

BEREA MUNICIPAL PLANNING COMMISSION
NOVEMBER 6, 2008

The Berea Municipal Planning Commission met on November 6, 2008 and was called to order by Mr. Madzy. Present: Borowski, Draves, Madzy, Sawyer. Absent: Fay, Rump.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea.

Moved by Draves, seconded by Borowski to approve the minutes from the June 5, 2008; June 19, 2008; July 17, 2008; and the August 7, 2008 meetings. Vote on motion was all ayes; no nays. The above minutes were approved.

Witnesses were sworn in by Mr. Madzy.

Mr. Madzy advised all applicants that in order for Planning Commission to have a quorum, four members must be present. There are four members present this evening, however, in order for an application to be approved, all four members must vote in the affirmative. If any applicant would like to table their application until the next meeting in order to allow more members to be present, they could do so at this time. All applicants agreed to move forward this evening.

REQUESTS FOR VARIANCES/APPEALS:

Application#08-11-01

**Approval of Side Setback Variance for a Garage
Mary Beth Golinski – 149 Wellington Street**

Mr. Madzy read the Administrative Review. He reported that there is an additional variance for the height of the garage which was not advertised for tonight's meeting. Due to this oversight, the height variance will be heard at the next meeting on November 20, 2008 to allow proper public notification. The Commission will go forward with the side setback variance this evening.

The owner, Mary Beth Golinski, was present this evening. In response to Mrs. Draves, Ms. Golinski stated that the existing shed will be removed and the new garage built in the same location. Mr. Sawyer inquired about the garage being 18 feet high and Ms. Golinski explained that she does not intend on using the garage for living quarters. She will be using the new garage for storage only. Her house is a small bungalow and she would like to change the

house's attic into living quarters in the future. This is why she will need additional storage. Mrs. Draves asked about the materials and colors that would be used for the new garage and Ms. Golinski said the garage will match the house. Mr. Madzy clarified that there will be approximately 8 feet between the new garage and the neighbor's garage. Ms. Golinski reported that she has talked to her neighbors at 440 Berea Street and they have no problem with the new garage being this close to their property.

Mr. Sawyer asked about moving the garage over, closer to the existing tree and Ms. Golinski indicated that she did not want to damage this very old maple tree and the builder has recommended that they do not build the garage any closer to the tree in fear of killing the tree. Another reason she does not want to move the garage further off of the property line is because the driveway and garage are in alignment in this location. Discussion ensued regarding the poor condition of the existing shed.

Moved by Draves, seconded by Sawyer to approve the 3', 6" side setback variance for the new garage, as submitted. Vote on motion was ayes: Borowski, Draves, Madzy, Sawyer. Nays: None. The motion carried.

Application#08-11-02

Approval of Variances to Build Convenience Store Toreq A. Allan (Sunoco) – 871 North Rocky River Drive

Mr. Madzy read the Administrative Review.

The owner, Toreq A. Allan, and the agent, Kevin Morand, were present this evening. Mr. Morand distributed photographs of the property and displayed the proposed site plan. He explained that they would like to raze the existing building and replace it with a larger building. The irregular shape of the parcel causes a very limited buildable area on this lot as well as limited parking. They are requesting a 5' setback variance along the western property line and the northerly setbacks comply with the 20' setback requirement per the City's Zoning Code. The site slopes towards the back of the property with an existing wood fence along the property line with a parking lot for the adjacent nursing home on the other side of the fence. To take advantage of the rear slope, the new building will have a partial basement which will house the mechanical equipment.

Mr. Madzy inquired about the existing fence along the west side of the property. Mr. Morand indicated that this fence will be replaced with a 6-foot high board-on-board fence. He referred everyone to the photographs which show Mr. Allan's remodeled store located on Pearl Road in Middleburg Heights. Discussion ensued regarding the zoning code regarding outside displays and

Mr. Madzy clarified that in a General (G) Zoning District, outside displays are permitted.

Mr. Morand pointed out the similarities between the store in Middleburg Heights and the Berea store. Both are corner, irregularly shaped lots. In response to Mr. Madzy, Mr. Morand stated that the materials they use will match the store in Middleburg Heights. Mr. Sawyer asked if additional parking can be added and Mr. Morand said there is not enough room. Discussion ensued regarding parking and it was decided that one employee parking space could be added near the dumpster area. Mr. Sawyer raised safety concerns regarding the proposed diagonal parking spaces. Mr. Morand replied that they could install wheel stops to limit the overhang of the vehicles.

