

**PLANNING BOARD MEETING
TIPP CITY, MIAMI COUNTY, OHIO FEBRUARY 11, 2014**

Meeting

Chairman Stacy Wall called the meeting of the Tipp City Planning Board to order at 7:32 p.m.

Oath of Office to Board Member

Mayor Hale swore in new Board member, Samuel Patry. His partial term expires 12/31/2014 as he is fulfilling the unexpired term of Mr. Brownlee.

Roll Call

Roll call showed the following Board members present: Stacy Wall, Paul Lee, Brent Rawlins, Jamie DeSantis, and Samuel Patry.

Others in attendance: Assistant City Manager Brad Vath, and Board Secretary Marilyn Fennell. Those signing the register were John Link, Wendy Moeller, Andy McGraw, Mike McFarland, Tim Logan, Marti Newsome, Red Newsome, Bud Schroeder, Dana Shoup, and Bryan Budding. Reporter Nancy Bowman was also in attendance.

Approval of Minutes
January 14, 2014

Mr. Lee **moved to approve the minutes of the January 14, 2014 meeting as presented.** Mr. Rawlins seconded the motion. Motion passed 4-0-1. Mr. Patry abstained.

Items not on the Agenda

There were no comments on items not on the agenda.

NEW BUSINESS
Deadline Dates

Mrs. Wall announced the deadline for Preliminary Plans, Final Plats, and Site Plans, for the March 11, 2014 meeting is February 18, 2014 5:00 pm.

John Link, 215 &
227 N. Hyatt St.-
Public Hearing-Final
Plat

Mr. Rawlins **moved to open the public** hearing. Mrs. DeSantis seconded the motion. Motion passed 5-0. Mrs. Fennell swore in those wishing to speak during either of the two public hearings for the evening.

Mr. Vath said the applicant is requesting approval of the subdivision of two lots at 215 and 227 N. Hyatt Street, both lots being Pt. OL 5. The applicant is owner of both parcels. Both tracts have never been platted and right-of-way dedication to the center of N. Hyatt St. is required and it must be reviewed as a subdivision. The proposed replat will meet or exceed all zoning requirements. The house at 215 N. Hyatt was previously demolished. The applicant is present.

Mrs. Wall asked for any further comments. There were none, she called for a motion to close the public hearing. Mr. Lee **moved to close the public hearing.** Mr. Rawlins seconded the motion.

Mrs. Wall **moved to approve the Preliminary Plat and Final Plat as presented and she thought it was commendable for the property owner to make that improvement.** Mrs. DeSantis seconded the motion. Motion passed 5-0. Mrs. Wall said with this approval that the matter will move onto City Council for their review. Mr. Vath said he would anticipate the introduction of an ordinance at the next Council meeting, February 18 with potential action on March 3.

Andrew McGraw,
201 Greensward, IL
3178, R-1C Zoning-
Replat

Mr. Vath said the property owner is proposing the construction of an in-ground swimming pool at this property. An existing 1,038 sq. ft. section of an existing storm sewer detention basin and utility easement would be vacated. The City Engineer and Utilities Director have reviewed and approved the proposed vacation. It is located in the upper end of the easement. If approved, the applicant must seek a Zoning Compliance Permit and staff does recommend approval of this replat.

There were no questions. Mrs. Wall asked Mr. McGraw, who was present if he had any further comment. Mr. McGraw said there was nothing further on the matter. Mrs. Wall called for a motion. Mr. Rawlins **moved to approve the replat for 201 Greensward**. Mrs. Wall seconded the motion. Motion passed 5-0.

Marti Newsome, 121
W. Main St. & 118
W. Walnut St.- IL
3422, CC/RA & R-
2/LD Zoning- Minor
Subdivision/Lot Split

Mr. Vath stated this is a minor subdivision-lot split for 121 W. Main St. and 118 W. Walnut Street. The tract in question was originally two inlots being #137 and #148. In 1998 the two inlots were replatted into a single inlot of record with the underlying zoning remaining the same. The Walnut Street portion is zoned R-2/LD and the Main Street is zoned CC/RA (Restoration District). The owner is now requesting a lot split into two new inlots of record. However the original non-conforming status of the original inlots was lost at the time of the 1998 replat. Due to this loss of non-conforming status, two variances were needed to accomplish this requested lot split. On January 15, 2014, the Board of Zoning Appeals granted the required two variances, Case #17-13. One variance was for the square footage of the inlot on W. Walnut St. It will contain 7579.44 sq. ft. rather than the required 8,500 sq. ft. The other variance was for the setback for the detached garage located at 121 W. Main Street; 2.21' to the required 3' setback.

