



Village of South Russell

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

**PLANNING COMMISSION MEETING
MINUTES
October 12, 2023
7:30pm**

Members Present: Steve Latkovic, Chairman, James Flaiz, Mark Porter, Mayor William Koons, Elisa Budoff

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

Visitors: Jae Kwon, 23804 E. Groveland Road, Beachwood 44122; Greg Bruhn, 169 Chestnut Lane; Brad Friedlander, 20 Oakshore Drive, Bratenahl, 44108; Phyllis Marino, 124 Southwyck Drive; Bradley Fink, 905 Bell Road

Mr. Latkovic called the meeting to order at 7:30pm.

Ruth Griswold conducted roll call.

Mr. Latkovic asked for any corrections or comments on the minutes from the Planning Commission meeting held on September 14, 2023. There were none. Mr. Porter motioned to approve; Mayor Koons seconded. On roll call vote, the motion carried unanimously.

Agenda Item 1: 506 East Washington Street

PC Case #23-06: Pursuant to Section 3.05(b) of the Zoning Code, the Planning Commission shall schedule a public hearing within 60 days of the Conditional Use Permit Application submitted by Mr. Brad Friedlander, who is seeking approval for a new restaurant, new sign and use of the existing patio at **506 East Washington Street**, owned by Mr. Thomas Violante.

Mr. Latkovic asked the applicant to share a little about his proposal. Mr. Friedlander said he is taking over Pony Boys Restaurant and will be renaming it Lopez & Gonzalez. Mr. Latkovic explained that a Public Hearing date must be set for the full developmental review of his proposal. Discussion followed among board members regarding the date.

Mr. Flaiz made a motion to schedule a Public Hearing on PC Case #23-06 for November 16, 2023, at 7:30pm and also move the regularly scheduled Planning Commission meeting of November 9, 2023 to November 16, 2023 at 7:30pm. Mayor Koons seconded. On roll call vote, the motion carried unanimously.

Agenda Item 2: 5216 Chillicothe Road

PC Case #23-07: Dr. Jae Kwon is seeking approval to open a Veterinary Hospital in the former dental clinic located at **5216 Chillicothe Road**, owned by Jonathan Rosenthal, DDS, of Jabar Holdings.

Mr. Latkovic welcomed the applicant and asked him to begin his presentation. Dr. Kwon said he is a veterinarian, and is planning to lease the building at 5216 Chillicothe Road, which was previously a dentist's office, and convert it into a veterinarian practice exclusively for dogs and cats.

Mr. Flaiz asked if he would offer any boarding of animals. Dr. Kwon said no, he will not offer that service, and there will also be no overnight hospitalizations of animals.

Mr. Porter asked if he would be dealing with deceased animals. Dr. Kwon said he would only offer euthanasia and would outsource the cremation.

Mayor Koons said in the past that building has experienced water problems, which he believes have been resolved. Dr. Kwon said the realtor had made him aware of that as well.

Mr. Latkovic said parking is a concern for some businesses in the Village, and asked the applicant how many people he thinks will be at the establishment at any given time, including employees. Mr. Latkovic noted that the building has its own parking lot in front. Dr. Kwon said once the business starts rolling, he will have five people, including himself, working there. There will be three or four exam rooms, allowing four to five clients at any given time. He thinks the parking lot will be able to accommodate about ten cars, which should be sufficient.

Discussion followed regarding the number of parking spaces. Dave Hocevar said in this instance, the number of parking spaces required per the code is determined by the square footage of the building, and this site has ample parking and meets the requirements.

Mayor Koons asked Dr. Kwon if he would be leasing or buying the building. Dr. Kwon said he plans to lease for now, and when Dr. Rosenthal is ready to sell in a few years, he may consider purchasing the property.

Mr. Latkovic said he feels this is a great business to have in the Village. Mr. Flaiz recalled having a veterinarian once before at the shopping plaza across the street, and it was a hot topic because they did offer boarding of animals, but there were never any issues.

Mr. Latkovic asked the applicant what the plans for signage would be. Dr. Kwon said he is planning to keep the existing signage and just change the name. Discussion followed and it was determined that as long as the sign did not change in size or location, it would not have to come before the Planning Commission. Ms. Budoff asked if the sign had any lighting, and apparently it does not.

Mayor Koons motioned to approve a veterinarian business at 5216 Chillicothe Road. Mr. Latkovic seconded. On roll call vote, the motion carried unanimously.