Mr. Madzy asked if they would install a brick dumpster with wooden doors on the front and Mr. Allan stated yes. Mr. Allan said he would also look into adding landscaping in front of the parking spaces along the curb area.

Moved by Draves, seconded by Borowski to approve the 20-foot side yard setback variance, as submitted. Vote on motion was ayes: Draves, Madzy, Sawyer, Borowski. Nays: None. The motion carried.

Moved by Draves, seconded by Borowski to approve the 5-foot variance for two parking spaces with the condition that wheel stops be placed in the three diagonal parking spaces in front of the building. Vote on motion was ayes: Sawyer, Borowski, Draves, Madzy. Nays: None. The motion carried.

Moved by Draves, seconded by Borowski to approve a four parking space variance (instead of the proposed five spaces) and will add one extra parking space next to #5 on the plan near the existing light pole and trash enclosure. Vote on motion was ayes: Borowski, Draves, Madzy, Sawyer. Nays: None. The motion carried.

Moved by Draves, seconded by Borowski to approve the permit to raze the existing building and to approve the proposed site plan for a new convenience store, with the following conditions: 1. Brick dumpster with wooden doors be built to replace existing chain link trash enclosure; 2. Landscaping be installed along the south side of the lot between the parking area and property line; 3. All signage to be placed inside store (no outdoor signage). Vote on motion was ayes: Draves, Madzy, Sawyer, Borowski. Nays: None. The motion carried.

Application#08-11-03**Appeal of a Decision of the Directors of Public Safety & Service to not Allow More than Three Unrelated Tenants Reside in a Leased Dwelling and Variance to Allow Five Unrelated Persons
61 Properties, LLC – 61 Adalbert Street**

Mr. Madzy read the Administrative Review. The agents, Tony Matusicky and Mike Kozar, were present this evening. Mrs. Draves raised concerns regarding the age of the house and whether or not it could safely house five unrelated persons (i.e. electrical and plumbing being adequate). Mr. Kozar explained that they will be upgrading the electrical and plumbing and this house currently has two full bathrooms, two electrical boxes, two furnaces and two hot water tanks. Mr. Matusicky explained this has been a two-family home for many years but they will be converting it back to a single-family house. He discussed the improvements they are making to this house. They are putting on a new roof, all new windows, glass block windows, and they will be requesting an update/increase of the electrical power into the house. They want to maintain two furnaces and two hot water tanks but are unsure if the electric and gas companies will allow them to do this.

Mr. Matusicky reported that they are requesting that they be allowed to rent this house to five college students. They plan to charge each student \$200 to \$250 a month for rent. They are only the second owners of this house and with the improvements they are making, the exterior of the house will look better. In response, Mrs. Draves stated that she did not believe that five college students would maintain the integrity of a 104 year-old house. She said this house was within walking distance of the college so more people will congregate there. She emphasized that she has grave concerns regarding this.

Mr. Matusicky explained that they will install additional electrical outlets if needed and they were willing to do whatever else the Building Department would require them to do. Mr. Sawyer indicated that there is a historical pattern when more than three college students live in a dwelling. There is no discipline or respect for the neighborhood. If five students are allowed to live there, historically eight or nine will end up living there. In response to Mr. Sawyer, Mr. Matusicky stated the way the code is now, he could rent it to three unrelated tenants and still have problems. He did not feel there would be any difference if three or five are allowed to live here. He emphasized that he owns other rental properties in Berea and he holds his tenants accountable. He would be willing to write into the lease that any incident reported to the police by the neighbors of urination or disrespect is a breach of the lease and would result in being expelled from the housing. He stated that he was willing to cooperate with the City and Baldwin Wallace College with whatever they would require.

Mr. Matusicky reported that he lives at 204 Kempton Drive and the house next door to him is currently a college rental and there have been no problems. He noted that he would maintain this property and would insist that all of his tenants follow his rules and regulations. In response, Mrs. Draves said the code allows for no more than three unrelated tenants and when you have more than three unrelated, you have issues. Mr. Sawyer agreed and said these situations just do not work.

Mr. Matusicky pointed out that Baldwin Wallace College is planning a large addition to connect one of their buildings to the First Congressional Church on Seminary Street and they are requesting a variance for more than 100 parking spaces. Mr. Madzy replied that this renovation project is not comparable to his rental property because this is in a residential neighborhood unlike the college which is mostly in a commercial area. Mr. Matusicky indicated that there is a church and a funeral home on Adalbert Street, there are several rental properties on Daisy Street and the houses on each side of 61 Adalbert Street are vacant. In response, Mr. Madzy reported that Adalbert Street is dominant prevailing residential.

