

CITY OF NORTHVILLE
Planning Commission
May 5, 2015
Northville City Hall – Lower Level – Meeting Room A

1. CALL TO ORDER:

Chair Wendt called the meeting to order at 7:30 p.m.

2. ROLL CALL:

Present: Steve Kirk
Carol Maise
Dave Mielock
Christopher Miller
Mark Russell
Anne Smith
Jeff Snyder
Jay Wendt

Absent: Matthew Mowers (excused)

Also present: James Allen, Mayor Pro Tem
Patrick Sullivan, City Manager
Sally Elmiger, Planning Consultant
Craig Strong, Chief Building Official

3. APPROVAL OF AGENDA

Chair Wendt suggested changing the order of the agenda so that the Cider Mill discussion would be heard first, before Accessory Structures – Garden Ornaments. He also suggested adding a third discussion item: Trees.

MOTION by Kirk, support Maise, to approve the agenda as amended. Motion carried unanimously.

4. MINUTES OF PREVIOUS MEETING: April 21, 2015

Discussion was held regarding Mr. Presley’s comment as recorded on page 3, right before the motion for agenda Item 7: “*Mr. Presley said the face of the CMU would be wood, which would be painted.*” It was noted that while the record was accurate, Mr. Presley misspoke, and that in reality the dumpster gates would be painted wood and the dumpster enclosure would be painted CMU. For historical purposes, Chair Wendt suggested placing a note to this effect within the April 21 minutes.

Therefore after the statement by Mr. Presley noted above, the April 21 minutes would include: [The following clarification was made at the May 5, 2015 meeting: The dumpster gates would be painted wood and the dumpster enclosure would be painted CMU.]

Motion Mielock, support by Snyder, to approve the April 21, 2015 minutes. Motion carried unanimously.

5. AUDIENCE COMMENTS: None

6. REPORTS:

A. CITY ADMINISTRATION: None.

B. CITY COUNCIL: None.

C. PLANNING COMMISSION: None.

D. OTHER COMMUNITY/GOVERNMENTAL LIAISONS: None.

7. DISCUSSION

CIDER MILL

As noted above, the agenda was amended so that CIDER MILL was placed first as a discussion item.

Robert E. Nelson, 211 West Lake Street, South Lyon MI was present on behalf of the Northville Winery and Brewing Company, LLC. Robert L. Nelson, 16401 Winchester Drive, Northville MI was also present.

Referring to his letter to Chair Wendt dated April 28, 2015, Robert E. Nelson explained that the impetus for the letter was the continuing and growing success of the Northville Winery and Brewing Company. They were running short of the space necessary to meet the demands of their wholesale and retail customers. Because of their current nonconforming status in the PR-1 District, they were restricted from expanding. As noted in the letter, they were requesting a use permitted by right similar to that enjoyed by Northville Lumber. This would give the Winery and Brewing Company the flexibility to make some changes to the existing property, including additions to the current buildings and/or a completely new structure. They needed to purchase additional equipment, and the requested use would give them options in terms of moving forward to accommodate their growing business. The applicants could present a plan to the Planning Commission without having to seek variances from the Board of Zoning Appeals, now and in the future.

Referring to her memorandum of April 29, 2015 Planning Consultant Elmiger explained that she had provided the Commission with some background information regarding the Cider Mill, especially regarding past presentations to the Board of Zoning Appeals.

Planning Consultant Elmiger further explained that the wine tasting use was moved from 712 Baseline to 630 Baseline in 2012 as a condition of their Small Wine Manufacturer License, which required the wine tasting and cider mill operation be segregated. Before making the move, the Building Official determined that the move constituted an expansion of a non-conforming use, and that a variance must be granted to allow the move. The property owner appeared before the Board of Zoning Appeals in December 2011 to appeal the Building Official's determination. The applicant asked the BZA to determine if wine tasting was a non-conforming use, and if it was, then grant a variance to allow it at the new address. At this meeting, the BZA determined that wine tasting was a conforming use on the parcel, and therefore no variance was required.

Planning Consultant Elmiger continued that regarding the changes currently being considered, Mr. Nelson informally asked the BZA if they would stand by that decision today, or if the question of wine tasting as a conforming use should be re-considered by the BZA. At their March 4, 2015 meeting, the BZA responded saying that the applicant should formally submit an application to receive a formal answer.

In response to a question from Chair Wendt, Robert E. Nelson said that the subject parcels included two lots with two different addresses: 714 Baseline Road was the Cider Mill and 630 Baseline Road was the Winery.

