



Village of Galena ZONING AND PLANNING COMMISSION

MINUTES OF THE MEETING OF AUGUST 21, 2013

The Zoning and Planning Commission of the Village of Galena met on Wednesday August 21, 2013 in the Council Chambers of the Village Hall at 109 Harrison Street, Galena, Ohio. Present were members; President Tom Hopper, Nancy Feole, Stan Swisher and Mark Brooks. Member Mike Bragalone was absent. Also present were Village Solicitor Ken Molnar, Zoning Clerk Sally Hopper, Zoning Inspector David LaValle and visitors Eddy & Karen Ambrose, D.J. Young, Jason Bove, Judy Reid, George Hasp, Connie Fitzpatrick, Joseph Mudd, Ben Noblet, Jerry Funston, John & Barbara McKinley, Dave Brehm, Heather Adams and Dave Adams (entered after hearing). The meeting was officially called to order at 7:04 PM.

Copies of the minutes from the meeting of July 17, 2013 had been distributed to all members by the Clerk. A motion to approve the minutes, as presented, was made by Nancy Feole, seconded by Stan Swisher and passed unanimously.

A hearing on the application of Edward Ambrose, DBA *Sambuca's Italian Greenhouse*, for a change in zoning district classification from Farm Residential (FR1) to Planned Commercial and Office District (PC) for 577 North Walnut Street, PIN numbers 41742003001000 and 41742003002000 had been continued on July 17 until this meeting.

Solicitor Ken Molnar advised the Commission on procedure. The court reporter swore in everyone wishing to testify. A motion to un-table the application and reopen the hearing was made by Mark Brooks, seconded by Nancy Feole, and passed 4-0, with one absent, in a roll call vote as follows:

Swisher – Yes Bragalone – Absent Hopper – Yes Brooks – Yes Feole – Yes

Attorney Mr. D.J. Young of the firm Firestone & Brehm, of Sunbury, spoke on behalf of the applicant. He made an opening statement concerning that Sambuca's is a family business, is not a get rich scheme and involves a lot of hard work and supports a lot of families. They compete against much larger competitors, like Lowe's, which have a much larger economy of scale. Businesses like Sambuca's compete by getting driver's attention. He explained the seasonal signage requirements and why they are different than a store like Lowe's. He explained that the Commission had an opportunity to put the business out of business and everyone out of a job. He went on to explain the unique conditions on this piece of property.

He explained that the Ohio Department of Transportation (ODOT) had an easement on the property but did not own any of the property. He stated that ODOT knew what his client was doing on the property but had not issued a written approval of what they are doing on the property because they have no procedure to do so. ODOT has taken no enforcement action against the business. He went on to explain what he feels are the roles of the Zoning Commission and ODOT in this matter.

In regards to the house, which has been converted to a retail showroom, Mr. Young explained that Dublin architect Peter Lenz is working with the State of Ohio Building Department to obtain approvals. They do not have an occupancy permit tonight but they do anticipate being able to obtain one.

He stated he felt that what seemed to have triggered this proceeding was making the business year round, which is not permitted in a Farm Residential district, and putting glass on the porch of the house. He disagrees with the zoning official with his finding on that issue but never the less is dealing with it in their approvals. He also stated that all the fences are outside of the right-of-way. He also explained how he felt that under Galena's Planned Commercial zoning district that the "sky is the limit" and urged the Commission to pass the application for a change in zoning from Farm Residential (FR1) to Planned Commercial (PC) after giving a long list of things the property could never be used for and the dangers of it becoming run-down if the Village "runs this business out of town".

There followed a discussion between Mr. Molnar, Mr. Young and the Commission to clarify and define all the exhibits in this case. Some items had been revised or deleted during the various application revisions turned in over time.

The audience was then invited to speak.

Mr. George Hasp of Centerburg spoke about his part time job at Sambuca's and what Sambuca's means to him. He also read a letter from Sharon Seiple of Heathermere Loop about how happy she is to have Sambuca's at this location.

Mr. John McKinley of Shagbark Trail spoke about how nice it is to not have to go to a big box store. He also does not feel the flags are a problem but are part of it being a landmark. "We are not big city folks and that needs to be considered". He is not an employee.

Ms. Connie Fitzpatrick, an employee, spoke about how great the Ambrose's are to work for and what the business means to her. She discussed the issues concerning the building and how the community is great. She also read a letter from Mr. Ted Becker of Heathermere about what a good part of the community Sambuca's is and the tax revenue that it brings to the Village.

Mr. Ben Noblt of Berkshire Rd., an employee, spoke on what Sambuca's means to him.

Mr. Jason Bove of Heathermere spoke of the convenience of Sambuca's and stated that the flags do not bother him. He feels the Village should be fostering a positive climate for local business.

Ms. Barb McKinley of Shagbark Trail told about what the business means to her and that it is a landmark.

Mr. Joseph Mudd of Sunbury, an employee, stated his part-time job is greatly needed. He feels the store is very convenient for the community and it would be a shame if the business had to close.

