

SEVILLE ZONING & PLANNING COMMISSION

SEPTEMBER 21, 2009

Chairman Dennis Gordon called the meeting to order at 7:30 p.m. after The Pledge of Allegiance was recited.

PRESENT: Rich Demastes, Pete Fontana, Mayor Larry Landis, Mayors Office Manager Nancy Leonard, Zoning Inspector Keki Vania, and Solicitor Ted Lesiak.

ABSENT: Ralph Smith

COUNCIL MEMBERS IN ATTENDANCE: Richard Barbera, Sue Frey, Bonnie Gordon, Courtney Harlan, and James Lovejoy

Demastes made a motion to approve the August 24, 2009 minutes as written. Fontana seconded and the motion passed with aye votes by all.

ZONING INSPECTOR'S REPORT:

Permit number 1173 was issued to Brandon & Danielle Pankuch for a new home at 5017 Mandarin Drive.

Permit number 1178 was issued to Sue & Barry Frey for an accessory building at 120 West Main Street.

Permit number 1180 was issued to Frank Hegarty for a storage shed at 4929 Mandarin Drive.

Permit number 1181 was issued to Charles Santee for a sign at Tonio's Pizza at 5 West Main Street.

A letter was sent to Irene & Jack Jones on August 10th regarding mowing. A second letter was sent on September 8, 2009 for trash at the residence. The Medina County Health Department was copied on the trash complaint and they have sent Jones a letter asking them to treat the soil by October 5, 2009.

Several other letters were sent to residents for tall grass. The property owner's have complied. Ron Giauque was sent a letter for unlicensed vehicles and Jason Sulzener has asked to install a temporary sign on Route 3.

NEW BUSINESS:

Gordon asked Solicitor Lesiak to address the Sulzener sign. Lesiak said the sign is on the Easton property that is in the local commercial zoning district. It is not permitted as a temporary sign. A permanent sign permit can be requested, but the sign can't exceed 32 square feet. Lesiak said the High Street business is not a home based business since it isn't completely within the home. Unless the business existed prior to the establishment of the code it is in violation. If that is the case, it would be a non conforming use. Property owner Gene Sulzener and his son Jason were in attendance. Jason said he is the

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sole owner of the business. He put up the sign during the 2008 season and didn't have any problems. He put the sign up this year without asking for permission and spoke to the Zoning Inspector who advised him to attend tonight's meeting to address the issue. He said it is an agricultural business and the property has always been a farm. He was unaware of any violations, and offered to address any issues. Lesiak said generally the village can limit agricultural uses within the village limits. Since Sulzener is in a residential district the business may be in violation of the code. Lesiak said he will look into the issue further to see whether the business is a nonconforming use. Jason said he has advertised more this year than in previous years, but he has run a business there for six years.

Resident Kathy Rhoads was in attendance and said she remembers it being grandfathered from when she served on Village Council. Lesiak said this may be the case, and he can investigate it further. Jason said he is asking to obtain a permit to keep the sign. Lesiak advised him to apply for a permanent sign permit. He said he understood that he was allowed to have a six by six foot sign. Gene Sulzener referred to Section 711 and said it is allowed as a billboard.

RON GIAUQUE UNLICENSED VEHICLES:

Lesiak said Section 405.06 of the zoning code states that vehicles that don't have valid license plates and/or aren't operational can't be stored on property for more than 72 hours. The business is located in the local commercial zoning district and all services performed and car repairs should be done within the building. The State of Ohio junk motor vehicle code requires a vehicle that is over three years old, extensively damaged and having a market value of less than \$1,500 to be removed. The junk vehicle code is enforced by the police department. He said based on the information received, he believes that the vehicles are in violation.

Ron Giauque said he has had a garage at the Spring Street address since 1947. He asked when the zoning code was implemented. Gordon said the code was adopted in 1990. Giauque said he was never notified until now that he can't have an unlicensed vehicle on the property. He said you don't need a license plate unless you take the vehicle on the road and questioned how he can get the vehicles e-checked if they don't run. Lesiak said if they don't run they may be in violation of state code, as well.

