they are both commercial uses. Mr. Flaiz said renting an entire house is a residential use and renting out part of a house is a commercial use. Mr. Hocevar said there are a few in-law suites in South Russell, but they all have one gas meter and one electrical meter, and he has had no requests to add additional meters.

Ms. Budoff read from her neighbor's Air BnB advertisement, indicating that long-term stays of 28 days or more are allowed. Discussion followed regarding the difference between an in-law suite, a duplex and renting of individual rooms.

Mr. Latkovic said he feels the general consensus is to allow someone to rent their home for less than a calendar month, and the secondary question is allowing the ability for property owners to offer less than their entire home on a short-term rental basis. He said the Village Zoning Code already prohibits the long-term rental of a calendar month or more for less than an entire house, since that becomes a commercial use. Mr. Flaiz noted that under Rented Rooms in the Zoning Code, it is also prohibited to rent out more than one room to one person. Ms.

Matheney said the property renting out an in-law suite is violating the code because it is a prohibited use. Ms. Budoff said anyone operating an Air BnB in South Russell is violating the code.

Mr. Galicki asked Ms. Matheney if running a daycare center out of a residential home would be considered a commercial use. Ms. Matheney said it depends, it could be a home occupation. He said he brought it up after hearing the emphasis on commercial use regarding renting rooms.

Mr. Flaiz used Kensington as an example and asked Mr. Galicki and Mayor Koons how they would feel if the owner of a house with an in-law suite chose to use it as a short-term rental. As a result, there are different people there every weekend, carrying in baggage, a lot of coming and going, parking on the street, etc., from May through September. Mr. Latkovic said to him, that is no different than renting a whole house. Ms. Budoff said she would rather have an in-law suite rented out than the entire house, to limit people from using the dwelling for large house parties. Ms. Budoff said her main concern is where the people go once they are in the neighborhood. Mr. Galicki recalled Ms. Budoff's concern regarding strangers in the neighborhood using the facilities and the safety of the children. Ms. Budoff said the HOA has to address that as well.

Discussion followed regarding HOAs in the Village and their rules. Mr. Flaiz said HOAs are supposed to add an extra level of protection. Ms. Budoff said there are many neighborhoods that do not have an HOA. Mr. Flaiz agreed, and said it is their job to protect the quality of life for all the residents in the Village, regardless of what HOAs are doing. Ms. Budoff said she is totally fine with allowing short-term rentals but believes there should be some definitions.

Mr. Flaiz said he is aware of the discussion from the last meeting when he was not present, and that there seems to be a consensus, but he thinks the activity that comes with short-term rentals could be disruptive to neighborhoods. Mr. Latkovic said that sounds like an argument to prohibit them altogether. Mr. Flaiz said that may be a solution, and this is not Ohio City, and he doesn't expect transient people in and out of a house in the Village neighborhoods. Mr. Flaiz asked Ms. Matheney if Chagrin Falls completely banned short-term rentals. Ms. Matheney said they tried to do so, but they are not strong on regulations, and are looking at amending their regulations.

Mr. Latkovic said he understands the concerns surrounding this, and those concerns are an excellent reason for the Village to adopt regulations that allow people, in a very confined way, to have short-term rentals. He said if someone wants to do this, they're going to do it regardless, and if the Village doesn't have any regulations to enforce, it becomes difficult. The Village should also find a way to inform residents that short-term rentals are permitted under strict guidelines. He said he feels if it's banned altogether, people will do it anyway, but if there is an ordinance, the rules can be enforced.

Mr. Flaiz said perhaps they should restrict property owners from renting their whole house on a short-term basis, because having the owner on site could certainly limit nuisance situations. Mr. Latkovic said the requirement of having a property representative within 5 miles of the rental allows for immediate response to problems. Ms. Budoff said personally she feels short-term rentals for the entire house should not be allowed, as they are more likely to become a party house. She said requiring registration with the Village would help both the property owner and the tenant.