Mr. Porter asked Dr. Kwon when he would be moving in, and he said it would most likely be February, as he currently works as an associate at another practice.

Board members welcomed Dr. Kwon to the Village and wished him luck.

Agenda Item 3: 1225 Bell Road

PC Case #23-08: Mr. Donald Yert is seeking approval for occupancy to relocate his D.R.Y. Insurance offices to **1225 Bell Road**. The offices are currently located at 5197 Chillicothe Road.

Mr. Latkovic asked Mr. Yert to begin his presentation. Mr. Yert said he would like to move only a portion of his current offices into one of the 1,500 square foot units at 1225 Bell Road.

Mr. Porter asked if he ever got a tenant for the second-floor office space in his insurance building. Mr. Yert said no, he has not.

Mr. Flaiz said he recalls that historically, when a property is in violation of the building code, or of the conditions required by the Architectural Review Board or Planning Commission, the Village has denied or tabled new applications until compliance has been attained. He asked Mr. Hocevar to confirm. Mr. Hocevar agreed and said it has been a long time, but it has been done in the past. Mr. Flaiz asked Ms. Matheney if an applicant is in violation, is that a justifiable reason for the board to deny their application. Ms. Matheney said it could certainly be used for a reason, as anything the board wanted to consider could be used as an added weight to the decision.

Mr. Yert said the D.R.Y. Insurance is a separate entity from 1225 Bell LLC, and it has nothing to do with any violations. Mr. Flaiz said he is here seeking approval from the board for the use at 1225 Bell. He went on to say he is very troubled that, after going through a lengthy process last year on Mr. Yert's behalf, he has chosen to go against the agreed upon conditions and have the whole sign for the Red Barn Commons lit up. Mr. Flaiz said the Village has sent two letters of violation to Mr. Yert, which have been ignored. Additionally, he had made many improvements to the property that were not approved, and the board bailed him out on that and gave him a lot of leeway, which resulted in granting conditional approval. Mr. Flaiz said it is also very troubling that the security light on the north side of the D.R.Y. property that was supposed to be dimmed is now, once again, shining very brightly onto the adjoining property, which is against our ordinances. Mr. Yert insisted that the light was taken down a long time ago. Mr. Flaiz said anyone can see from the window that the dentist's office is currently lit up by the security light from the D. R. Y. Insurance property.

Mr. Latkovic asked Mr. Yert why he didn't comply with the first notice of violation regarding the sign, which made it necessary to send a second notice. Mr. Yert said the mayor was involved, and Mayor Koons said he would like to respond. He distributed information regarding the codes of South Russell and other signs in the area. He said he feels the whole thing is ridiculous, and when comparing the restrictions required of this sign as opposed to others in the Village, he believes it is unfair. The fact is that the Village doesn't have grounds to stand on, and when looking at the amount of light that's coming from the gas station and other areas, the barn sign is not a big deal, and we should just let it go.

Mr. Latkovic asked the mayor if he feels the sign is complying with what the Planning Commission adopted during the development review. Mayor Koons said no, but he thinks the board made a mistake during the development review and should reconsider. He doesn't think it's right that other situations have much more light and it's fine, but in this particular situation we seem to dig our heels in, and it just doesn't seem fair.

Ms. Budoff read from the violation notice, The Planning Commission approved the installation of the sign strictly under the following conditions, ***"...adopting the sign as presented, specifically with the flat polycarbonate face being the only back-lit part of the sign that will turn off at 10:00pm every night."*** She said she's confused as to whether the issue is the brightness or that it's not lit as required.

Mayor Koons said he feels they came up with some standards that should be reconsidered.

Mr. Flaiz addressed Mr. Yert and said he didn't comply with the Planning Commission. He asked him if the mayor told him he didn't have to change the sign. Mr. Yert said the mayor told him he would reconsider it because he gave his permission for the new traffic lights to be placed on his property, and he deserved some

compensation for that. Mr. Flaiz asked him if the mayor told him the sign would be reconsidered if he gave permission for the posts to be on his property. Mr. Yert said he didn't want to hold up the placement of the necessary traffic signals, and he didn't want monetary compensation, but he does want to be able to have a sign on his property that doesn't violate any codes. Mr. Flaiz asked him if the mayor said that would be okay. Mr. Yert said the mayor told him he would look into it and see what he could do.