Mr. Vath said the City is not requesting any addition utility easements for the proposed lot split. Staff recommends approval of the Minor Subdivision (Lot Split) of the tract located at 121 W. Main Street and 118 W. Walnut Street.

Mrs. Wall asked for questions. Mrs. Wall asked if the lot split puts the lots back into non-conforming status. Mr. Vath replied that the variances were granted so based on that there would be a new non-conformity. They would be allowed at that point. Mrs. Marti Newsome, 121 W. Main Street, came forward. They are requesting this lot split so that they can expand the Walnut Street property and make that their residence. Their business is in the W. Main street address. Mr. Lee asked if the replat was required for them to move into the property. Mrs. Newsome said that is what she was advised by Mr. Spring if they wished to add onto the structure. Mrs. Wall asked Mr. Vath if he had any input on that. She said she was not in favor of putting a property into non-conformity. Mr. Vath said the survey showed the variance was for the garage along the alley-way. Mr. Spring was not available this evening and Mr. Vath said he was unsure of the need for the lot split. Mrs. Newsome said that was also discussed at the Zoning Appeals meeting. Mrs. Wall asked if there was a time-frame for the renovation. Mrs. Newsome said there was not.

Mrs. Wall asked for further questions. Mr. Lee said when the Planning Board allowed the use of the Main Street residence to go from

Dana Shoup-Bon
Builders for
Schroder Tennis
Center, 1459
Harmony Dr., IL
3264, I-1 Zoning-
Site Plan Review

residential to business, there was a waiver for the off-street parking. Another business was added and that did not come before the Board for the waiver of off-street parking. The use of the property has been business since the replat into one lot. Mrs. Newsome said there would be no parking issues with 118 W. Walnut Street. Mr. Lee said in that district, the Board has the ability to waive off-street parking requirements and the addition of another business at 121 W. Main, he said he has had conversations with Mr. Spring regarding that matter. Mrs. Newsome said a permit was granted for that additional business. Mr. Lee said since Mr. Spring was not available this evening it is difficult to discuss that matter.

Mrs. Wall verified that the addition was to the Walnut Street building so that can be used as the Newsome residence. Mrs. Newsome agreed with that. Mrs. Wall felt there was substantial question about the necessity of a lot split and without the benefit of having Mr. Spring available, which was not in his control, she would recommend tabling this matter until the next meeting. She **moved to table the matter to the March meeting**. Mr. Lee seconded the motion. Motion passed 5-0.

Mr. Vath said the applicant is proposing to construct a new 18,019 square foot addition at the Schroeder Tennis Center. There are two portions, 1) 17,119 sq. ft. addition on the northeast corner of the site which covers 12,720 sq. ft. of the two northern exterior tennis courts and 4,399 sq. ft. infill that would connect this new indoor court area with the existing primary building and 2) The second addition would be 9900 sq. ft. to the north (rear) of the property for seating/viewing. The bubble dome that was used for the two exterior tennis courts would be permanently removed.

The Tennis Center is a Special Use in the I-1 (Light Industrial) Zoning District per Code §154.053(B)(2)(o). The side and rear yard requirements are found in Code §154.053(C)(2)(b)&(c). The height of the structure would be 40', thus the side and rear setbacks would be 80'. The proposed eastern expansion will be 7.5' from the east property line and the proposed northern expansion will be 33' from the north property line. Accordingly on January 15, 2014, the Board of Zoning Appeals granted two variances, 1) for 47' for the rear setback and 2) for 72.5' for the required side setback.

