

Oakwood, Ohio
December 5, 2018

The Planning Commission of the city of Oakwood met in regular session at 4:30 p.m. in the council chambers of the city of Oakwood, 30 Park Avenue, Oakwood, Ohio 45419.

The Chair, Mr. Andy Aidt, presided and the Clerk, Ms. Lori Stacel, recorded.

Upon call of the roll, the following members responded to their names:

MR. ANDREW AIDT	PRESENT
MRS. HARRISON GOWDY	PRESENT
MRS. E. HEALY JACKSON	PRESENT
MR. GREG LAUTERBACH	PRESENT
MR. STEVE BYINGTON.....	PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager
Mr. Robert F. Jacques, City Attorney
Mrs. Jennifer S. Wilder, Personnel and Properties Director
Mr. Ethan M. Kroger, Code Enforcement Officer

The following visitors were present:

Mrs. Laurie Leach, 429 Ridgewood Avenue
Mrs. Katie Brennaman, 429 Ridgewood Avenue
Mr. Brad Judge, Project Surveyor for 429 Ridgewood Avenue
Mr. Rob Degenhart, 701 Shafor Boulevard
Dr. Bob Brandt, Jr., 445 Ridgewood Avenue
Mrs. Ellen Ireland, 430 E. Schantz Avenue
Mr. Sherif Elbasiouny, 450 Ridgewood Avenue
Mrs. Noreen Beiersdorfer, 454 E. Schantz Avenue
Mrs. Wendy Martin, 444 E. Schantz Avenue
Mr. Chris Martin, 444 E. Schantz Avenue
Mr. Kunal Patel, 422 E. Schantz Avenue
Mr. Aart den Hoed, 410 Ridgewood Avenue
Mrs. Jennifer Copus, 116 Patterson Road
Mr. Nathan Boyce
Mrs. Barbara Kedziora, 409 Ridgewood Avenue
Mr. John Reed, 525 Ridgewood Avenue

Mr. Aidt called the meeting to order at 4:30 p.m. He asked if there were any questions or concerns with the minutes from the November 7, 2018 meeting. There being none, it was moved by Mrs. Gowdy and seconded by Mrs. Jackson that the minutes of the Planning Commission meeting held November 7, 2018 be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mr. Aidt shared that there are two applications that will be presented at the meeting this afternoon.

He then opened the public hearing for tabled Application #18-5 to consider a special use request submitted by the city of Oakwood for an illuminated sign at the Oakwood Community Center, 105 Patterson Road, to be located near the corner of Patterson Road and E. Schantz Avenue. Mr. Aidt made a motion to remove the application from the table and to proceed with the hearing; second by Mrs. Gowdy. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered. He asked city staff to provide their report.

Mr. Jacques stepped forward to present the staff report and referenced a PowerPoint presentation. He explained that Application #18-5 is a revised application filed by the city of Oakwood for approval of a Special Use permit for construction of an illuminated sign at the Oakwood Community Center (OCC), 105 Patterson Road, near the corner of Patterson Road and E. Schantz Avenue. The original application was submitted for consideration at the November 7, 2018 Planning Commission meeting, but was tabled at the City's request. The sign location is adjacent to the new OCC parking lot and front entrance walk. The sign is set back 32' from Patterson Road and 34' from E. Schantz Avenue.

The City had a previous sign near the corner of Patterson Road and E. Schantz Avenue for many years that was at the end of its useful life. The previous sign would have been classified as a "changeable copy sign (manual)" under Section 1204.1(A)(8) of the Zoning Code, and was externally illuminated. At the time of its construction, which pre-dated the Zoning Code, no permit was required for its installation. A replacement sign was included in the plans and specifications as part of the Shafor Park Tennis Courts project.

The design team specified the new sign as a digital LED-type sign to replace the existing manually-changeable sign face. From the design team's perspective, this was seen as an upgrade of technology rather than a material change to the type of sign. For that reason, they assumed no permit was required and did not seek a permit prior to installation. The sign was installed in the middle of September 2018.

Upon installation of the existing sign, city staff saw it in place and noted possible issues under the Zoning Code. The first issue had to do with the classification of sign type and lack of a permit. Due to the automated digital screen, staff concluded that the sign was no longer a "changeable copy sign (manual)" under Section 1204.1(A)(8), and was instead a "changing sign (automatic)" under Section 1204.1(A)(9). This represented a material change necessitating a permit. That permit can be authorized by staff without Planning Commission review, and will be issued immediately if the present Special Use request is approved.