Ms. Judy Reida, of Patrick Rd., Sunbury, an employee, stated she couldn't imagine working anywhere else. It makes people happy and can't imagine why anyone would think about closing it. "It is ridiculous".

Karen Ambrose, the applicant's (Eddy Ambrose) wife, spoke. She talked about all this hurts her because of how hard Eddy works. She talks about how much money this is costing. She breaks down and must stop her testimony.

The public input session ends.

Village Zoning Inspector Dave LaValle gives an updated report on the application. He highlights things that have come up since the last meeting. The encroachment on some of the land owned by Arrowhead Lakes Golf, Inc. to the south by Sambuca's is not permitted under the Arrowhead development plan. Arrowhead will be notified that this puts them in non-compliance. He also clarifies that the code requires that approval must be obtained before commencing any commercial activity in a residential structure. None was obtained for the house conversion to the store in this case.

Mr. LaValle also read from notes taken during a phone conversation between Village officials and a Mr. Mead from ODOT District 6. In that conversation Mr. Mead stated that ODOT does not allow anything to be on, in or hang over their right-of-way. Nothing is acceptable in the right-of-way. ODOT would not allow signs, mulch or tree storage there. Signs tied to the ODOT fence are not allowed.

He also informed the Commission that a report had been received from the Village Consulting Engineer, Mr. Jim

Watkins of Watcon Engineering, after inspecting the property. He advises that due to traffic code requirements all merchandise in a triangular area near the intersection be reduced to a height of no more than 24 inches off the ground. This is to assure clear sight distance for safety at the intersection of North Walnut Street and State Route 3.

Mr. Young responded that he does not believe Arrowhead Lakes Golf would be in violation because there is nothing that says they can't have gravel and have Mr. Ambrose store some movable items on it. There is already commercial activity on their property west of Walnut St. because the power lines are there. He also again expresses his opinion that ODOT has only limited authority over their right-of-way easement and that they have not chosen to exercise them. He stated he has nothing further to add.

Mr. Molnar gives the Commission instruction on closing the hearing.

A motion to close the public hearing was made by Stan Swisher, seconded by Mark Brooks, and passed 4-0, with one absent, in a roll call vote as follows:

Swisher – Yes Bragalone – Absent Hopper – Yes Brooks – Yes Feole – Yes

The hearing was officially closed at 7:57 PM and the court reporter dismissed.

There followed a lengthy period of discussion involving the Commission, Mr. LaValle and occasionally Mr. Molnar or Mr. Young. The June revised application was used as a template and the following list of alterations and conditions was developed as a working set of recommendations by the Commission.

1. The building used historically as a residence on the premises may be used for storage and conditionally as a retail shop but must be approved by the State Building Department and the BST&G Fire Department for the retail use.
2. A free standing retail cashier's booth to be located as needed on the premises to meet the needs of sale of trees, plants, seed, mulch, and related merchandise is permitted. This structure and the area around it may be covered with shade cloth in the summer for the comfort and convenience of the customers of the business.
3. Six to eight high tunnels (also known as hoop houses) which are of varying widths and lengths and temporary structures for growing flowers and garden plants are approved. These structures shall be physically located on the subject premises and not in any area subject to easement right-of-way or use by others.
4. One large trellis style pagoda system constructed of wood and seasonally to be covered with shade cloth for open air display of plants, gardening supplies and related merchandise is approved provided it is located on the premises and not in any easement right-of-way.
5. No new shed or building 20x20x15 or otherwise shall be approved.
6. Exterior storage of seed bags, mulch bags, soil bags, trees, plants and related gardening supplies and merchandise for sale at the site are permitted provided they are physically located on property of the applicant and not in any easement right-of-way.
7. Year around operation of the premises as a nursery and retail sales outlet for nursery products is approved. In addition to the foregoing approvals and modifications, the following divergences from the *Code* required development standards are approved, denied or modified as indicated:
 - a. A divergence from Section 21.01(a) of the *Zoning Code* to allow for the existing gravel parking lot as approved as depicted on **Exhibit 1** which is attached hereto and incorporated herein by reference.
 - b. A divergence from Section 21.01(b) of the *Zoning Code* to allow parking areas to be covered only with gravel is approved provided the gravel parking areas are maintained consistent with the needs of a plant nursery type of business and dust is controlled by the property owner.