Mr. Flaiz said he agrees with Mr. Latkovic's statement about short-term rentals occurring regardless of legislation and that perhaps it should be regulated. Mayor Koons said he thinks it is a solution to a problem the Village doesn't have, and that there is one person renting her in-law suite occasionally and has been doing it for years. Ms. Budoff said legislation would make the activity legal, and that there are a few more in the Village. Mr. Flaiz said once the Village puts their stamp of approval on it, it changes the dynamics, and that there is a lot

of merit to Mayor Koons' statement. Mr. Flaiz said what she is doing is illegal under the current code, and that a registered complaint would result in enforcement.

Mr. Hocevar said advising the residents and HOAs through the newsletter and the website would bring awareness of the current regulations, and that would make a difference. He said most people may not realize that this activity is against Village regulations.

Mr. Latkovic said he agrees that the Village doesn't have a problem currently, but that they also don't want the problem in the future. The issue was brought up and the solicitor spent time drafting the legislation. He said he thinks it will be some kind of problem, sooner or later, and as a Planning Commission, they should be proactive, and that establishing guidelines and expectations will also be helpful to HOAs. He went on to say that he thinks the legislation is fairly restrictive compared to other communities.

Mayor Koons said if the question were asked of the residents through the Village newsletter, he feels most people would not want to allow short-term rentals. Mr. Flaiz said that would be a good idea and getting the feedback would be valuable. Ms. Matheney said the wording would be important when posing the question. Discussion followed regarding the phrasing regarding short-term rentals for the next newsletter.

There being no further business, Mr. Latkovic adjourned the meeting at 9:30pm.



James Flaiz, Acting Chairman



Ruth Griswold, Board Secretary

12-10-2021
Date

12-10-2021
Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING
Record of Proceedings
December 9, 2021
7:30PM

Members Present: James Flaiz, Acting Chairman, Dennis Galicki, Mayor William Koons, Ph.D.,
Elisa Budoff

Member Absent: Steve Latkovic

Other Officials: Bridey Matheney, Solicitor; Dave Hocesvar, Building Official; Ruth Griswold, Board
Secretary

Visitors: Kristen and Ryan Scanlon, 5260 Chillicothe Road, 44022
Guy Rutherford and Lucia Santana, 3314 Hyde, Cleveland Hts. 44118

Meeting called to order by Mr. Flaiz at 7:54pm.

Ruth Griswold conducted roll call.

Mr. Galicki motioned to approve the minutes from November 9, 2021. Mayor Koons seconded. On roll call vote, motion carried unanimously.

Mr. Flaiz began the meeting by following up on the Public Hearings which were held regarding **PC Case # 21-10-A**, for a proposed **PonyBoys restaurant at 506 East Washington Street**. He said the original Public Hearing commenced on November 9, 2021, and after much discussion, the hearing was continued until this evening at 7:00pm. The Public Hearing was conducted and closed after further discussion and review of additional proposals which were presented to the Planning Commission. He said a number of items were discussed in the Public Hearing, and there was a sense that Planning Commission members were inclined to approve the application subject to several conditions.

Mr. Flaiz said the approval of PonyBoys at 506 East Washington Street is conditioned upon the following:

- 1. Prior to any issuance of the Certificate of Occupancy, applicant must file written agreements with the building department from Ed Gottschalk and**

Washington Street Properties for the 12 off-site parking spaces and keep them updated on a yearly basis.

- 2. The seating limit before 5:00pm will be 32 seats, the seating limit after 5:00pm will be 48 seats.**
- 3. Prior to any issuance of the Certificate of Occupancy, applicant must file a written agreement with the building department from KEI for the pedestrian access, and keep it updated on a yearly basis.**
- 4. There will be no outdoor seating.**
- 5. The total building occupancy limit will be 60 people.**
- 6. The Conditional Use permit will be reviewed by the Planning Commission on or before July 30, 2022.**
- 7. The business will be subject to random site visits by Village personnel to confirm compliance with the conditions.**
- 8. The Planning Commission will approve parking layout #3, which includes the valet staging area near the building and parallel parking along the eastern side of the parking lot.**
- 9. The restaurant must have valet service after 5:00pm, during business hours, and with a minimum of two valets.**

Mr. Flaiz asked board members if they had anything to add to the conditions or any additional comments. The board members had none.

