

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Wednesday, March 25, 2009

7:00 PM

City Hall

Planning Commission

P. Frank O'Hare, Chair

David K. Andrews, Vice Chair

Jennifer Tisone Price

Kristin E. Rosan

Donald R. Shepherd

David B. Thom

Robert C. Westwood

Donna L. Jernigan, MMC, Sr. Deputy Clerk of Council

IT IS THE RESPONSIBILITY OF THE APPLICANT TO HAVE A COURT REPORTER PRESENT, AT THE APPLICANT'S EXPENSE, IF THEY WISH TO HAVE A VERBATIM TRANSCRIPT OF THE MEETING. COUNCIL OFFICE SHOULD BE ADVISED IN ADVANCE IF A COURT REPORTER IS GOING TO BE PRESENT.

A. CALL MEETING TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL.

Gahanna Planning Commission met in Regular Session in the Council Chambers of City Hall, 200 South Hamilton Road, Gahanna, Ohio on Wednesday March 25, 2009. The agenda for this meeting was published on March 20, 2009. Chair P. Frank O'Hare called the meeting to order at 7:00 p.m. with the Pledge of Allegiance led by Commission Member Robert Westwood.

Members Present: P. Frank O'Hare, David K. Andrews, Jennifer T. Price, David B. Thom, Donald R. Shepherd and Robert C. Westwood

Members Absent: Kristin E. Rosan

B. ADDITIONS OR CORRECTIONS TO THE AGENDA.

C. APPROVAL OF MINUTES: March 11, 2009 Regular Meeting

A motion was made by Vice Chair Andrews, seconded by Thom, to approve the minutes of the March 11, 2009 Regular Meeting. The motion carried by the following vote:

Yes 6 Chair O'Hare, Vice Chair Andrews, Price, Thom, Shepherd and Westwood

Absent 1 Rosan

D. HEARING OF VISITORS - ITEMS NOT ON AGENDA.

E. APPLICATIONS:

F. UNFINISHED BUSINESS:

G. NEW BUSINESS:

DR-0003-2009

To consider a Certificate of Appropriateness for standing seam roof to replace shingle roof for property located at 3868 Stygler Road; Gahanna Free Will Baptist Church; by Pastor Curtis Booth applicant.

James Waller, 6611 Morse Road, said he was representing the church; said we want to take off the old shingles and put on a new metal roof; standing seam; has 40 year guarantee.

Thom said the color is burnished slate or bronze color, and Waller said yes. Thom asked if the panels are preformed and Waller said yes.

A motion was made by Thom, seconded by Vice Chair Andrews, to approve DR-0003-2009. The motion carried by the following vote:

Yes 6 Chair O'Hare, Vice Chair Andrews, Price, Thom, Shepherd and Westwood

Absent 1 Rosan

CC-0007-2008

To recommend to Council changes to Chapter 1171, Fences; of the Codified Ordinances of the City of Gahanna.

Huffman said several changes have been made and have been reviewed by City Attorney Weber and approved; after discussion tonight we are adding a time frame in 1171.03 k; to add "within 24 hours."

Lynn Talarico, 561 Wickham Way, said to give a brief history, a neighbor and I brought this concern to Zoning; we originally read the code and saw that it was a 3' fence and thought that was low for children; brought it to their attention and met with them on June 19, 2008; 9 months ago; were told that was a mistake; when that was originally done it was in violation of Ohio State code which is 4'; and that it would be changed; also brought other things to her attention that didn't quite make it in there and have some questions about it. I got a copy of this this morning from Tom Evers and I'm reading through it; I noticed there is a difference in commercial and residential fence height; 4' for residential and 6' for commercial; trying to get a grasp on why; pool water is pool water; 4' fence; my daughter is about 4' tall; I can have her stand here and show you that is not very high; we have a commercial pool in our neighborhood, Foxboro, and Hunters Ridge is in a neighborhood; I don't understand the difference of them needing 6' but the people behind me only needing 4'; they are both in neighborhoods; they are both residential, although one is considered commercial; and my neighbor is considered residential; is there a difference for the 4' and the 6' from your standpoint. There is no gauge in this legislation; I literally opened up the yellow pages and called a fencing company; asked could you explain gauge to me; he said it runs anywhere from 11.5 to 6; 11.5 is pretty standard; I said what would you recommend for a swimming pool fence and he said anywhere between 8 and 9; but there is nothing in here under residential for gauge so I'm assuming most people will just buy the 11.5 because I didn't really stop to think about there being a difference until I started looking at this; then you get into chain link verses privacy; if you do a 6' fence you are probably going to do privacy fence; chain link is very easy for a child to climb over; showed Gard the video of my child very quickly putting her feet into a chain link fence like steps to get over it; that was a 3' fence which is currently what is there; should not be something that is easily able to be climbed which would be a privacy fence. I noticed that at the beginning of the legislation there was a definition of chain link, but there is no definition of lattice; however they mention lattice in the legislation with absolutely no description or definition of what you would consider lattice; hope that is not the kind of fence you would allow around a swimming pool.