The second issue is that under the Zoning Code, illuminated signs are only permitted in residential districts for institutional and other non-residential properties, and only by Special Use permit. The Zoning Code does not give concrete guidance on what constitutes illumination; it merely distinguishes between *internal* illumination and *external* illumination. Internal illumination is prohibited in Oakwood and in some other jurisdictions because the plastic panels tend to crack and break over time, becoming unsightly. External illumination typically consists of an external light source shining onto the sign. The light on the existing and proposed sign is neither internal nor external, but the screen does emit light, and staff made the decision to request a Special Use permit for an illuminated sign in a residential district.

The third issue is that the existing sign is 8 feet 4 inches high where the Zoning Code allows for a sign of up to 4 feet in height, and has a sign face area of 25.7 square feet where the Zoning Code allows a maximum of 10.5 square feet. This is what prompted the City's request to table the application in November. The options for addressing the size issues are to: replace the existing sign with a much smaller sign that would meet the limitations of 4 feet in height and a sign face area of not more than 10.5 square feet; seek a variance; or grandfather the dimensions of the old sign under the prior non-conforming use provisions of the Zoning Code, replacing the existing sign with a new proposed sign that maintains the dimensions of the previous sign. The previous sign was 80 inches in height and the sign face area was 17.5 square feet.

In considering these options, staff's primary concern is maintaining useful visibility for the sign while integrating it into the neighborhood without significant disruption.

The variance option was immediately eliminated because sign dimensions in the Zoning Code are so-called "hard requirements," meaning there is no variance available. Staff was also concerned about reducing the size to meet the limitations of 4 feet in height and a sign face area of not more than 10.5 square feet, which would severely limit the signs visibility. Staff then

explored grandfathering the dimensions of the old sign. Under the Zoning Code, a non-conforming structure that lawfully existed prior to the Zoning Code is allowed to remain as a "prior non-conforming use," and may even be replaced, as long as the non-conformity is not enlarged. The old sign is a prior non-conforming use due to its overall height of 80 inches and sign face area of 17.5 square feet, so the decision was made to have the sign re-designed to match these dimensions.

The only issue for determination by the Planning Commission is the Special Use request for digital screen illumination. The proposed sign will utilize the same height and sign face area dimensions as the previous sign eliminating any size issues under the Zoning Code. If the Planning Commission is inclined to impose conditions: the hours of operation could be limited; the brightness could be specified; and the use of graphics/color could be specified.

Mr. Lauterbach asked if the proposed sign will have "Oakwood Community Center" carved in wood similar to the existing sign.

Mr. Jacques shared that to help reduce the size of the sign, "Oakwood Community Center" and the Oakwood logo will be in LED lights. He further explained that it is the City's intent to remove most of the existing sign, leaving only the masonry base and upright poles, shortened, to be re-used in connection with the proposed sign.

Mrs. Jackson stated that she is curious how staff could determine that a static sign is as compatible with the neighborhood as a marketing sign. The existing and proposed sign, in her opinion, do not add value to the neighborhood. Her concern with approving this application is that every other business in Oakwood will want an LED sign.

Mr. Jacques explained that the existing and proposed sign will announce events and activities occurring throughout the city, as did the previous sign. He explained that while this request may open the door for other sign inquiries, those locations may be in other zoning districts with different regulations. The OCC sign location is not likely to contribute to sign clutter and is not redundant. It adds value because it educates citizens. The City is always looking for ways to communicate information to residents.

Mrs. Jackson shared that she walked in the area of the Oakwood Community Center earlier today. She saw the sign two blocks away because of the changing messages and graphics.

Mr. Jacques explained that there are ways to reduce the brightness of the sign.

Mrs. Jackson asked if there are ways for the messages to be displayed for prolonged periods of time.

Mr. Jacques shared that the sign can be adjusted to do whatever the City needs it to do.

Mrs. Jackson asked why the OCC needs to advertise.

Mr. Jacques shared that the OCC has always had a sign that advertised events and activities.

Mr. Lauterbach referenced the definition of flashing signs in the Zoning Code. He feels that even the LED sign could fall under this category. He questioned why LED lights have not been defined in the Zoning Code.