Mayor Koons motioned to approve the submittal with the nine conditions outlined by Mr. Flaiz. Mr. Galicki seconded. On roll call vote, motion carried unanimously.

Mr. Flaiz told the applicants that the board would have had to deny their application if it had not been for their hard work in creating well thought-out options for parking plans. He wished them luck and said the board would see them in July, perhaps sooner. He added that he looks forward to seeing them as a patron as well.

Mr. Flaiz then addressed the next item on the agenda, **PC Case # 21-11** for a proposed new tenant, **Lucia Santana Beauty**, to be located at **549 East Washington Street, Unit 4**. He asked the applicants to begin their presentation to the board.

Lucia Santana and Guy Rutherford introduced themselves. Mr. Rutherford explained that his wife, Ms. Santana, is a brilliant business owner and a micro-pigmentation artist. He said such an artist employs a procedure that either augments existing eyebrows or creates eyebrows for clients. He said the technique and tools used are similar to those used for tattooing, and a semi-permanent ink is placed just below the skin level, creating the illusion of eyebrows or fuller and shapelier existing eyebrows. He went on to say that the procedure is governed by the Ohio Board of Health, and under the Ohio Revised Code, they have given authority to the County Health Boards to issue licenses for micro-pigmentation. He said one of the conditions prior to applying for a license from the County Board of Health is that they must show written verification from the jurisdiction in which they will be operating that the business is permitted under their Zoning Code.

Mr. Flaiz said in addition to any State regulations, South Russell requires all new business uses to appear before the Planning Commission for Development review. He said after hearing the applicant's presentation, he understands that this is very different than a tattoo business. He asked Mr. Hocevar who the current tenant is.

Mr. Hocevar said he believes it is currently vacant. Discussion followed regarding the location of the building on Washington Street.

Ms. Budoff asked if any other services would be provided. Ms. Santana said the only service she provides is the micro-blading for eyebrows. Ms. Budoff said this procedure seems like something many cancer patients may benefit from. Mr. Rutherford agreed, and Ms. Santana said she has helped cancer patients in the past.

Mayor Koons asked Ms. Matheney if the Village would have any issues pertaining to this business becoming operational. Ms. Matheney said there are no legal issues.

Mayor Koons asked the applicants what type of signage or advertising they would have in order to make their business successful. Ms. Santana said currently 80% of her clientele come from referrals, and she is planning to increase her social media presence. She said she would be interested in contacting the local Chamber of Commerce as well. Ms. Budoff asked if she feels the demand is great enough to be successful by doing micro-blading exclusively, with no other services offered. Mr. Rutherford said Ms. Santana has been successful in the business in Beachwood for a couple of years and now wants to move to a larger location with a better market for the service.

Mr. Flaiz asked Mr. Hocevar if he saw any problems with this submittal. Mr. Hocevar said he did not, and as standard procedure, he would perform a safety inspection of the unit prior to issuing an occupancy certificate.

Mr. Galicki made a motion to approve the request from Ms. Jucileide Santana, PC Case# 21-11, to locate a microblading business called Lucia Santana Beauty at 549 East Washington Street, Unit 4. Ms. Budoff seconded. On roll call vote, motion carried unanimously.

Mr. Flaiz welcomed the applicants to the Village of South Russell. Mr. Rutherford and Ms. Santana thanked the board for their time, and said they hope to open the business within a few weeks.

Under **New Business**, Mr. Flaiz asked board members if they wanted to discuss the Solicitor's Zoning Code recommendations. Because of the time involved, it was decided that it would be better to do so at a later date.