Mr. Vath continued that the parking requirements are found in Code §154.078(C)(1)(g) & (h) and staff noted that the total number of courts and total number of employees will not change with the proposed addition. Thus, no additional off-street parking is required or provided. Storm water is detained within Pt IL 2143 to the north. Based upon an analysis from the applicant's engineer, John Chico P.E., the proposed addition increases the impermeable area 5,000 sq. ft. City Engineer Vagedes has concurred with Mr. Chico's conclusion that the proposed increase in impervious area can be accommodated in the existing detention basin without additional modification. Mr. Vath concluded with staff recommending approval of the proposed site plan.

Mr. Bud Schroeder, Schroeder Tennis Center, came forward along with Dana Shoup of Bon Builders, 4283 Old Springfield Road, Vandalia. Mr. Schroeder said the bubble has been up for 17 years and it is pretty

much worn out. There will be no additional courts. The back two courts will be covered and the other four will be outdoor courts, two of which were previously covered with the bubble. The current air bubble structure is the same distance from the side property line as the proposed structure. The structure would be about 150' north from where the bubble is now if looking from the front of the property.

Mrs. Wall asked for questions from the Board members. Mr. Lee questioned the variances. He thought the setback was almost negated on the east side. He asked for Mr. Vath's comment. Mrs. Wall added the Zoning Appeal Board approved that and this Board doesn't have those records so they cannot second-guess their reasoning. Mr. Lee said he was not appealing what they said but it is a concern that as a Planning Board member that a setback would almost be eliminated. Mr. Vath said he would reiterate that there was a public hearing, there was a variance process, and testimony and a decision was made by Board of Zoning Appeals. As with any BZA decision there is a 10-day period when an appeal can be made on those decisions. Since there were no appeals then that variance is in place. He added that as Mr. Schroeder stated the wall is going up where the existing edge of the tennis courts are located. Mr. Lee said what he has now is not a permanent structure. Mr. Vath said he did not disagree but the variances allow this to move forward for site plan approval. He said that was the best answer he had for Mr. Lee.

Mrs. Wall asked for further questions. Mr. Lee asked if we have negated setbacks in other areas in order to allow structures to be put up that close to the line. Mrs. Wall said previous to this Board she sat on the Board of Zoning Appeals. She believed similar cases were reviewed and approved but she could not give a specific example. Mrs. Wall added that this is an improvement to an existing facility. The tennis courts are not changing at all, just adding a wall. Mr. Shoup added that there is an existing retaining wall there presently. The building will not encroach any further to the east than is already there.

Mrs. Wall asked for further discussion. Mr. Rawlins asked if the variances were part of this Board's consideration. Mrs. Wall said whether the variance should have been granted is not but what is before this Board is approval of the site plan which includes the variances. Mr. Rawlins understands that there was a hearing, the approval and that there is an appeal period but if he disagrees with the variance, which he did, this is his only opportunity to address that. Mrs. Wall said the applicant went through the process available to him and he is not creating more than what is already there. The retaining wall and the courts have been there for 17 years. Mr. Lee said when the business was located there, there was a field beside it and he is pleased that Mr. Schroeder is growing his business. He said he is an adjacent property owner and his wife was sick and he was out of town the night of the BZA meeting so they were not at the hearing. The BZA made their decision but the Planning Board must consider setbacks and if we don't need them why have them. Mrs. Wall said she was not going to debate the Zoning Board decision but the basis is if there is a hardship on the property by not granting the variance. She said when she sat on the Board she thought there was a variance request for signage at this location and there were none of the businesses that are in that area now. With the development of that area, it has created a

hardship on that property to continue with improvements. Mr. Lee said he didn't understand the hardship aspect. He wants to expand his business. Mrs. Wall said he is just enclosing what is already there. Mr. Lee added that there is a big difference in an elevated flat surfaced area versus putting a 40' tall structure that is basically an elevated parking lot.

Mrs. Wall asked if anyone else had any comments on this item. Mr. Vath added that when the Schroeder Tennis Center was developed, the property to the east was zoned industrial, I-1. Since that point in time, it has been rezoned HS (Highway Service) District. If you look at Code §154.053(C)(2)(b), "each side and rear yard shall be equal to the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided." This refers to Industrial Zoned property. So when the property was rezoned from Industrial to Highway Service I believe the requirement kicked in for setbacks that were previously in place. Mr. Lee replied that if that was the case then the applicant could have come to the rezoning hearing and made that point. Mr. Vath said Mr. Lee rezoned his property, not Mr. Schroeder.