Mr. Jacques explained that the Zoning Code dates back to 2000, and sometimes the law is slow to catch up with technology which is not uncommon. Staff reviewed the flashing sign provision in the Zoning Code and concluded that the changeable copy (automatic) provision comes closer to describing this sign and its intended use.

Mrs. Gowdy asked if the Planning Commission could consider tabling the application again until guidelines for LED lights are specified in the Zoning Code.

Mr. Lauterbach agreed with Mrs. Gowdy. He believes that the capabilities are limitless with LED signs so it is hard to place regulations on something that is limitless.

Mr. Byington commented that the Planning Commission is in place to make decisions, whether the law is as clear as they might like, or not. New rules are not written just because there are gray areas when an application is pending.

Mr. Aidt responded that this application is a little different because it is the City applying.

Mr. Byington said that the City is still an applicant that is asking the Planning Commission to make a decision.

Mrs. Gowdy asked if the Planning Commission declines this application, will the City consider a Zoning Code change to better define LED lights, and then come back to the Planning Commission with this request.

Mrs. Jackson shared that she is uncomfortable approving this request and imposing conditions.

Mr. Jacques shared that the Planning Commission is expressly authorized to approve, deny or approve the application with conditions.

Mr. Lauterbach commented that he does not feel comfortable imposing conditions on a sign when he is not familiar with its capabilities.

Mr. Aidt shared that he is more comfortable imposing conditions on this application because he knows city staff will follow through on it.

Mr. Byington asked if frequency of message-changing is something that can be dictated by the Planning Commission.

Mr. Jacques explained that the Zoning Code states that sign frequency may be no less than once every five seconds. If the Planning Commission imposes a condition on frequency, it should be based on public safety and welfare.

Mr. Rob Degenhart, 701 Shafor Boulevard, shared that he is in the self-storage business and is very familiar with this type of device. It is not actually a sign, but an electronic messaging board. He shared that he is opposed to this application because it does not fit in Oakwood and, if approved, would open the door for many other businesses and institutions to request approval to install similar signs.

There being no further public testimony offered, the public hearing was closed.

Mr. Byington shared his disappointment that the architect that made the decision that the LED sign was equivalent to the previous sign is not here to provide an explanation. He feels that the City needs to come up with new regulations for LED signs. His recommendation is to decline this application, and recommend that city staff look at clarifying the sign definitions in the Zoning Code.

Mrs. Jackson concurred with Mr. Byington. She asked if there was any way that the City could keep the current sign, but change it into a static sign until the new Zoning Code is written.

Mr. Aidt asked what would happen to the sign if the Planning Commission declines the application.

Mr. Jacques shared that if the application is declined, the sign would be deactivated.

Mr. Klopsch added that he likes Mrs. Jackson's suggestion about limiting the current sign's use until the Zoning Code is updated, or the other option is to take down the sign.

212 Mr. Byington suggested speaking with the sign manufacturer because leaving LED signs static for too long can burn the screen.

Mr. Klopsch shared that the current sign would still need to be replaced because it is too big.

Mr. Byington asked if the current sign could match the previous sign since it was also illuminated. He then asked who would create the new verbiage for the sign code ordinance.

Mr. Klopsch explained that city staff would create the ordinance. Staff would then present the text code amendments to the Planning Commission at a public hearing, and then to City Council at a public hearing for final approval.

Therefore, it was moved by Mrs. Gowdy and seconded by Mrs. Jackson that application #18-5, for an illuminated sign at the Oakwood Community Center, 105 Patterson Road, to be located near the corner of Patterson Road and E. Schantz Avenue, be denied until city staff can prepare revisions to the sign regulations in the Zoning Code. In the interim, the existing sign may remain in place subject to the following immediate protocol: (1) the sign must be programmed to limit the display area to no more than 17.5 square feet (42"H x 60"W). The remainder of the screen should be unused; (2) the display must be limited to text only, with no graphics, flashing, or scrolling; (3) the display must be limited to white text against a black background only. No other colors should be used; (4) information should be limited in scope, consistent with the messages that were typically displayed on the old sign; (5) the message should only change 2-3 times per day, at most; and (6) the sign should continue to be timer-controlled to ensure that it is not illuminated at night.