Under **Old Business** was the discussion of Short-Term Rentals. Ms. Matheney said there is going to be a survey question in the newsletter asking Village residents if they think there needs to be regulations regarding short-term rentals. She said continuing the discussion after receiving their feedback would be better. Mayor Koons asked what number of replies, out of the 1,400 homes, would be considered successful. Discussion followed regarding the anticipated success of the survey.

Mr. Flaiz asked board members if there was anything else they wanted to discuss.

Mr. Galicki said he had an issue that he wanted to address with the solicitor and the building department. He said a citizen within the community asked him whether the fencing installed at MC Art Studio meets the intent of the Planning Commission with respect to being a removable fence. Ms. Matheney said it is removable, and something installed in the ground allows the posts to be lifted up and out. Mr. Hocevar agreed that the installation method of the fence allows it to be removable. Mr. Galicki then mentioned the contractor who installed the fence still has his company's advertising signs up. Mr. Flaiz said MC Art has been abusing the ordinances regarding signs, and in his opinion, they should be cracked down on. Mr. Galicki said he realizes the Village wants to be good neighbors and promote businesses, but MC Art may be pushing the envelope a bit. Mr. Flaiz said when talk of fencing first came up, he was concerned, but he thinks their fence does look very nice. Discussion followed regarding temporary signage in the Village, as well as signs painted on the windows.

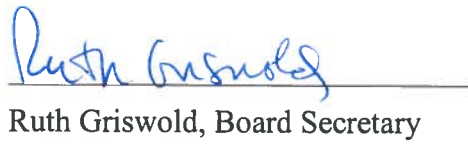
Mr. Flaiz asked board members if they had any other issues they would like to discuss. They did not.

There being no further business, Ms. Budoff motioned to adjourn the meeting at 8:25pm. Mayor Koons seconded.



James Flaiz, Acting Chairman

2/10/22
Date



Ruth Griswold, Board Secretary

2-10-2022
Date



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION
CONTINUATION OF PUBLIC HEARING
Record of Proceedings
December 9, 2021
7:00PM

Members Present: James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Member Absent: Steve Latkovic

Other Officials: Bridey Matheney, Solicitor; Dave Hocesvar, Building Official; Ruth Griswold, Board Secretary

Visitors: Kristen and Ryan Scanlon, 5260 Chillicothe Road, 44022
Guy Rutherford and Lucia Santana, 3314 Hyde, Cleveland Hts. 44118

With the absence of Steve Latkovic, Mr. Galicki motioned to have James Flaiz serve as Acting Chairman. Mr. Flaiz seconded. Ayes all, motion carried.

The Public Hearing continuation was called to order at 7:00pm by Mr. Flaiz.

Ruth Griswold conducted roll call.

Mr. Flaiz introduced the agenda item for the continuation of the Public Hearing for **PonyBoys LLC**, whose applicants are seeking approval for a proposed new restaurant at **506 East Washington Street**.

Mr. Flaiz reviewed the additional documents that were submitted by the applicant since the last meeting on November 9, 2021, consisting of revised plans for parking and seating. He confirmed that no other documents had been submitted.

Mr. Flaiz referred to a document received by the Village on November 19, 2021, from Sean Davis, Fire Prevention Officer, which was a report indicating that the total building occupancy for PonyBoys would be a maximum of 60. Mr. Flaiz asked Mr. Hocesvar if he was in agreement with that number. Mr. Hocesvar said after a discussion with Mr. Davis, and further review of the plans, he agreed with that number for occupancy, as well as how it was split up between seating and total occupancy.

Mr. Flaiz asked the applicants to begin their presentation. Mr. Scanlon said they have reached two very last-minute agreements for additional parking spaces, one with Mr. Ed Gottschalk and the other with Washington Street Properties. He said each agreement allows them six additional parking spaces for valet.

Mr. Flaiz said he had spoken to Mr. Latkovic, who had received a call from Mr. Gottschalk confirming this agreement. He asked Mr. Scanlon where the parking spaces are located. Mr. Scanlon said there are 6 spaces

behind Martini Bar and 6 spaces in front of the 300 Building. Ms. Budoff asked if the spaces would be marked. Mr. Scanlon said he wasn't sure, but that they could be.