Mrs. Wall asked for a motion, there being no further discussion. Mr. Patry **moved to approve the site plan as presented**. Mrs. Wall seconded the motion. Motion passed 3-2, Ayes: Patry, Wall, and DeSantis; Nays: Lee and Rawlins

Public Hearing:
Tipp City Code of
Ordinances,
Chapters 154 & 155
+ Zoning Map
Revisions

Mrs. Wall stated there was a public meeting held jointly with City Council on January 27 to review these changes. This has been a lengthy process and many meetings have been held with staff and public input. Mr. Lee **moved to open the public hearing**. Mrs. DeSantis seconded the motion. Motion passed 5-0.

Mr. Vath said the City began a comprehensive update in 2011 for the Zoning Code, Subdivision Code, Zoning Map, and Restoration District Guidelines. The City contracted with Wendy Moeller of Compass Point Planning who has facilitated the process. The City Council appointed a 10 member steering committee comprised of residents, developers, and representatives from the different Boards. There was much input from business and private persons regarding revisions to the code and the zoning map. On January 27, 2014 there was a joint meeting with City Council and Planning Board to review the revisions and make further comments.

Mr. Vath highlighted some of the changes:
Site Plan Review- In an effort to speed up the smaller site plan review, this Code does allow Staff to make decisions. If Staff has concerns they can come to Planning Board. Larger sites will be reviewed by Planning Board.

Certificate of Appropriateness- The new code allows for a staff level review for some COA applications where there is minimal proposed changes. All applications for new construction, additions, demolitions, moving of structures, or other major changes will still be reviewed by the Restoration Board.

Administrative Waiver Review- The Code adds a process that will allow staff to approve some very small waivers (up to 10%) of basic dimensional standards (setbacks, building height, sign area), rather

than going to the Board of Appeals.

Alternative Equivalent Compliance- This is something new that allows applicants to propose unique approaches to meeting or exceeding the intent of a certain requirement having to meet them at face value. This is because construction methods are always changing.

Appeals- The appeals section was completely rewritten so that the BZA is the Board that will hear all administrative appeals. From this point they will go onto the Court of Common Pleas.

Zoning District Structure- There are several zoning district changes. There were originally approximately 26 zoning districts and that has been reduced to 18.

Planned Development- There have been several Planned Developments under this zoning process. After much discussion the steering committee recommended the elimination of the Planned Developments. The existing ones will remain and there will be no new planned developments for properties that have not started the plan process.

Principal Uses- The principal use list has been reviewed and modernized. A table shows a use and then where that use is allowed in which zoning districts. It is much more user friendly.

Signs- Nothing substantial since major changes were made in 2013.

Mr. Vath continued with the Subdivision Code:

Thoroughfare Plan – The terms and language related to streets and right-of-ways were updated to match existing wording of the city's thoroughfare plan.

Minor Subdivisions – Minor subdivisions will be reviewed by staff (City Engineer and City Planner) rather than the Planning Board.

Park and Recreation Fees- They will remain the same as they were in previous versions of the code.

Zoning Map Changes- The total number of districts have been reduced from 26-18 which includes the elimination of redundancies and unused districts.

He turned the discussion over to Wendy Moeller of Compass Point Planning.

Ms. Moeller came forward. She said one point about the districts, a couple of districts were not even mapped or there might have been one property in the district. There were two industrial districts that almost identical and those were consolidated. There were some fine tunings to the map, essentially cleaning it up.

She said there some items for discussion after the reviews:

- 1) §154.10(C)(1)(d)- need to eliminate; it is redundant with the next section – refers to off-street parking for multi-tenant buildings
- 2) The definition of Light Manufacturing- to add that the light manufacturing would be done within a fully enclosed structure.
- 3) §155.03(B)(4)- the effect of pre-application meetings. This would be for feedback with an applicant and anything said to applicant is not binding on the City. The City's attorney has provided additional language on that matter.
- 4) The Sod issue in the right-of-way prior to the issuance of a Certificate of Occupancy for new construction. The 1' behind the sidewalk is the issue with the developers. One suggestion was to recommend sod within the tree lawn but the use of silt

fence and other appropriate sediment control has to be placed before an Occupancy Permit is issued.