Benny Meadows of 97 Adalbert Street said he has been in the neighborhood for the past 20 years and the last thing he wants to see is another college house in the neighborhood. He has children and there are a lot of children in this neighborhood. He also believed that if you allow five college students to live in a house, there will end up being 20 college students living in the house.

Wendy Allison of 310 Daisy Street pointed out that she has been before the Planning Commission before regarding college rental properties. She reported that a few years ago Cyril Kleem and a group of concerned residents dealt with the college rental issue. She discussed the ordinance that was passed regarding rental properties. Ms. Allison displayed photographs of a house on Daisy Street that is being rented by three unrelated tenants. The yard is neglected and there is a bad parking situation. She emphasized that even with a leasing ordinance in place, there are still problems with rental properties. She explained that parking is very limited on Daisy and Adalbert Streets and she urged the Planning Commission to deny this request for five unrelated tenants. She reported that she has been renovating her house and has become very frustrated with homes around her turning into a profit zone for investors. She pleaded that Planning Commission keep saying no to these special requests/appeals.

Tom Boski who works as a maintenance man at St. Adalbert Church & School stated that he has issues with college kids using the church parking lot. He pointed out that they park their cars in front of the church and act like they own the place. He raised concerns regarding 61 Adalbert Street being right across the street from a church, school and funeral home. He informed everyone that he will begin having unauthorized vehicles towed from the church parking lot.

Frank Falat of 336 Daisy Street agreed with everyone else. He discussed problems he has encountered with nearby college rentals. He reported that he owns a multi-family property at 429 Front Street which has 15 rental units. He believed that all rental properties should have to follow the same rules that he has to for his multi-family property and he discussed the strict inspection he must undergo on an annual basis. Mr. Falat emphasized that all rental properties should have to follow commercial standards and he reported that other landlords laugh at him because they make more money from these college rental properties than he does with his multi-family property. He is tired of cleaning up his property due to the neighboring college rental properties. He said he was very upset because the college students are out of control. He did not feel the owners would be able to control the tenants. The college kids like to drink and he is very concerned about this being approved this evening.

Michael Assink of 303 Daisy Street reported that he moved here in 1995. There are currently eight rental properties on Daisy Street and there were only two when he moved in. He noted that there are a total of 19 houses on Daisy. He discussed problems he has encountered with the college rentals including loud noise complaints. He felt there should be a cap on how many rental properties are allowed on a street.

Moved by Draves, seconded by Sawyer to approve a variance to allow five unrelated tenants to live at 61 Adalbert Street, as submitted. Vote on motion was ayes: None. Nays: Sawyer, Borowski, Draves, Madzy. The motion did not carry and the variance was not approved.

Moved by Draves, seconded by Sawyer to uphold the decision made by the City's Director of Public Service and the Director of Public Safety Designee to allow no more than three unrelated tenants to live at 61 Adalbert Street. Vote on motion was ayes: Borowski, Draves, Madzy, Sawyer. Nays: None. The motion carried.

NEW BUSINESS – GENERAL PLANNING MATTERS: None

OLD BUSINESS:

**Application #08-09-09
Approval of Business Identification Sign
Famous Hair – 38 Park Drive**

Mr. Madzy read the Administrative Review. He reported that the Heritage Architectural Review Board (H.A.R.B.) approved this proposed sign at their meeting on October 23, 2008 and recommended that the Planning Commission approve this proposed sign, as submitted.

The agent, William Kelleher, was present this evening. Mr. Kelleher explained that they will be replacing the sign that fell off the wall and was destroyed during a bad storm a few months ago. The new sign is a little bit different than the original sign with a small star logo on it and the lettering is thinner. However, the sign colors and illumination will be the same.

Moved by Draves, seconded by Sawyer to approve the business identification sign, as submitted. Vote on motion was ayes: Sawyer, Borowski, Draves, Madzy. Nays: None. The motion carried.

OTHER BUSINESS: None.

ADJOURNMENT:

There being no further business to come before the Planning Commission, moved by Draves, seconded by Borowski to adjourn. Vote on motion was all ayes; no nays. The meeting was adjourned at 8:40 p.m.

(signed copy on file in the office of Secretary to Planning Commission)

Matthew Madzy, Chairman

(signed copy on file in the office of Secretary to Planning Commission)

Attest: _____

Carol A. Hubler, Secretary

CERTIFICATE OF COMPLIANCE

The meeting of the Municipal Planning Commission held this 6th day of November, 2008, has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

(signed copy on file in the office of Secretary to Planning Commission)

Carol A. Hubler, Secretary