Scott from Kurt's Auto Parts said Giauque has been a customer of theirs for more than sixty years, and he questioned why this is a problem now. He asked why we are giving Giauque a hard time. Fontana said the board is responding to a complaint. Scott asked who complained. Gordon said "I believe it was the Carter's." Giauque said they aren't neighbors and asked if people that get mad at other people can just complain about them. Gordon said, that's correct. Giauque said he is being forced out of business. Gordon said he has a 72 hour period to have a vehicle outside. He said the board is required to investigate complaints that are filed, and there have been numerous changes to the zoning code over the years. Giauque said everything is for sale; Come and get it.

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Scott asked if we can educate the complainant about how the automotive industry runs. Giaque said the only reason Carter's complained is because they have a motor home that got complained about. Gordon said we aren't going to discuss that.

Stan Scheetz asked why the business wouldn't be grandfathered. Gordon asked how the parking of junk cars can be grandfathered. Scheetz said it is a non conforming use, but he doesn't represent Ron Giaque.

Fontana asked Giaque if any of the vehicles on the lot are "junk." Giaque said they are of value, and he can take them to the Creston auto dealer and get \$63 per ton for them. He said they are all repairable.

Bill Carter said he filed the complaints, and Giaque wasn't the only one he complained about. He said he did it to show that the enforcement of the zoning is selective. He took 49 photos and turned in 49 people. He said he isn't ashamed of it or proud of it, but "these people up there" selectively enforced the zoning against him. He said he has dealt with "these people" since last October, and this wasn't his last resort, but is one of them.

Giaque asked why he is taking it out on everyone else, and said Carter should get a lawyer and deal with it. Carter said he doesn't want to spend money, but was trying to get the board to revisit the issue. Giaque said "you have 49 people pissed off at you." Carter said he has had a lot more than that mad at him before. He said he hoped everyone would get together and come up here. He said if he is being blamed for cleaning up the town then "by God" he should get some money because nothing was cleaned up until he complained.

KENT PHILLIPS EXCAVATING:

Phillips wants to purchase the Greenwich Road property where Level Propane is located. Gordon said the property is zoned industrial, and Phillips wants to use the property for storage of equipment. Phillips said he has outgrown the storage area at his Ryan Road business. The fenced in property at Greenwich would give him additional storage. Fontana said the previous owner didn't maintain the property, and new sidewalks would need to be installed. Phillips said he would submit a site plan that includes sidewalks if he decides to place a building on it in the future. He said he isn't constructing anything now, and it isn't a good time to install a sidewalk. He also pointed out that the sidewalk doesn't go anywhere. He said he wouldn't have a problem tying it in when the village brings the trails through the area in the future. Fontana asked Phillips what his time frame is. Phillips said, next week. Gordon asked if there is an asphalt pad. Phillips said there is an asphalt entrance. He said he will replace the trees in front that have died, but he doesn't want to install a sidewalk at this time. Gordon asked if he would consider agreeing to a time frame for sidewalk installation. Phillips said he isn't trying to improve the property at this time other than mowing and maintaining it, and once he decides what type of building he wants, he will commit to installing sidewalks. He said if a sidewalk is

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installed on an adjoining property before he applies to construct a building, he would be willing to install a sidewalk at that time.

Council member Bonnie Gordon said the next phase of the trail project will extend to Greenwich Road and run along the front of the former Level Propane property, and she questioned whether sidewalks should be installed there. Fontana said commission members want to make sure sidewalks are installed. Phillips reiterated that once he submits a site plan for a building, he will include sidewalk plans. Lesiak said sidewalks are required per our sidewalk ordinance but the village can always exempt a property based on the future location of the trail.