Mrs. Wall said she also understands that there are EPA requirements that come into play. Ms. Moeller agreed with that. Mr. Vath said the four items mentioned by Ms. Moeller, if the Planning Board is so inclined, the Board could move to send the code revisions to City Council and recommend they look at those issues at their level.

Mrs. Wall asked for further comments from the audience. Mr. Rick Mosier, 3591 Ginghamburg Road, Tipp City, came forward and was sworn in for testimony. He said the sod behind the sidewalk is something the homeowners do not want. It creates a bump and appears different from a lawn that might be hydro-seeded later. The curb lawn will handle dirt that comes from the yard and will not reach the street. The silt fence is not the answer either. Mr. Vath said there has to be some sort of erosion control and the silt fence is one alternative for EPA standards. Mr. Mosier said he has heard from many of his clients that they do not want the bump and different grass. Mr. Lee asked about the cost of silt fence. Mr. Mosier said it would be more costly and he did not think it was a good idea either. Mr. Lee said he understood not wanting two types of grass. Mr. Mosier said the curb lawn will keep run-off out of the storm sewer. Mr. Vath said the option was another type of erosion control to protect the right-of-way. Mr. Mosier said that when he has built in Union and other communities, the property line is at the back of the sidewalk.

Mr. Mosier said the Contractors Maintenance Bond is held until completion. Mr. Vath said that was correct until the sod has been laid and other requirements are completed. Mr. Mosier said he thought it was interesting that the City hydroseeded its projects along the streets and the contractors have to use sod. Mr. Vath said he wasn't sure that was correct and he would need to check with the City Engineer. Irrigation systems were installed on Main Street so he felt sod was used. Mrs. Wall said she understood the point and asked for the next comment.

Mr. Mike McFarland, said he had been a member of the steering committee and he still had concerns regarding the size of off-street parking spaces. They were formerly 10' x 20'. The proposed measurement is 9.5' x 18'. The thought is that cars are getting smaller. Mr. McFarland does not find that to be true. He owns an extended-cab pickup or if a crew-cab pickup with a short bed, they are 16-16.5' long. It is not possible to parallel park in an 18' space. He thinks that would be discrimination downtown, new shopping areas, and new businesses. Mr. Vath said the recommendation is for private parking spaces and the recommendation came out of the steering committee. Mr. Lee asked if that affected the downtown street parking. Mr. Vath said it did not. Mr. McFarland said the downtown spaces are not 10' x 20'. Mr. Vath said he did not have the plans in front of him and could not address that issue. Ms. Moeller said the on-street parking is not regulated by this Zoning Code. It is a minimum private parking standard and many communities are using 9' x 18'. This is just a minimum and if someone wants wishes to add larger spaces for some of their customers, then they could do so. Mr. Lee said there is no enforcement of parking in private lots. He could take up two spots. Mrs. Wall said there is validity

in that the property owner, such as Menard's, is going to cater to their customer base. They would not want to eliminate customers due to them not being able to get into the store. Mr. McFarland said he was still not in favor and wished to express his opinion. Mrs. Wall said it was important to remember that this is for private parking.

Mrs. Wall asked for further comments. There were none and she called for a motion to close the public hearing. Mr. Lee **moved to close the public** hearing. Mrs. DeSantis seconded the motion. Motion passed 5-0.

Mrs. Wall said she would like to see a motion to move this to City Council for their review. This is not an overnight draft. There has been a lot of input, a lot of input from many sources. She would like Council to consider the four changes mentioned earlier. The sod requirement is legitimate concern but an option has been offered. This needs to be looked at and also consider the EPA requirements.