Mr. Flaiz noted that the revised parking plan which was submitted for tonight's presentation did not have a valet option. Mr. Scanlon explained that they submitted that plan ahead of time and had prepared for the worst-case scenario, in case they were unable to secure valet parking agreements. He said because they now have valet agreements, he brought three different drawings to the meeting for the board to review and said one of the options resolves the parking lot width problem that Mr. Flaiz brought up at the last meeting. He referred to the areas on the large screen that would be used for valet parking and said they have also secured an agreement for pedestrian access through the gate, which goes from KEI to the parking, so valet employees won't have to run in the street. Ms. Budoff asked if the valet would be coming from the rear of the restaurant. Mr. Scanlon said yes that is correct. Ms. Budoff questioned how they would turn around. Mr. Scanlon said after the last meeting, he spent two days chalking out many different possibilities and came up with three different feasible solutions.

Mr. Flaiz referred to the large screen and confirmed the location of the pedestrian access as being between Hunan and PonyBoys. Mr. Scanlon said there is a chain link fence with a gate there, and the owners of KEI and the managers of Mountain Road Cycles have no issue moving people through the gate but would not allow vehicles to go through there.

Mr. Scanlon said a concern that was brought up by Hunan's at the last meeting was that of valet employees and pedestrians walking in front of their building, and that this proposed valet solution would eliminate that concern.

Mr. Flaiz asked Mr. Scanlon who they have the pedestrian access agreement with, and if it was in writing. Mr. Scanlon said it is a verbal agreement with the owner of KEI. Mr. Flaiz referred to the document made available to the board, which showed the original parking plan and the revised plans without valet. He asked Mr. Scanlon about the additional options he designed. Mr. Scanlon said he has copies with him, distributed them to board members and apologized for providing them so late.

Board members evaluated the three different options as Mr. Scanlon provided explanations for each one. After discussion and review, it was determined that the option labeled #3 would be the best fit. This option provides three parallel parking spaces which allows for a 34' width for the parking lot, resulting in an easier turn around for vehicles. Mr. Flaiz said this choice also creates a much better staging area for valet.

Mr. Galicki asked if they investigated the possibility of allowing the valet to utilize the access from the rear as a thoroughfare. Mr. Scanlon said they did pursue that, and KEI had no issues with it, but the tenant, Mountain Road Cycles, did not like the idea since they often have customers test ride bikes in that area.

Mayor Koons asked Mr. Hocevar if the Village engineer looked at the parking lot for PonyBoys. Mr. Hocevar said yes, Eric Haibach scaled out the drawing that was submitted and did not have a problem with it.

Ms. Budoff asked if this proposal would affect their future patio plans. Mr. Scanlon said they were willing to rework the patio expansion when that time comes, and that not having a patio is better than not being able to be open.

Mr. Flaiz then referred to the proposed seating plan for 38 that was submitted to the board. Mr. Scanlon said now that they have agreements for 12 valet parking spaces, they would like to have the maximum occupancy permitted. Mr. Flaiz said the maximum occupancy is 60, which includes staff and take-out activity, not just seating capacity. Mr. Flaiz said they now have 28 parking spaces including the 12 off-site, and code allows two seats per parking space.

Mr. Flaiz expressed concern regarding the two-person occupancy limit in the kitchen, which was determined by the Fire Prevention Officer. He asked Mr. Scanlon how that would be possible. Mr. Scanlon said he is very experienced at working in small spaces, and to have himself and one assistant in the kitchen is very possible.

Mr. Galicki referred to the drawing of the 38-seat proposal and asked if the two tables for 6 would be sectionalized. Mr. Scanlon said yes, they are constructed to be movable.

Mr. Flaiz said, parking aside, he is not comfortable with a seating capacity of 56, given that the total building occupancy is 60. He said the restaurant would likely exceed the occupancy limit with people waiting, carry-out customers, and employees. Mr. Scanlon said the valet would essentially function as the host at the front door, which allows a solid curbside take-out plan, since customers never have to leave their vehicles.