Mr. Flaiz said he is outraged at that, and reminded the mayor that he voted for the approval of these conditions. Mayor Koons said he thinks it was a mistake. Mr. Flaiz said he realizes that the mayor has a lot of authority but that doesn't include overruling a decision of any boards or Council, and Mr. Yert has been flouting the authority of the Planning Commission for almost a year, and it turns out that it's due to some sort of side deal that was made regarding the traffic light posts. Mayor Koons said there was no side deal made, he simply told Mr. Yert that he would speak up on his behalf, since he feels Mr. Yert is being held to a different standard than others in the Village.

Mr. Flaiz referred to the printed handout that the mayor distributed and said that the South Russell Code states that one must shield adjoining properties against lighting from their property, which is exactly the problem at the corner property. He understands that that is a separate issue, but the Village does have an ordinance protecting adjoining properties from neighboring light sources.

Mr. Latkovic asked Mr. Yert why he put up a sign that was not in compliance with what everyone agreed upon and the Planning Commission adopted. Mr. Yert said the sign was already put up. Mr. Flaiz said that is not true; it had been manufactured, but not installed prior to the Planning Commission approval. Ms. Budoff asked Mr. Yert once it was installed, which areas of the sign were lit up. Mr. Yert said the top part was not lit. Ms. Budoff asked when the entire sign was lit up, and did he ask for permission to do so. Mr. Yert said no one ever saw the sign fully lit. Ms. Budoff said that is because the Planning Commission asked for it not to be fully lit. Mr. Yert said he wanted to show the mayor how the fully lit up sign still meets the standards and is no different than other signs in the area.

Mr. Flaiz said the approval was granted for a sign could not have the top lit, yet Mr. Yert still installed a sign with that capability. Mr. Yert said the sign was always capable of being lit and was already built, and again mentioned other signs in the area that are similar. Mr. Flaiz said the fact is that the sign that Mr. Yert has installed is in direct violation of the Planning Commission's approval.

Mr. Latkovic reminded Mr. Yert that he has now received two violation notices regarding the sign, and asked him if he planned on changing the sign to be compliant with what was adopted and approved. Mr. Yert said he guesses he has no choice.

Mayor Koons asked what other signs in the Village have to be turned off at 10:00pm. Mr. Latkovic said the problem is that the Planning Commission spent a lot of time on this development review, and the applicant is in violation of what was adopted by the Planning Commission, and it is gross negligence to come and pretend that because other signs are different, that the rules of the Planning Commission can just be flouted and ignored. This body, and this Village, has rules for a reason and if people decide to ignore those rules based on feeling that others are treated differently, then it all just falls apart. He said he is highly bothered by Mr. Yert's defiance, and added that Mayor Koons could have previously and reasonably expressed his thoughts to the Planning Commission, but that is not what happened.

Mr. Latkovic said that for Mr. Yert to now come before the Planning Commission seeking approval to move his business while he is blatantly and knowingly in violation of the Planning Commission's conditional approval is

appalling. He is not going to vote in his favor tonight, and he will never vote for that sign to be changed. Mr. Latkovic said he would only consider any future requests from Mr. Yert after the sign is in compliance.

Mr. Yert said he would turn the top light on the sign off.

Mr. Flaiz said turning off the sign is not good enough. He wants confirmation from the building inspector that the light at the top that backlights the red area is disabled and removed completely. Mr. Flaiz reminded Mr. Yert that the Planning Commission has to approve any business that wants to move into the office spaces at the barn, and he will not vote for any approvals until the sign is in compliance with the Planning Commission's conditional approval.

Mr. Flaiz motioned to deny the application in PC Case #23-08. Mr. Latkovic seconded. Mr. Porter asked if it would be better to table the application. Discussion followed regarding whether to deny or table. Mr. Latkovic said he is fine with tabling the issue. Mr. Flaiz withdrew his motion.

Mr. Porter said by tabling the application, Mr. Yert has time to comply, and he can return to the Planning Commission. Assuming he remains in compliance thereafter, the Planning Commission would consider his application at that time, and perhaps make it conditional on the sign being compliant with the prior Planning Commission decision. He is suggesting this compromise because, to a large degree, Mr. Yert has been a very good and helpful property owner in connection with the recently installed traffic lights. Mr. Porter said he recognizes that Mr. Yert has done great things with the corner property, as well as adding business space in the red barn. He also acknowledges Mr. Flaiz's observation that he is out of compliance and is thumbing his nose at the board. He agrees with the suggestion by Mr. Flaiz to have the sign not just turned off, but completely disabled so it cannot be lit up in the future.