SPECIAL USE STANDARDS

A. The proposed use at the specified location is consistent with the Comprehensive Plan.

PRELIMINARY STAFF FINDINGS:

- The Comprehensive Plan states that development should be compatible with the surrounding area. Given the fact that the prior sign in this location was illuminated for many years, and the only significant change represented by this application is the change from external illumination to digital LED illumination, staff believes the new sign remains compatible with the neighborhood and consistent with the Comprehensive Plan.

B. The proposed building or use will not adversely affect or change the character of the area in which it is located.

PRELIMINARY STAFF FINDINGS:

- See preliminary findings for Standard A, above. Staff also notes that the sign is adjacent to an existing signalized intersection and lighted street, both of which are much more brightly illuminated than the digital sign. Staff believes this eliminates any potential adverse effect caused by the illumination of this sign.

C. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare.

PRELIMINARY STAFF FINDINGS:

- There is nothing to suggest that this application poses an actual or potential danger to public health, safety, morals, comfort, convenience or general welfare.

- D. That the proposed use will not be injurious to the reasonable use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.

PRELIMINARY STAFF FINDINGS:

- There is nothing to suggest that the proposed use will be injurious to the reasonable use and enjoyment of other properties in the immediate vicinity or substantially diminish or impair property values within the neighborhood. Although the illumination may be visible from surrounding properties, a digital LED screen emits an indirect form of light rather than a direct or shining glare. Also, it is located adjacent to an existing signalized intersection and lighted street, both of which are much more brightly illuminated than the digital sign.

- E. The proposed use at the specified location will not significantly adversely affect the use and development of adjacent and nearby properties in accordance with the regulations of the district in which they are located. The location, size and height of proposed buildings and other structures, and the operation of the use will not significantly adversely affect the use and development or hinder the appropriate development of adjacent and nearby properties.

PRELIMINARY STAFF FINDINGS:

- There is nothing to suggest that the proposed use will have any adverse effect on the use or development of other properties. This is a replacement for a pre-existing illuminated sign.

- F. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.

PRELIMINARY STAFF FINDINGS:

- The sign was designed with an aesthetic that is very similar to existing city signage, and was designed to complement the Oakwood Community Center. There is nothing to suggest that it would have a negative impact on property values.

- G. That adequate utilities, access roads, off-street parking and loading facilities, drainage and/or other necessary facilities, have been or are being provided at the applicant's cost.

PRELIMINARY STAFF FINDINGS:

- There are no access roads, off-street parking and loading facilities, or drainage facilities necessary for this sign. Any utilities or other necessary facilities have already been provided at the Applicant's cost.

- H. That adequate measures have been or will be taken at applicant's cost to provide ingress and egress so designed as to minimize traffic congestion in the public streets and avoid hazards to pedestrian traffic.

PRELIMINARY STAFF FINDINGS:

- There are no ingress or egress issues with respect to this sign, and no reason to believe it would cause traffic congestion or danger to pedestrians.

- I. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulation may, in each instance, be modified by Council pursuant to the recommendations of the Planning Commission.

PRELIMINARY STAFF FINDINGS:

- Other than the requested Special Use permit regarding digital illumination, the sign meets all applicable regulations for the R-4 zoning district.

Upon call of the roll on the question of the motion, the following vote was recorded:

MR. ANDREW AIDT	YEA
MRS. HARRISON GOWDY	YEA
MRS. E. HEALY JACKSON.....	YEA
MR. GREG LAUTERBACH	YEA
MR. STEVE BYINGTON.....	YEA

There being five (5) YEA votes, thereon, said motion carried.

Mr. Aidt then opened the public hearing for Application #18-6 to consider a subdivision/re-plat request as well as a rear yard setback variance request for two existing outbuildings to remain on the property submitted by Laurie and David Leach to subdivide the property lot at 429 Ridgewood Avenue into two buildable lots. He asked city staff to provide their report.

Mr. Kroger stepped forward to present the staff report and referenced a PowerPoint presentation. Mr. Kroger shared that Application #18-6 is a request submitted by Brad Judge on behalf of David and Laurie Leach to subdivide the property lot at 429 Ridgewood Avenue into two buildable lots, as well as a rear yard variance request for two existing outbuildings to remain on the property. Mr. Kroger then provided property details. The property at 429 Ridgewood Avenue was built in 1927. The property is in the R-3 (single family) Zoning District. The R-3 Zoning District is intended to preserve residential areas which are best suited for medium sized development and maintain the character of existing low-density single family developments.