- c. A divergence from Section 21.01(d) of the *Zoning Code* to allow parking next to the structures on the property of the location shown on **Exhibit 1** is approved due to the unique configuration of the property and the location of existing structures.
- d. A divergence from Section 21.03 of the *Zoning Code* is permitted where the current structure is consisting of the current residence, garage and pagoda to remain in addition to the temporary greenhouses. No new construction is permitted. The existing temporary greenhouses may be replaced with greenhouses of similar size with approval of Zoning Official. The configuration of the land allowing for various easements justifies this divergence.
- e. A divergence from Section 21.07 of the *Zoning Code* will permit wire fencing of a non-barbwire nature provided the same is not in the road right-of-way and/or any easement area. No new construction, fencing and storage or nursery materials over twenty four inches (24") shall be permitted in the triangle area depicted upon the attached **Exhibit F**, without the approval of the Village Engineer or Ohio Department of Transportation. Placement of existing picket fencing as shown on the attached diagram as **Exhibit 1** with decorative picket fencing not to exceed fifty two inches (52") in height is approved. The picket fences shall be constructed as set forth in the application of 6/10/13 and described at divergence paragraph 11(c).
- f. Trash cans rather than a dumpster are approved for the premises due to the size of the area and unique layout of the land. Trash cans however must be screened in accordance with the *Code*.
- g. A divergence from Section 21.11 of the *Zoning Code* to allow setbacks for existing structures is approved due to the unique size and location of the land. No new structures are permitted.
- h. Not applicable.
- i. A divergence from Sections 22.02(f) and 22.02(k) of the *Code* is permitted to allow up to fourteen (14) flexible, temporary signs (not streamers) not to exceed four feet (4') by eight feet (8') provided they are located on the perimeter of the property and total no more than eight (8) on any side of the property.
- j. No signs are permitted on the premises except as approved in this plan or upon subsequent approval by the Zoning Official. One sign for a cashier's booth five square feet or less is approved.
- k. A divergence from Section 22.02(f) for the year-round placement of a four foot (4') by eight foot (8') moveable, double sided and not lighted temporary sign is permitted and a further divergence for a thirty two inch (32") by eight foot (8') existing Sambuca sign which is double sided and not lighted is permitted. These signs shall be physically located on the property and not within any road right-of-way or easement area.
- l. This requests a divergence under Section 22.02(g) and 22.03(b) regarding signage has been dealt with elsewhere.
- m. This requested divergence from Section 22.05(c) has been dealt with elsewhere.
- n. This requested divergence has been dealt with elsewhere.
- o. A divergence from Section 22.05(c) to permit the use of up to twenty one (21) flags is permitted. No flashing lights or streamers are permitted. No pennants are permitted except the State of Ohio flag. These decorative devices are permitted due to the sparse area available to the property owner to place advertising devices. None of these devices shall be located in an easement area or road right-of-way.
- p. A divergence from Section 22.05(c) to permit the use of inflated air activated attraction devices inside the fence line and outside of the road right-of-way or easement area is permitted from September 1, through December 31st of each year and for two (2) weeks prior to and one (1) week after Easter each year provided that such devices are not a sign, and that they do not exceed fifteen feet (15') in height.

- q. The request for divergence from Section 22.05(f) has been dealt with elsewhere.
- r. The request for divergence from Section 22.06(b) has been dealt with elsewhere.
- s. A divergence from the signage requirements of the *Code* is permitted for one (1) neon lighted window sign which says "Open" not to exceed eight square feet.

Approval is subject to payment of all fees by the applicant.

The Commission then decided that they would like to have Mr. Molnar prepare a written draft of the terms and conditions that had been developed for their study before making a final decision. After a discussion between the attorneys and the Commission concerning the available dates, a special meeting was scheduled on September 5, 2013 at 7 PM. This will not be a hearing but the Commission will meet and make their decision. Changes to the draft decision may be made at that time by the Commission.

A brief restroom break was taken at 10:16 PM. The meeting resumed at 10:24 PM.

Mr. Dave Adams, who arrived during the break, of 138 North Walnut St. spoke about his recent purchase of 37 High Street. The property is currently under citations and orders from the Zoning Inspector. He is going to improve the barns and demolish the house. This may require more than the 45 days allowed and he respectfully requests an extension so that he can bring the property into compliance. In response to questions concerning storm water he was referred to the Village Consulting Engineer, Mr. Jim Watkins.

A motion to grant an extension for ninety (90) days from today for 37 High Street was made by Nancy Feole, seconded by Stan Swisher, and passed unanimously 4-0 with one absent.

Zoning Inspector David LaValle issued a written report which is attached and incorporated as part of these minutes. Due to the late hour he did not summarize the report but stated that the Commission could review it later on their own time.

The clerk reported that the Commission is now scheduled to have meetings on September 5 and September 18. Both meetings are at 7 PM.

There was no old business.

There was no new business.

There being no further business before the Commission, a motion to adjourn the meeting was made by Mark Brooks, seconded by Stan Swisher, and passed unanimously. **The next scheduled meeting will be on Wednesday, September 5, 2013 at 7:00 PM.** The meeting was officially adjourned at 10:31 PM.

Clerk

Chairman

CERTIFICATION

I, Sally H. Hopper, Clerk of The Planning & Zoning Commission of the Village of Galena, Ohio do hereby certify that publication of the above MINUTES were duly made by posting true copies thereof at five (5) of the most public places in the Village of Galena as provided for in Ordinance No. 2013-13 enacted by the Council of the Village of Galena on March 18, 2013.

Sally H. Hopper, Clerk