Ms. Budoff asked how many wait staff they would have with the maximum seating of 56. Mr. Scanlon said they would need 1 or 2 behind the bar and 4 wait staff. Mr. Flaiz said that puts them over the maximum occupancy. Mr. Scanlon said he would have no issues with a seating occupancy of 50.

Mayor Koons asked Mr. Scanlon if, 6 months from now when the restaurant is booming, would they add more seating. Mr. Scanlon said he would abide by whatever the Village permitted them to do. He said in previous restaurants, they may have started out small and added seating, but those sites were always much larger than this one.

Ms. Budoff asked if the restaurant would be reservation only. Mr. Scanlon said they would love to get to the point of being reservation only, but it is not a decision they can make now. Ms. Budoff asked how it would work when it's cold outside and there are 10 people waiting to be seated. Mr. Scanlon said they intend to operate with a digital waitlist, which is necessary without a lobby.

Mr. Flaiz said if the board were to approve this submittal, there would be numerous conditions, among them being seating, occupancy, inspections, and further review required within a year. He said he has some very serious concerns, and this is the most difficult decision he has dealt with in his 15+ years with the Planning Commission. He said Mr. Scanlon and his company have foolishly put a lot of money into this restaurant prior to obtaining Village approvals, and that was a big mistake on their part, but the reality of it is, it does affect his decision.

Discussion followed among board members regarding acceptable seating capacity, total occupancy, available parking, valet requirements, site visits, written agreements, and other conditions.

Mr. Flaiz expressed concern about the possibility of traffic backing up onto East Washington during busy times and asked if there were conditions that could address that scenario. Discussion followed regarding traffic problems on various days and at different times. Mr. Scanlon said they anticipate a 4–6-week period after opening that could be impactful, but they are confident that they will manage it, and long-term managing of the situation should not be a problem. He added that if it becomes an issue, he is certain that their neighbors on either side of them would make the Village aware of it.

Mayor Koons commended Mr. Scanlon for reaching out to his neighbors and attempting to work things out. Mr. Flaiz said he likes the addition of the pedestrian access through the back, which eliminates the potential danger of valets to running into the street or across other parking lots. Mr. Scanlon said he lives in South Russell and wants nothing more than to be a good neighbor and operate a successful business in the Village.

Mr. Flaiz asked for any other questions or comments from the board members or public.

Mr. Galicki said he thinks the plan is very forward-leaning, but to Jim's point, the applicants have a lot of skin in the game already and he would hate to see their money fly away in the breeze. He said the board members are all looking for ways to make this work, and that there may be some pain points when looking at workability

issues such as allowing maximum seating in the restaurant. He said he believes that what the board agreed to is a pretty good compromise.

Mr. Scanlon said the vision he and his partners have for their restaurant is to not maximize every seat and penny-pinch and squeeze every dollar out of it. Ms. Scanlon said they do not want their restaurant to feel crowded, and they are super-conscious of creating that kind of atmosphere.

Mr. Flaiz cautioned the applicants against allowing the situation to turn into a fiasco, because their entire business would be at stake if the Planning Commission feels it necessary to revoke their Conditional Use permit. He said they should take whatever measures necessary, including over-staffing the valet, in order to avoid issues and subsequent revocation of their Conditional Use permit.

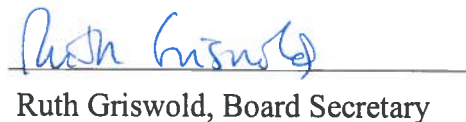
Mr. Flaiz said all the conditions would be outlined during the Planning Commission meeting immediately following the Public Hearing and asked for a motion to adjourn.

Mr. Galicki motioned to adjourn the Public Hearing at 7:50pm. Ms. Budoff seconded. Ayes all, motion carried.



James Flaiz, Acting Chairman

2/10/22
Date



Ruth Griswold, Board Secretary

2-10-2022
Date