The property at 429 Ridgewood Avenue is currently owned by the Leaches, along with their daughter and son-in-law, Katie and James Brennaman. This proposal would subdivide a portion of the lot to allow for construction of a new home for the Leaches. A subdivision would be required for this project because the Zoning Code does not allow for the construction of a second home on a single zoning lot.

The applicant is proposing to subdivide the existing 39,435 square foot lot to facilitate construction of a new home. This would leave the existing home on a lot of 27,381 square feet, while carving off a second lot of 12,054 square feet with approximately 104 feet of frontage along Ridgewood Avenue. In the R-3 zoning district, the minimum lot area is 12,000 square feet with 75 feet of frontage.

Based on a review of the Subdivision Regulations, staff concludes that all requirements are met, except for some design and layout issues. However, as a result, the new lots will be irregular in shape when compared with other lots in the immediate neighborhood. The existing single family residence is centrally located on the lot, which leaves very tight margins for the construction of a new home. Mr. Kroger explained that as a result, staff is concerned about the density of this proposal in comparison to other lots in the surrounding neighborhood. The lot lines for this proposed subdivision appear to have been chosen to maximize buildable area while working around the existing single family residence. As a result, the side lot lines are not at right angles to the street.

The applicant is requesting to vary the rear yard setback requirement for two existing structures to zero feet where 5 feet is required. The accessory buildings have existed on the property for decades and a variance was granted in the late 1970's to allow them to remain on the principal lot. This is a new variance request, but effectively, it is a request to shift the existing variance to the newly proposed subdivided lot.

Mrs. Jackson inquired about the outbuildings on the property.

Mrs. Laurie Leach, property owner at 429 Ridgewood Avenue, shared that she intends to use the larger building as a studio. In the past, the buildings have been used for storage and as a garden house.

Mrs. Jackson asked if the garage doors open.

Mrs. Leach answered yes.

Mrs. Jackson asked where the garage for the new house will be located.

Mrs. Leach shared that the plan is to come in from the front and place the garage in the back.

Mrs. Jackson asked what percentage of the property will be impervious surface.

Mr. Jacques shared that the building plans have not been prepared. This application is only to review the lot split.

Mr. Lauterbach asked if this lot split would stand if the construction did not proceed as planned.

Mr. Jacques explained that if the Planning Commission approved the lot split, it would be recorded as such.

Mr. Byington added that the Planning Commission may be involved in variance or special use decisions when the time comes.

Mr. Klopsch explained that if the plans meet all of the requirements in the Zoning Code, they will not need to come before the Planning Commission again.

Mr. Aidt asked if the Planning Commission could approve the application with a condition that if a house is not built and then the property is sold, the property would revert back to one lot.

Mr. Jacques said that he does not believe that could legally be done. There would need to be a replat for the properties to be rejoined.

Mrs. Jackson asked if the homes in the area are compatible with the lot split acreage.

Mr. Kroger responded that the lots in the area come in all shapes and sizes.

Mr. Judge shared that Mr. Kroger's presentation was very thorough and on point. He shared that the intent is to conform to the zoning that already exists in the area.

Mrs. Gowdy asked how many stories the new home will have.

Mr. Judge shared that the current plans are for a two-story home.

Dr. Bob Brandt, Jr., 445 Ridgewood Avenue, shared that he has many concerns with this application. The construction would require the removal of many large trees that provide not only privacy, but shade for his backyard. There is a large cistern system on the east side of the lot extending 7 feet deep, 7 feet wide and 15-18 feet long. The home construction could negatively impact the cistern, especially with drainage. There is also an alley behind the property that is extremely narrow, and not accurately shown on the plans. The lot split would also lower market values of neighboring properties.

Mr. Jacques explained that the alley displayed on the plans is pulled from Montgomery County GIS and represents the right-of-way lines, and not the edge of the pavement lines. City staff is aware that part of the alley extending to the east is not paved.

Mrs. Ellen Ireland, 430 E. Schantz Avenue, shared that she walks in the area and enjoys the neighborhood for many different reasons. There are larger and smaller lots, but they all have logical lot lines. This proposal is a lot of change in terms of density. The changes to these lots uphill will impact residents that are downhill as it relates to water drainage.