Giauque asked if his business is grandfathered. Gordon said he can't answer at this time, but it will be checked into. Fontana asked if Giauque has any documentation. Giauque said it is on record. Lesiak said the business is legal and doesn't need to be grandfathered. Lesiak said he has to look at issues regarding the vehicles. The repair shop is a legal use. The question is whether the parking of the unlicensed vehicles outside can be regulated by the village. Mrs. Giauque asked if a fence can be installed. Gordon said that may be an option.

OLD BUSINESS:

Scheetz referred to ordinance 2008-76 that amends the zoning code to allow outdoor storage in the side or rear yard in the local commercial zoning district with appropriate screening. He said another ordinance was passed at the same time to allow side and rear storage in the industrial district. Gordon said if he can hold that thought, we will discuss Weaver Storage.

Scheetz said that is his 2nd question because he was told by Mayor Landis and Ted Lesiak that if there is no building on the property there can be no side or rear storage. Lesiak said that is not correct, and maybe Scheetz didn't understand his letter. He said side and rear storage is allowed in industrial and commercial zoning districts. For instance, in Giauque's case there may be a way for Giauque to find a way to store the vehicles on his property without storing them in a building. As it stands right now, Giauque is in violation since there is no screening and they aren't stored in any specific place on the lot.

Weaver was given until December 31, 2009 to present plans for the lot. The conditions set two years ago were for him to construct a building and pave the lot in order to be allowed to continue the outdoor storage. Section 606.02 is a general code that applies but Section 905 is specific to the storage unit business. Section 905 states that outdoor storage can be in the rear of the lot with proper screening, but doesn't allow side storage. He said 905 apply since it is more specific to the storage business. Scheetz said he doesn't agree, but he understands. Lesiak said a building doesn't have to be constructed on the vacant lot, but the storage on the rear of the lot has to be properly screened. As it stands now, without the commission granting additional time for the outdoor storage, the

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vacant lot needs to be paved and screened. Weaver needs to submit a site plan for that. Section 905 trumps Section 606.02. Scheetz said he will not be representing Weaver, and will advise him to contact a trial attorney. He said he already provided Weaver with Lesiak's opinion letter.

Bill Carter said Camelot isn't being enforced and the Giauque property was used for parking during the Giant Festival. He said the village isn't following its own rules because lots are supposed to be paved. Scott said he doesn't want to see Giauque's business shut down.

Mrs. Giauque asked what is considered screening. Gordon said it could be natural screening such as shrubs or a fence that can't be seen through.

Scheetz said he had a conversation with Mayor Landis and was advised that local commercial zoning doesn't allow parking lots on a separate lot without a building being placed on it. Landis said he didn't tell him that. Landis said Scheetz asked whether a parking lot could be installed on a lot next to the hotel, and he told him yes.

Paula Gordon asked whether Kent Phillips will be given an answer tonight regarding his request. Chairman Gordon said Phillips can purchase the property and begin using it for storage. Phillips said that was his understanding and the sidewalk issue will be figured out when he gets ready to construct a building.

83 WEST MAIN STREET:

Lesiak said the Zoning Inspector sent a letter on September 8th asking the property owner to comply with the nuisance issue by removing the cat cages and trash in the back yard. Once again, the owner will be given 30 days to comply before being cited into court. They also received a letter on August 10th regarding the weeds on the property. He said state code doesn't allow a home to be condemned due to the conditions in the yard. They have to consider whether the structure is insecure or unsafe for that to be pursued. What the Medina County Health Department and the Zoning Inspector are doing is what we have available to us.

Gordon said Lesiak is saying that we are reaching the end of our abilities to deal with it beyond what we are already doing. Lesiak agreed, but said Judge McIlvaine has been successful working with property owners to gain compliance. If we continue citing them it will begin costing the property owner quite a bit of money. Fontana said in this case the property owner isn't in a financial position to pay it, and the adjoining property owners shouldn't have to live next to it.