Talarico continued that what happened was that our neighbor had a 6' privacy fence and it started deteriorating and they took it down; it piggy backed on the fence of the neighbor behind; they came out and said there is a 3' fence there and that is fine; the argument was that it was not on the property of the people who owned the pool; if the other neighbor decides to take her fence down, and she has no need to have that fence up for the pool; suddenly you have no fence. I noticed they put that in and I thought that was great but they put in here that it is at the discretion of the Planning & Zoning Administrator; that it could be taken out; that is kind of scary to me, that one person has that authority;. When I spoke with Tom Evers, he was a little disturbed by that; he thought there should be reasons in there for exclusion; have that in there so that you are not just having one person make some kind of arbitrary decision; it was a great step putting that in there; to be on the property owners property, but when you put something like that in there are loop holes; people are getting out of it all over the place; don't think it should be one person; it is named as the Zoning Administrator; even coming before you would be different; but this is just one public employee making that kind of

decision; if you are going to put a pool in your yard that should be your responsibility to have the expense and the maintenance of a fence.

Talarico said I found the BOCA code and it outlined what I think are some of the ideas where the legislation came from; the actual 48"; 1 3/4 inch; that kind of thing; however it was kind of like picking and choosing; BOCA actually has a 2" clearance from the ground; this shows a 4"; not sure why you would use the BOCA standards but just pick and choose what you want to use from it; if you are going to follow it, follow it; otherwise these numbers just seem arbitrary. Where BOCA talks about gates accommodating a locking device; that language is in the new but I actually liked the old better; it seems like this was an opportunity to take out some things; the old language was a lot better; actually requiring a lock with a key or combination; locked when not in use; where did that language go; don't know why you would go in and take out the good; also fencing shall be designed and constructed to prevent unauthorized entrance; why take that out; question where it says the gate and the fence shall have no opening greater than 1/2 inch within 18 inches of the release mechanism; rather vague to me; did not make sense to me; even the locking device; if you have a 4' fence I could just reach over and unlock that; having a locking device doesn't do a lot of good if it is very easily unlocked from the other side; if you have a 6' fence would be very hard to reach over. Those are the things I wanted to address. I just wanted to briefly mention the delays that this took; originally started this on June 19, 2008; I had multiple emails back and forth; I initiated one July 11th, October 15th, December 17th, February 11th; was hoping to come here tonight and ask you to do this quickly since the weather is getting nice and our kids are playing outside in the back yard; the people may not even be residing there; they had their house up for sale; the pool hasn't been filled in years; it is just a big hole essentially with this little fence near it. Concerning grandfathering, I understand anything that is existing is grandfathered in; no one is to go in and make them change that; what if the fence is replaced; the pool is already there but next week they put a new fence up; are they going to be set to these standards; or are they still going to be grandfathered in; how does the grandfathering work with new ownership; is the grandfathering to the property or the pool or is it to the owners, and what about enforcement. I was originally told that no one goes out and checks these fences; so once this pool is put in is anyone even going to see what kind of fence was put in, because that is kind of scary too; why have the legislation if you are not going to go out and look at it; need enforcement. The last thing I actually got from the City was the reason that way back 4' was for commercial and they went to 6' when there was a drowning of a little boy in an apartment complex; obviously, if you recognize the safety need to go to 6' for that; my daughter has much more access to the pool that is in the neighbors backyard than to one that is commercial and is right there; so if you are recognizing the 6' need in a commercial area, I'm not sure how that lessens the need in a residential area. I was hoping this would come out differently; very disappointed to see this; 9 months and this is what came out of it. Thank you.

Price said she might be able to shed a little light on this; was a lifeguard at Foxboro pool; from my experience being a water safety instructor and a lifeguard; not necessarily saying that I agree with this, but I can give you some of the rationale; most of the laws that they had were based on making a big differential between a commercial pool and a residential pool because the commercial pools were open for shorter hours and there was no one there policing; to make sure if anything is going on or people were climbing over fences; that is one of the reasons they made the fences taller; in a residential area people live there and there are not as many long periods of time when there is no one at the pool and it is basically vacant; not that I agree or disagree, but that is part of the rationale where that law came from. We actually talked about some of the grandfathering issues in our workshop meeting; as soon as someone alters a fence, even if it is grandfathered

in, when they alter it that is when they lose their grandfather protection. We also have talked about different ways to hold these property owners responsible and one of the things that came up is that we do not necessarily know if they put a fence up around their pool, because so many people do it without going through the proper channels; not getting a permit; so I would just encourage you, as well as everyone else, that as soon as you are aware of something please let us know; many people do not get permits; is unfortunate that there is not enough manpower to know that; feel the City has been very responsive when something is brought to their attention.