At 6:15 p.m., Mr. Lauterbach departed the meeting.

Mr. Sherif Elbasiouny, 450 Ridgewood Avenue, shared that this work would be very disruptive. The new home would require the removal of a lot of greenspace and removes straight lot lines which impacts the character of the neighborhood. The lot currently is very rich in vegetation, so

this would disrupt his view significantly due to the closeness of the University of Dayton. Ridgewood Avenue is very narrow and a driveway near the curve is not a safe idea.

Mrs. Noreen Beiersdorfer, 454 E. Schantz Avenue, echoed all previous drainage concerns. She also shared concerns of the integrity of the shared retaining wall, east of the property. The trees being uprooted could impact the retaining wall.

Mrs. Wendy Martin, 444 E. Schantz Avenue, explained that people tend to mistake the outbuildings on the applicant's lot as their garage. She said that her largest concern is the disturbance of the cistern system. The adjustment of drainage issues could be detrimental and costly to them and all neighboring properties. Also, the stability of the retaining wall is a concern because it could fall into her backyard where her children and family gather.

Mr. Kunal Patel, 422 E. Schantz Avenue, shared that he has experienced water drainage issues in the past. People buy homes in Oakwood for the peaceful environment. He enjoys looking out his window and viewing nature. He shared safety concerns relating to emergency medical vehicle access points.

Dr. Bob Brandt, Jr., 445 Ridgewood Avenue, shared that there is a population of red squirrels that will be impacted with the removal of the trees. The stability of the side of the hill will be disrupted which may create drainage issues.

Mr. Aart den Hoed, 410 Ridgewood Avenue, said that the property owners have the right to do what they want to their property. The retaining wall does not have relevance with this application, nor does neighbors' visibility. The lot will not change visually if there is a crooked lot line on a map. The driveway location is up to the property owner. The lot is a nice size that is good for development. He said that he is in favor of this application.

Mrs. Laurie Leach, property owner at 429 Ridgewood Avenue, shared that there are not enough one-story homes available in Oakwood for older people. The plan is to build a two-story home that is modest and sustainable to maintain Oakwood's integrity.

Mr. Aart den Hoed, 410 Ridgewood Avenue, said that if there are concerns about the driveway location, a request could be made to place "no parking" signs around the road curves.

Mr. Judge commented that all of the construction concerns could be addressed at a later time, if needed.

Mr. Chris Martin, 444 E. Schantz Avenue, echoed all of the comments that have been made in opposition of this request. The retaining wall is helping to hold up the hill behind their property. Also, the drainage issues would be significant.

Mrs. Katie Brennaman, co-owner of 429 Ridgewood Avenue, shared that her family is very excited about the property, and they want to preserve nature and vegetation as much as possible. If approved, the family will work very closely with neighbors to ensure all of the issues are addressed. It is important to keep their legacy and family close, but they will not jeopardize the community's safety, structures, or the integrity of the neighborhood to do so.

There being no further public testimony offered, the public hearing was closed.

Mrs. Gowdy shared that she is hesitant to approve the request because it is a difficult lot to build on. She fears that if approved, the applicant will run into unforeseen issues down the road and will not continue with the plans for new construction.

Mrs. Jackson agreed with Mrs. Gowdy. She asked if city staff looked into the parking issues prior to the meeting.

Mr. Jacques explained that parking issues have not been looked into at this point. He reminded the Planning Commission that this request is only for the lot split, not for building inquiries.

Mrs. Gowdy acknowledged Mr. Jacques comment, but stated that this is a complicated subdivision with existing structures.

Mr. Judge asked if conditional approval could be granted upon construction of a house.

Mr. Byington stated that approval of this application does not necessarily mean the lot is being subdivided.

Mr. Judge confirmed that the Planning Commission is only reviewing preliminary plans.

Mr. Byington clarified that the Planning Commission would be stating that it is conceptual to subdivide the lots if approved.

Mr. Judge said that approval of the preliminary plat is the first step before proceeding with anything else.

Mr. Aidt shared that he does not have any concerns with the replat as proposed.

Mr. Byington stated that the applicant will need to come back to the Planning Commission for further approval of construction designs if they do not meet the Zoning Code requirements.

Mr. Jacques clarified the process moving forward should this preliminary lot split be approved by the Planning Commission. The final replat, or second part of the process, does not require an additional Planning Commission public hearing, as long as it meets the Zoning Code requirements. Also, the applicant may not need to come before the Planning Commission unless a special use or variance is needed.