Mr. Flaiz would also like the building department to investigate the intensity of the lights on Mr. Yert's property, as they seem brighter since the Planning Commission approval. Mr. Yert said he did not have the lights turned up. Mr. Flaiz said the security light has been turned on and is glaring onto the dentist's office, and the Village has an ordinance about light intrusion on adjoining properties.

Mr. Porter made a motion to table the application from Mr. Yert in connection with the red barn. Mr. Latkovic seconded. On roll call vote, the motion carried unanimously.

Mr. Latkovic reminded Mr. Yert that the next meeting date is November 16, 2023. Mr. Yert thanked the board.

Mr. Flaiz said he is very frustrated by all the time spent on this case, crafting conditions and granting approval, time he could be spending with his family, only to have the mayor tell the applicant he will try to have the decision reconsidered. The sign has been in violation of the Planning Commission's conditional approval for months.

Mayor Koons said it is very frustrating for him to see what he feels is a double standard being applied, and that perhaps the board got off on the wrong foot with this business.

Mr. Porter told Mayor Koons that perhaps it's time for an ordinance regulating lighting, limiting strength of lighting and lumens. He recalled the solicitor forwarding ordinances from other communities as reference. He doesn't think Council has taken it under consideration yet, but perhaps it should be discussed at the Public Utilities meeting tomorrow.

Mr. Latkovic addressed Mayor Koons and said, whether he is right or wrong, why he feels the requirement to turn off the back light of the sign, as adopted, is such a problem. He said to get to the point in a meeting where it feels like the mayor is working behind the Planning Commission's back and making promises, it just doesn't feel good. This is not the way they should work as a Planning Commission; they should all stand behind their authority. He asked why this sign in particular was such a big deal to not have back lit.

Mayor Koons said as mayor, his position is to do what he feels is best for the Village, and he thinks they, as a Planning Commission, held this applicant to a different and unfair standard. Mr. Flaiz reminded the mayor that he voted for this, adding that many signs in the Village are not backlit. He said while there may not be consistency with signage in the Village, one of the reasons for the tighter restrictions imposed on the red barn sign is because it is adjoining a residential area, and it is a unique property in the sense that it is the only commercial property going east on Bell. He recalled many board members expressing concern about allowing a large lit up commercial sign in that area. He said the board is not treating any individual applicant differently, but rather, they are treating different properties differently. He said personally, he would treat a commercial property that is basically in a residential district vastly different than he would Pony Boys, which is in the business corridor.

Ms. Budoff said she doesn't know of any other sign in the Village that has a large backlit logo on their sign, and she never wanted to see that portion of the red barn sign lit up. She said if Mr. Yert had approached the situation differently by requesting permission from the board to turn it on just so they could see how it looks, it would be different, but he chose to try and ask for forgiveness rather than permission. Mr. Porter said he has the opportunity to fix the problem, and if he doesn't, the likely result is apparent.

Mr. Latkovic said he supported Mr. Porter's position out of respect for him, and felt he made valid points about reaching a compromise. He said he is highly bothered by the mayor taking the position that the board was wrong, and that he was going to do something about it. He disagrees with the mayor's position, and said the board spent a lot of time talking about the sign and brought up many valid reasons prior to reaching their decision. He told the mayor, with all due respect, that he is just one member of the board, and to suggest that he could make a deal with Mr. Yert, or anyone in the Village, and try to go around what the board adopted, is very troubling. Mayor Koons said first of all, he knows he voted for this, but the more he thought about it, he thought it was wrong and that a mistake was made. He said he told Mr. Yert that he would fight for him, and that he is doing what he thinks is best for the Village. Mr. Porter said the sign was approved over a year ago, and why is it just being heard about now. Mr. Flaiz said he is fighting for the residents of South Russell, not for an out-of-town business owner, so they don't have to look at an obnoxious sign. He said the mayor is elected by the residents, and when he was an elected official himself, he took seriously his oath and duty to protect the quality of life in the Village, and not cater to business owners. Mayor Koons said he still believes a mistake was made. Mr. Flaiz said the only mistake that was made was by the mayor, when he attempted to bypass an official act made by a commission of the Village.

Mr. Latkovic asked if there was any further business to discuss. There was none. Mr. Flaiz moved to adjourn at 8:10pm.



Steve Latkovic, Chairman

11-16-23

Date



Ruth Griswold, Board Secretary

11-16-2023

Date