Thom said you talked about the BOCA code, and a few questions you had were dealing with two different things; one which we are looking at here tonight, Chapter 1171; that is a zoning code; BOCA code refers to a building code; that comes under the Building Department. You also mentioned if fences were put in under an old code that they were grandfathered; any new fence erected must have a building permit; and the Building Department is responsible for that; Building Department would do the inspection of it to see that it is built according to code. Also you talked about gauge of a fence; that is a building code issue, so whatever the building code requires; zoning code is just requiring a fence of a certain type or style.

Talarico asked who oversees building? Huffman said Ken Fultz is our Chief Building Inspector; a lot of their requirements are State standards; a lot of times we are just up to the standards that the State set. Talarico asked if they have a separate building code for swimming pool fences? Are they addressing that? Is there even a code to follow? Huffman said our building inspector goes out to projects; goes on site to review the construction. Talarico said if I am going to build a swimming pool fence I can look at this and know what you require; what would I look at in the building code? Thom said not necessarily; you are referring to zoning only. O'Hare said if you look at the top of the handout that you have there are about 6 cross references; this is the case with a lot of code here in Gahanna; this is in 1171; but then the code refers to other sections of code, and then some of those codes refer to other standards, and that is where it gets a little nutty. Talarico said then 1325.08 is the building code for fences. O'Hare said but that is not in the purview of the Planning Commission. Talarico said then you are more concerned with the aesthetics; who is concerned with the safety? O'Hare said there are different people inspecting these different things; there is no safety inspection. Talarico said I am looking at this as a safety issue; I don't care if it is pretty back there; looking at it as a safety issue for my daughter and others. O'Hare said with safety, we would act on a variance if someone requested a shorter fence than required; then the variance would come to us; when people come in for variances; a homeowner could come in here and ask for a variance to have no fence; then we would hear that. O'Hare continued that tonight what the Administration has asked us to do is to recommend this code to Council; they have taken the fence code for all fences as it relates to land use and zoning and they have gone through this document and made some additions and changes; we have asked them to explain certain parts and why they did this; tonight we discussed a timing issue and are proposing a change. Talarico said if it gets through you at 4' then what recourse do we have to take it further; assuming then it would be City Council. There was question to King about the City being able to have higher standards than those set by the State. King said then you are getting into a home rule issue; but feel that as long as the City had stricter standards; you couldn't go below, but you could probably go above State code. Price said but the building code that this references is State building code, not City, and King said yes. O'Hare thanked Talarico for coming and for her comments.

Recommended to Council for Approval

A motion was made by Shepherd, seconded by Price, to recommend to Council approval of CC-0007-2008, Chapter 1171, Fences, with an amendment to include a time frame of 24 hours to be added to Section 1171.03 k . The motion carried by the following vote:

Absent **1** Rosan

Yes **6** Chair O'Hare, Vice Chair Andrews, Price, Thom, Shepherd and Westwood

CC-0001-2009 To recommend to Council amendment to Chapter 1155, M-1 Manufacturing Districts; Chapter 1155, Office, Commerce, and Technology District, of the Codified Ordinances of the City of Gahanna.

This will be scheduled for Workshop on April 1, 2009

CC-0002-2009 To recommend to Council amendment to Chapter 1153, General Commercial Districts; of the Codified Ordinances of the City of Gahanna.

This will be scheduled for workshop on April 1, 2009.

CC-0003-2009 To Amend the following Chapters of the Codified Ordinance of the City of Gahanna to add Office, Commerce & Technology to coincide with Chapter 1155, Office, Commerce, & Technology.

- 559, Noise Control
- 913, Landscaping for Accessory Buildings
- 1108, Final Development Plan Procedure
- 1135, Districts and Zoning Map
- 1151, Planned Districts
- 1157, Planned Industrial Park Districts
- 1165, Signs
- 1167, General Development Standards
- 1171, Fences
- 1181, Personal Wireless Service Facilities
- 1197, Design Review

This will be scheduled for workshop on April 1, 2009.

H. COMMITTEE REPORTS:

Committee of the Whole - Nothing.

Olde Gahanna Visioning Committee - Nothing.

I. OFFICIAL REPORTS:

City Attorney.

City Engineer.

Department of Development.

Chair.

O'Hare said that he will not be able to attend the April 1st workshop so Andrews will be conducting it.

J. CORRESPONDENCE AND ACTIONS.

K. POLL MEMBERS FOR COMMENT.

Everyone congratulated Commission Member Kristin Rosan on the birth of her baby girl.

L. ADJOURNMENT; 7:35 p.m.; Motion by Thom.

M. POSTPONED APPLICATIONS:

Donna L. Jernigan, MMC
Senior Deputy Clerk of Council

*APPROVED by the Planning Commission, this
day of 2009.*

Chair Signature