In response to a question from Commissioner Maise, Planning Consultant Elmiger explained that each address represented a different use. The Cider Mill was a manufacturing use permitted in the PR-1 District and the Winery was a retail use.

In response to a question from Commissioner Miller regarding Northville Lumber, Planning Consultant Elmiger said that a lumber yard was a permitted use in the PR-1 Zoning District. The Ordinance was silent regarding the Cider Mill.

City Manager Sullivan said that the Ordinance permitted light industrial and manufacturing uses in the PR-1 District, and commercial sales up to 25% of gross volume sales. The Ordinance also permitted the lumberyard. He assumed the lumberyard was permitted because it was existent at the time the Ordinance was adopted; the lumberyard was not manufacturing but was almost completely retail in nature. The Cider Mill's sales were almost certainly greater than 25% also.

In response to a question from Commissioner Maise, Planning Consultant Elmiger said the area was in the Master Plan as mixed use. However, the Master Plan specifically mentioned the Cider Mill, saying the City would like to retain it as long as it remained a viable business, but if not, the area be transformed into residential.

City Manager Sullivan reviewed past Master Plan discussions that resulted in a desire to have some commercial uses close to residential areas in order to increase the walkability of the community.

Commissioner Russell agreed, and pointed to other commercial uses close to residential neighborhoods. If the Cider Mill's proposed expansion would not be detrimental to the business that was there, and if there was adequate room for parking, he would support an expansion on the site. He would like to see the parking better organized.

In response to a question from Chair Wendt, Robert L. Nelson said the two lots combined were approximately five acres.

Mayor Pro Tem Allen noted that both the lumberyard and the Cider Mill had been there for 60 years or more.

Commissioner Maise said the simplest solution would be to add the Cider Mill as a permitted use in the PR-1 District, including a greater amount of retail use than the 25% mentioned in the Ordinance.

City Manager Sullivan spoke to the difficulty of enforcing any percentage of retail use.

In response to a question from Robert L. Nelson, City Manager Sullivan said that the State zoning statutes were passed in the 1970s, and the City's Ordinance was written after that. City Manager Sullivan

explained that although the existing buildings were grandfathered, changes and expansions to the business caused difficulty.

From the audience, Chris Gazlay, 306 South Rogers, Northville MI, pointed out that the easterly portion of the Cider Mill property was originally part of the lumberyard.

In response to a question from Chair Wendt, Planning Consultant Elmiger said that the Planning Commission could recommend to City Council possible text amendments to the Zoning Ordinance to accommodate the expansion of the business. If the text amendments were adopted, the property owners would not need to seek relief from the Board of Zoning Appeals.

In response to a question from Commissioner Russell, Robert E. Nelson said that they would support zoning text amendments, including the time it would take to accomplish that.

Planning Consultant Elmiger asked if the Commission would like language added regarding parking conditions or other issues on the site, or would the Commission like to deal with those issues when reviewing site plans, etc. The consensus of the Commission was that specific issues could be dealt with during site plan review.

Mayor Pro Tem Allen noted that it would take 3-4 months to amend the ordinance. A discussion regarding process followed. Perhaps a site plan could be reviewed, with final approval contingent on appropriate text amendments being adopted.

Planning Consultant Elmiger said that a public hearing on any zoning text amendments could be held the next available date – either the first or second meeting in June – as long as the Commission was comfortable in having the public hearing noticed before their next meeting. The language change would be to simply add *cider mill, winery, brewery* as a permitted use to the PR-1 District. The Commission would have the option of changing the language at the public hearing.

City Manager Sullivan noted that at the public hearing, neighbors would have the opportunity to voice their opinions regarding the proposed change.

In response to comments from Commissioner Kirk, Planning Consultant Elmiger explained the prohibitions against expanding a nonconforming use, even though the use was grandfathered in.

Commissioner Maise explained that most nonconforming uses – and their expansion - were discouraged. In this instance, the use was one the City encouraged.

Chair Wendt asked for a motion.

MOTION Maise, support by Russell, to set the appropriate text amendment(s) to add the Cider Mill and Winery as a permitted use in the PR-1 District at the next available Planning Commission Public Hearing. **Motion carried unanimously.**

ACCESSORY STRUCTURES – GARDEN ORNAMENTS

Chair Wendt introduced this discussion item by highlighting several issues:

- Should front and side yard placement of garden ornaments be treated the same?
- Who/how would the ordinance be enforced?

- Care needed to be taken not to make ordinance language unwieldy and burdensome.
- While the Commission and City needed some guidance, simplicity was critical.

Discussion included:

- Past enforcement had been complaint-driven.
- The current Ordinance was broad: anything that was a vertical projection was a structure. There was no square footage limit. Nothing was exempted (i.e., birdbaths, arbors, ornaments, etc.)
- Structures less than 200 square feet did not require a building permit, but those structures still had to comply with the Zoning Ordinance re setbacks, etc.
- A frost footing was not required for structures under 600 square feet.
- Small items – i.e., decorative light poles, planters – were considered structures in the past. Confusion resulted.

Referring to proposed ordinance changes in the Commissioners' packets, Planning Consultant Elmiger said that they had tried to list examples of things that could be included in a front yard, such as benches, planters, bird baths and houses, coach lights, fountains, statuary, piers, columns, arbors, trellises, pergolas, and similar items that occupied an area no greater than 32 square feet or 8 feet in height. Fences were regulated separately.

Other suggested ordinance changes included a prohibition against placing garden ornaments within three feet of the nearest property line, and that only one arbor, trellis, or pergola could be located in the front yard of any lot. Garden ornaments could not be arranged to constitute a fence in the front yard.

Further discussion included:

- Was the 32 square feet a total, or per item?
- Did a corner lot have two front yards? Should those items (arbor, trellis, pergola) limited to one per front yard simply be limited to one per yard? How would this affect side and rear yards?
- The proposed language allowed garden ornaments in side and front yard setbacks.

Chief Building Official Strong commented on the need for a clear definition of *structure* along with general clarity in the ordinance. When the ordinance was clear, it could be enforced. What Planning Consultant Elmiger had proposed was reasonable and manageable. He emphasized the need to protect clear vision triangles for vehicles and pedestrians.

In response to a question from Chair Wendt, Chief Building Official Strong said that the building code might require some structures to have footings, but this was not generally a part of the definition of *structure*.

Patios were not considered structures.

Commissioner Russell wondered if the proposed 8-foot height requirement was proper. Nine feet would allow for all the latticework etc that was required at the top of some small structures.

Commissioner Mielock said that he liked the proposed changes as written, including the 8-foot height limit.

Commissioner Miller said that he agreed it was important to keep the ordinance simple. He felt the proposed language was well written. There was a risk in trying to identify everything.

Further discussion included:

- Should play structures be regulated as to placement?
- Perhaps the Ordinance should list some things that were not included, such as play structures.
- Language could be added: “Examples such as . . . “

Chief Building Official Strong said that as a code enforcement officer he was comfortable with the language as written. Every code enforcement officer had to interpret the ordinance to some degree. When the officer was uncomfortable with an interpretation, the officer could suggest a ruling by the Board of Zoning Appeals.

More discussion included:

- Chicken coops should be prohibited.
- The requirement of having ornaments three feet from the property line would put many properties in the Historic District in a nonconforming situation.
- Perhaps the ordinance should prohibit garden ornaments within three feet of a neighbor’s property. In the front yard, garden ornaments could go right up to the property line as long as there were no sight visibility issues.
- Should all garden ornaments at the property line be limited to 30 inches?

Planning Consultant Elmiger asked for direction regarding:

- Should only one arbor/trellis/pergola be permitted per lot? What if the lot was very large? *The consensus of the Commission was that only one of these structures should be permitted in the front yard.*
- Should the 32 square foot limitation be per structure, or be cumulative? *The consensus of the Commission was that this should not be cumulative.*

Commissioner Maise asked if arbor/trellis/pergola implied an open structure. Planning Consultant Elmiger said she had not added language defining those items. Chief Building Inspector Strong said that a pergola with any type of enclosed roof was no longer a pergola.

Chair Wendt asked for a motion.

MOTION Kirk, support by Russell, to set the proposed text amendment as discussed this evening for the next available public hearing. **Motion carried unanimously.**

TREES

At Chair Wendt’s request, City Manager Sullivan introduced this discussion item. He explained that the tree ordinance was difficult. Its name – *Tree Preservation Ordinance* – led residents to think no trees could be cut down. However, there were many exceptions and permissions in the ordinance that allowed non-landmark tree removals. Removed trees did not necessarily have to be replaced. If they did have to be replaced, funds could be placed in the Tree Conservation Fund in lieu of replanting.

Additionally, actual enforcement of the tree ordinance was time consuming and technical in nature. Planning Consultant Elmiger enforced the ordinance, and she had to spent excessive time on site making inventories, producing tree surveys, etc., often for lots that had no regulated trees. Enforcing the tree ordinance was a money-loser for the City.

The City of Plymouth had no tree ordinance but still seemed to have a lot of trees. However, other communities did have a tree ordinance.

Commissioner Snyder spoke regarding a huge walnut tree in the public right-of-way that had been removed without a permit.

Chief Building Official Strong spoke to the time consuming nature of tree ordinance enforcement.

Planning Consultant Elmiger explained process. A resident applied for a permit. Planning Consultant Elmiger visited the site to examine the tree. If the tree was not a landmark tree, she informed the resident that a permit was not needed. This whole process had to be followed in every instance.

City Manager Sullivan said that the Tree Preservation Ordinance was especially helpful when a developer wanted to build a group of homes on a large property, in terms of requiring tree preservation within that development. There were still places in Northville where 5-6 homes or site condos could be built on a large lot. However, the ordinance became very cumbersome when someone wanted to build a house on a small site.

Commissioner Russell said that perhaps the ordinance could be amended to allow residents in R-1B Districts to manage their own property. However, there needed to be some protection of the City's legacy of large trees. He opposed getting rid of the ordinance entirely.

In response to further discussion, Planning Consultant Elmiger said that if the lot size was 15,000 square feet or less and had an established single-family residence on it, a permit was only required to remove a landmark tree. If there was not a single family residence established on the lot, a permit had to be obtained in order to remove any protected tree – any tree greater than 6" DBH. Landmark trees were different sizes based on species. Mitigation for landmark trees was greater than mitigation for other trees.

Planning Consultant Elmiger continued that tear down and rebuilds were treated as new single-family lots and the developer was required to mitigate for tree removal.

Chief Building Inspector Strong said that violation of the tree ordinance was a misdemeanor. This should be decriminalized, along with several other ordinance violations that needed the same action. City Manager Sullivan explained that a misdemeanor violation included the right to a jury trial and very significant fines.

Commissioner Snyder pointed out that as a condition of site plan approval, he had to spend \$4-\$5,000 planting trees. Without the Tree Preservation Ordinance, someone could cut down many trees with no penalty or enforcement. Ordinance review needed to be thoughtful and balanced.

As the discussion continued, the following points were made:

- The Tree Ordinance applied to commercial as well as residential properties.
- The Tree Ordinance could be simplified, especially for the residential districts.
- The Tree Ordinance needed to be easier to enforce.
- The Tree Ordinance provided protection and defensibility for the City.
- Landmark trees should not be removed unless they were hazardous. If someone took out a landmark tree for their own personal gain, they needed to put something back, even if it was just placing funds in the Tree Fund.

- Resident complaints about tree removal did demonstrate that trees had an impact on everyone.
- Perhaps a web page could be developed regarding an explanation of the tree ordinance, especially after any changes were made.
- The situation on Randolph Street involving 90 replacement trees was discussed.
- BS&A (the building permit program) flagged any project that had a pending tree permit.
- Any change in the ordinance should attempt to change the expectation that all trees were protected.
- Perhaps the ordinance could be changed so that a residential homeowner did not have to have a tree survey or file an application for a permit unless they were removing a landmark tree.
- The ordinance should be changed to better manage paperwork and process.
- Another simplification would be to change the violation of the tree ordinance to a civil infraction, along with making whoever actually cut the tree down responsible, not just the homeowner.
- The tree application permit should note that the violator would include the homeowner and whoever was performing the work.
- Enforcement was especially difficult because often enforcement occurred after the tree was already cut down.
- The Building Official or his designee – in this case Planning Consultant Elmiger – verified that a tree was a landmark tree.

Chair Wendt asked Planning Consultant Elmiger to bring possible changes to the tree ordinance to the Commission for review.

AMERICAN LEGION ROTATING LED SIGN

Chair Wendt asked the City to look at the American Legion's new rotating sign. Planning Consultant Elmiger said Building Inspector Brent Strong was already looking into this.

8. ADJOURNMENT

As there was no further discussion, Chair Wendt asked for a motion to adjourn.

**MOTION Kirk, support by Smith, to adjourn the Planning Commission meeting at 9:04 p.m.
Motion carried unanimously.**

Respectfully submitted,
Cheryl McGuire
Recording Secretary

Approved as published 5-19-2015