Mr. Rawlins raised a concern of reducing Planning Board's role in site plan review including some cases that were presented this evening for approval. He still thinks the process is still a good one as it stands today. He thinks the more people involved is a good thing. To expedite an application is not a valid reason. There are opportunities for this Board to meet as much as needed. Mr. Rawlins asked if there was another opportunity to revisit that part of the code as he did disagree with it. Mr. Lee asked Ms. Moeller about the section of code Mr. Rawlins was referring to. How much modification was done to that section regarding the Planning Board's role on site plan review. Ms. Moeller said that all site plan reviews come before the Planning Board now and the change is for smaller sites up to 50,000 sq. ft. can be reviewed by the staff. Staff always has the ability to have Planning Board make that review. Part of this is to see how this works and there is always the possibility that after a year then there could be changes in the code. There would only be two places that the wording would have to be changed. Mrs. Wall said this does not take complex matters out of the Board's hands for example, a public hearing to replat two lots. That is something that could have been done easier than having one meeting to say we are setting the public hearing and then have another meeting 30 days later. It was a pretty simple matter where the applicant would not have to wait. Ms. Moeller said the discussion had been from a number of different people and most of the complaints were the number of meetings an applicant had to attend. Another goal was to try and clarify the standards and to be as clear and predictable as possible that this is our expectation and so instead of vague discretionary language, there is a defined list of standards. When there is new idea about how to do buffering or landscaping that has never been done before then the Board would review that.

Mr. Patry asked for the code section regarding staff giving consideration as to what is significant or substantial for the Restoration Board. Ms. Moeller said §154.03(E) is the section that he wanted. If one is changing out the type of window with another then the Restoration Board would review that. If it is just changing out the window, same size, same material then the Zoning Administrator would have the authority to review that. Mr. Patry said back to the site plan review, where is the definition of major changes. Ms. Moeller referred to page

28, §154.03(F)(2)(c).

Mr. Lee said when Mrs. Newsome was before the Board, it involved a residential property, that became a business and then another business came to the location and the only issue he has was with the parking. In his opinion that should have come before the Board. Ms. Moeller said she was not familiar with the issue and would not be able to comment on how the new code would have affected that.

Mr. Rawlins said it might be possible that the Zoning Administrator might hold up a decision without it being codified. Mrs. Wall said that would probably not be likely, the point of stream-lining the process is so it does not take longer and the Zoning Administrator must also answer to a boss. If he is not doing his job it will be known. She said she understands the position of having transparency and having public meetings, but Legal Counsel did review all of the changes. She said after reading §154.03(F)(2)(c), it appears that most applications will still come before the Board for review. Ms. Moeller said if an applicant wishes to do all requirements except for possibly one, then it may require a variance and there might be Planning Board review or it may go to the Board of Zoning Appeals. If all the standards are met and it is a smaller building (less than 50,000 sq. ft.) then the Zoning Administrator could approve it.

Mrs. Wall asked for further discussion. She asked for a motion for a recommendation to Council. Mrs. DeSantis **moved to recommend these changes to City Council for their review**. Mrs. Wall seconded the motion. Motion passed 3-2 Ayes: DeSantis, Wall, and Patry; Nays: Rawlins and Lee. Mrs. Wall said any were invited to express their opinions in the public meetings held by Council.

Old Business

There was no Old Business to discuss.

Miscellaneous

City Council Reports:
December 16 &
January 6

City Council reports: January 21-Mr. Rawlins said there was the introduction of an ordinance for the improvements on W. Dow Street and some discussion on the Operating Budget

February 3- Mr. Lee reported a resolution to hire the design firm for the new Electric Service Center, the Dow Street project ordinance passed, and the appointment of Mr. Patry to the Planning Board.

Board Member comments

Mr. Rawlins welcomed Mr. Patry to the Board. He thanked and acknowledged Mr. Brownlee's contribution to this Board and certainly wished him well in the future.

Mr. Patry said he looked forward to working with all of the Board.

Mrs. Wall also welcomed him and thanked Mr. Brownlee for his service.

Adjournment

There being no further comments or business, Mr. Lee **moved the meeting be adjourned**. Mr. Rawlins seconded the motion. Mrs. Wall declared the meeting adjourned at 8:57 pm.

Stacy Wall, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary