

Minutes of the Ordinance Committee meeting
Sheffield Lake, Ohio
March 7, 2013

This regular meeting of the Ordinance Committee was held Thursday, March 7, 2013. Chairman Smith called the meeting to order at 7:16 PM.

ROLL CALL OF MEMBERS:

Present: Smith, Kovach, Law Director Graves

Absent: McCullough, Mayor Bring, Service Director Smith (excused)

Attending: Councilman Erdei

MINUTES: January 3, 2012, *Motion by Kovach/Second by Smith to accept the minutes with any corrections. Yeas All.

PRESENTATIONS: None.

CORRESPONDENCE: None.

OLD BUSINESS: None.

NEW BUSINESS: Draft legislation to expand the role of Architectural Review Board in Planning Commission. (Worksession 1/15/13). Chairman Smith advised I remember putting the Architectural Review Board together but I don't even know why we did that. Law Director Graves answered I wasn't here, it was right before I started and I think it had to do with the storage lockers and Mr. Gamer. Chairman Smith advised we don't even have a Board, that is the issue. Law Director Graves advised this language is put in under Chapter 167 which talks about the Planning Commission and under 167.05 creates the Architectural Review Board and provides for an architectural permit and it consists of 5 members; residents of the city appointed by the Mayor and approved by a majority of Council for a term of 3 years. He reviewed code for the Board and advised it seems like it only applies to accessory buildings and it should apply to all commercial development and be more of a site plan review. I think the criteria under subsection c is good; materials appropriate, colors and textures appropriate, architectural details and ornaments, mechanical equipment, approaches, drives, parking areas, landscaping, lighting, signs. I think that this had good intent but I don't know why it needs to be a separate Board and I think that it should be more under the authority of the Planning Commission and part of more of a commercial site plan review. There was a brief review of Worksession minutes of January 15, 2013 discussion on the matter. Law Director Graves gave the opinion of that we repeal the provision providing for Architectural Review Board and that we draft legislation expanding the responsibilities and duties of the Planning Commission to include commercial site plan review and include criteria for that site plan review similar to what other communities have used in their ordinances and what we have already now under Architectural Review Board. There is some things that could be added to this like

stormwater and various things. Chairman Smith stated it is not actually a site plan review is it, it is actually that it goes to department heads and they look at it and give their input. Law Director Graves answered we have an administrative review but again. Councilman Kovach stated those are more in regard to safety and services to be supplied though right. Law Director Graves stated it shouldn't be under the administrative code, this should probably be under the zoning code. We have an administrative review, any restriction on the use of property has to be very specifically defined because you are interfering with private property rights. If the community under their authority of police power, under the Ohio Constitution which is expressed through our zoning ordinances is going to restrict private use of land it has to be set forth specifically and with specific criteria. So when you talk about an administrative review, in the absence of any specific criteria like that the only thing the administration; city Engineer, Building Inspector, Service Director, Police and Fire would be looking at is it doesn't meet existing state and local code. So long as it is within our codes it is going to get the go ahead. They are not going to look at things like aesthetics, consistency with the neighboring property, the master plan, landscaping, materials – things like that which for an orderly development city you might want. Like lighting – what kind and signage. You can go as strict with that or as light with that as you want, you are the city Council. Chairman Smith stated I think we are leaning more towards repealing that and kind of starting with more of a site review. We have to figure out what we want to review and how detailed you want to get it. Law Director Graves advised is it going to be they give the final sign off on the site plan review or do you want that to be recommending and then City Council reviews every one of these. Chairman Smith stated is that what we are leaning more towards the site review versus an architectural review? I myself think calling it an architectural review – do we have anybody who is actually an architect? Councilman Kovach stated I don't think you have to be an architect to be able to distinguish good architecture if nothing else by an aesthetic view point. Chairman Smith stated I think a site plan review; commercial or subdivision – proposed development site plan. Law Director Graves advised I can tell you in Avon Lake the Planning Commission is recommending and then it goes to City Council. Chairman Smith stated I think a site plan review would be much better. Councilman Kovach advised an architectural review isn't going to stop a plan or a project like something where it doesn't meet lot size or criteria like that. Chairman Smith advised it doesn't make sense for me and you to sit here and put this together and say well this is what we want. For me personally I don't want to get into the Planning Commission being that it changes so many personalities; you know what type of bush, what color siding, what size of door – how specific does everybody want to get that review. Councilman Kovach advised on any big project like that I think they are going to come with a pretty well designed plan, like with Speedway. It would probably be

in disagreement on what Dollar General has proposed but I am just saying on any future projects I believe we would probably see more of a delivery like with what Speedway has done and even with the Gibbs project. They don't have everything in detail but it seems like they have a well drawn, well laid out plan. Chairman Smith stated they could look at landscaping as a whole but not to get too specific. I think that might be the better role, I will have to ask everybody about that. I think we are in the right direction with repealing the architectural review and go more towards a site review plan. Committee directed Law Director to draw up legislation repealing the architectural review board and we will continue to discuss the site review plan. Chairman Smith advised at Worksession I will bring up how detailed we want to go with it and discuss it there.

Law Director Graves advised we had discussed the provision under 1139.06c which is the yard requirements of the B1 business districts. This is the provision that required Dollar General to come before the Zoning Board of Appeals. Committee reviewed yards, B1 zoning, subsection c. Nobody knows when that went into code, we can't find any ordinance of when that occurred and the best I can figure out is sometime in the mid 60's. It has been there through many changes. There is no minutes or anything to reflect what the intent was when they passed that or what criteria the Zoning Board is supposed to use to deny a proposed project on a corner lot that borders residential. This is a proposed construction on a corner lot actually zoned B2 but B2 says that you have to meet all the requirements of B1. But they meet every one of our other zoning codes – they don't require a lot split, they don't require a rezoning, they don't require any variances. They meet the frontage, side yard setback, front yard setback, rear yard setback, height of the building, percentage of lot coverage – they are within all of that. Does this provision give the Zoning Board of Appeals authority to simply deny proposed construction when they already meet all of our other codes. Now it is coming back because they just denied it, they did not review size and location of the building. Their decision has to specifically say reject to size and location of the building because _____. This is a very problematic piece of language in the code, it either needs to be eliminated or it needs to be explained of what kind of standards and criteria the ZBA is supposed to use. Councilman Kovach stated if it was written almost 50 years ago. Law Director Graves stated I have found ordinances from the late 60's that changed some of the language of this but first of all they didn't change that paragraph – that was already there. Secondly there is no discussion in any of the minutes about what they were thinking or why – it just reflects the change. What they may have been getting at here is they wanted the ZBA to engage in more or less a site plan review to make sure that if it is going to border a residential district on a corner lot that it would have adequate buffering, landscaping, traffic safety, stormwater, lighting and so on but it didn't spell all that out. If you are going to put a zoning restriction on someone's property you have to

specifically spell out what you are doing. Otherwise an ambiguous zoning ordinance is always construed in favor of property owner or the applicant. Chairman Smith stated so you are saying we should do something about that. Law Director Graves stated we can hold off but something should be done one way or the other. Either it should be repealed or it should be explained by Council. Councilman Kovach advised I would suggest that **we add it to the agenda under Old Business.** Chairman Smith concurred. Law Director Graves stated I think it goes hand in hand with the site plan review of the Planning Commission. There was a brief discussion.

Law Director Graves advised I talked to the Building Inspector about in light of us working with the county through Land Utilization Program which is the Land Bank under the Port Authority, our local condemnation process as set forth in our dangerous building ordinance which is 1351 is quite cumbersome and was passed in 1966. So it really hasn't been amended except for a couple of small portions since 1966 and many other communities have a much more streamline condemnation process and I really thing that we should consider reviewing 1351 and take a look at what other communities have. Councilman Kovach stated because our design slow down the process radically. Law Director Graves stated there is a lot of time lines, a lot of notice, a lot of things that have to happen. Like I said it is very lengthy and cumbersome, if you read through it – there is a lot here. Maybe the Building Inspector can give his opinion on it as well. Chairman Smith advised put **1351 under Old Business for continuous discussion.**

Law Director Graves noted Chapter 159 – Industrial Development Committee which was passed in 1965, primary purpose obtaining suitable industry for the Sheffield Lake School District. We have a consolidated school district now, it is not the Sheffield Lake School District.

CITIZEN'S COMMENTARY: None.

All ordinances before Council at this time: None.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Kovach/Second by Smith to adjourn at 7:43 PM. Yeas All.

CLERK OF COMMITTEE AFFIRMATION:

This Meeting of the City Committee of the City of Sheffield Lake, Ohio, was held and conducted under all Rules and Regulations Governing the Sunshine Laws of the State of Ohio as they may apply. All meetings are recorded and available in Council's Office.

CLERK OF COUNCIL/COMMITTEES

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee
Of Sheffield Lake DO HEREBY CERTIFY that this
Is a true and exact copy of the Minutes of the
Ordinance Committee of March 7, 2013.

CHAIRMAN

Alan Smith

COUNCIL PRESIDENT

Rick Rosso

and/or

COUNCIL PRO TEM

Eric S Elliott