Mrs. Mandy Tatham, 441 E Schantz Avenue, said that the Zoning Code specifies minimum frontage and rear setbacks, but does it specify the area in between homes.

Mr. Jacques responded that the Zoning Code specifies a minimum width of 60 feet "on the lot lines."

Mr. Judge confirmed that the lot meets the requirement, but would be 58 feet at its narrowest point.

Mrs. Gowdy asked if the homeowners will only pursue the final replat if there is a plan to build on the property.

Mr. Jacques shared that this is his understanding.

Mrs. Jackson asked what type of drainage studies the City requires.

Mr. Kroger said that a licensed Ohio engineer will be required to conduct a drainage study.

Mrs. Jackson asked if inspections will be done on the cistern system.

Mr. Aidt said that they will if the cistern is on the property, as part of Kettering's plan review process.

Therefore, it was moved by Mrs. Gowdy and seconded by Mr. Byington that application #18-6, for a subdivision/re-plat request submitted by Laurie and David Leach to subdivide the property lot at 429 Ridgewood Avenue into two buildable lots, be approved.

Upon call of the roll on the question of the motion, the following vote was recorded:

MR. ANDREW AIDT	YEA
MRS. HARRISON GOWDY	YEA
MRS. E. HEALY JACKSON	YEA
MR. STEVE BYINGTON	YEA

There being four (4) YEA votes, thereon, said motion carried.

Thereupon, it was moved by Mrs. Gowdy and seconded by Mrs. Jackson that application #18-6, for a rear yard setback variance request for two existing outbuildings to remain on the property submitted by Laurie and David Leach at 429 Ridgewood Avenue, be approved.

VARIANCE FACTORS

- A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
PRELIMINARY STAFF FINDINGS:
➤ The property can be used as a single family residence with or without the variance.
- B. Whether the variance is substantial;
PRELIMINARY STAFF FINDINGS:
➤ As previously mentioned, the two accessory buildings already exist on the property and are already permitted by variance. Staff does not consider this to be a significant request in that it merely shifts the existing variance to the new lot.
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
PRELIMINARY STAFF FINDINGS:
➤ There is a similar accessory structure located directly across the rear alley at 430 E. Schantz Avenue, and it is also located on or very close to the lot line. Also, these accessory buildings already exist and have been there for many years. There is no reason to believe that adjoining properties would suffer a substantial detriment as a result of the variance.
- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, refuse, police/fire);
PRELIMINARY STAFF FINDINGS:
➤ There is no reason to believe governmental services would be adversely affected due to the granting of the variance.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
PRELIMINARY STAFF FINDINGS:
➤ Staff met with the applicants at or near the time of purchase to discuss their plans for subdividing the lot. It was explained to them that there is an existing variance for the accessory structures, but a new variance request would be necessary if they were to proceed with plans to subdivide the lot. Thus the applicants were aware of the requirement.
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
PRELIMINARY STAFF FINDINGS:
➤ Without the variance, the applicants would have no choice but to demolish existing structures that have been in this location for years.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

PRELIMINARY STAFF FINDINGS:

- The Planning Commission considered these issues in the late 1970's when the original variance was granted, and there have been no material changes to the placement of the structures or the location of the rear alley since that time. Since the variance is merely shifting to a newly created lot (if the Planning Commission approves the subdivision), Staff believes this request is consistent with the spirit and intent of the Zoning Code.

H. Any other relevant factors.

PRELIMINARY STAFF FINDINGS:

- Staff is concerned that until a new principle structure is built on the subdivided lot, these accessory structures will exist on their own, with no principle structure on the lot. Therefore Staff recommends that if the Planning Commission is inclined to grant the variance, it should be conditioned upon prompt construction of a principle structure on the new lot.

Upon call of the roll on the question of the motion, the following vote was recorded:

MR. ANDREW AIDT YEA
 MRS. HARRISON GOWDY YEA
 MRS. E. HEALY JACKSON..... YEA
 MR. STEVE BYINGTON..... YEA

There being four (4) YEA votes, thereon, said motion carried.

There being no further business, the Planning Commission adjourned. The public meeting concluded at 6:58 p.m.



 CHAIR

ATTEST:



 CLERK