Lesiak said the adjoining property owner can take Jones to court at their personal expense and have the nuisance abated. Lovejoy questioned why the village can't pursue it. Lesiak said the village is doing all it can.

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David Johnson was in attendance and said he spoke to Mr. Schoeni at the Medina County Health Department and was advised that the town needs an ordinance to allow the health department to enforce the rules. Demastes said he believes that the health department operates under its own rules. Johnson said he would like to see everyone here live next to three cages of cat poop that need to be cleaned up. Lesiak offered to check with Mr. Schoeni. Commission members agreed. Johnson said his wife has seen rats in the area, and he thinks the village needs to be responsible for making the property owner clean it up.

Lesiak said we are citing the property owner into court and we can enforce the law that we have. Judge McIllvaine is fairly successful with getting property cleaned up. Johnson said it has been a year now, and his original complaint was four years ago. Lesiak said his only other suggestion is for the Village of Seville to knock on the property owner's door and offer to clean it up. Scott offered to help. Johnson said the property owner should be responsible for it.

PRIVILEGE OF THE FLOOR:

Council member Sue Frey asked whether tractor trailer signs are permitted within the code. She said her husband was zoning inspector in the past, and there have been complaints about them several times. Lesiak said he has been asked this question before, and he knows that Zoning Inspector Keki Vania inspected the trailers in the past. Lesiak said if they are tool sheds being used on a construction project on the site, they are allowed. Gordon said the question is whether they are allowed if there isn't any construction on the property. Lesiak said in that case, it would be considered a sign, and would not be allowed. Charles Marshall was present and said whether there is construction there or not, it is still a tool shed. Gordon said complaints have been received over the years, and Marshall can understand why it creates an issue for the commission since residents consider them signs. Marshall said he thinks that is quite a stretch and Sulzener's situation is different because he is conducting a business within a residential zoning district. Marshall asked whether agriculture involves growing the product on site or importing it in. Gene Sulzener said Section 708 C of the zoning code doesn't allow parked vehicles or trailers for the purpose of advertising. He said the three trailers are there for the sole purpose of advertising.

Kathy Rhoads asked whether the zoning commission issues paperwork when something is grandfathered. The commission doesn't. Lesiak explained that if the non conforming use discontinues for a period of two years the use expires. He said he will do further inquiry before issuing an opinion regarding Sulzener and Giaouque.

Jason Sulzener said this is his first zoning meeting and he doesn't care for the politics. He said he has had several encounters with Zoning Inspector Keki Vania and Vania has always communicated with him when there are any issues. He said the issue that he has with Marshall, Carters, and Giaouque is that business owners feel that they are being attacked. He believes in working together and encouraging business within the

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community instead of pointing fingers at each other. All businesses, even his small one are contributing to the village. He said he believes that Fontana should treat people with a little more respect. Fontana agreed, but said we have to go by the rules. He said we have people that file complaints and we have to act on them. Demastes said the commission has spent hours and hours creating the rules and goes out of their way to accommodate businesses. Jason said he should have asked for his sign prior to installing it and he reiterated that everyone needs to work together. Gordon thanked him for his comments.

Giauque said in the old days someone would have stopped and talked to him. He doesn't appreciate receiving the 30 day warning letter by certified mail. Gordon thanked him for his input.

Richard Barbara asked when the deadline is to apply to serve on the Board of Zoning Appeals. Leonard told him she didn't put a deadline to apply and the position is being advertised in the Medina County Gazette. Barbera said there is an old saying that if you aren't part of the solution, you are part of the problem. He invited attendees to volunteer to serve on the board. Landis said it is an important position that involves hearing variances when residents need an exception to the zoning code rules.

Gordon thanked everyone for attending and said it is important for everyone to have a voice in the democratic process. Fontana made a motion to adjourn. Gordon seconded, and the meeting adjourned at 8:47 p.m.

Chairman Dennis Gordon

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