

CITY OF OAKWOOD
STATE OF OHIO
JULY 16, 2018

The Council of the city of Oakwood, State of Ohio, met in a work session at 6:30 p.m. in the conference room of the city of Oakwood, 30 Park Avenue, Oakwood, Ohio, 45419. Council then met in a regular session at 7:30 p.m., in the council chambers of the city of Oakwood.

The Mayor, Mr. William Duncan, presided, and the Clerk of Council, Ms. Lori Stacel, recorded. Mayor Duncan opened the meeting by asking all present to participate in the Pledge of Allegiance.

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

MR. WILLIAM D. DUNCAN.....	PRESENT
MR. STEVEN BYINGTON.....	PRESENT
MR. ROBERT P. STEPHENS.....	PRESENT
MRS. ANNE S. HILTON.....	PRESENT
MR. CHRISTOPHER B. EPLEY.....	PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager
Mr. Robert F. Jacques, City Attorney
Mrs. Cindy Stafford, Finance Director
Mrs. Jennifer Wilder, Personnel and Properties Director
Mr. Ethan Kroger, Code Enforcement Officer
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

Jim Kester, 14 W. Dixon Avenue, Oakwood, Oh 45419
Michelle Tucker, 49 Ivanhoe Avenue, Oakwood, Oh 45419
Alex & Marcus Hoffman, 52 Harman Terrace, Oakwood, Oh 45419
Brandon McClain, Montgomery County Recorder's Office
Wayne Baker, *Dayton Daily News*
Brian Barr, *Oakwood Register*

Mrs. Hilton advised Council she had read the meeting minutes of the June 4, 2018 regular session, work session and executive session. Mrs. Hilton reported she found the minutes correct and complete. Therefore, it was moved by Mrs. Hilton and seconded by Mr. Epley that the minutes of the sessions of Council aforementioned be approved as written and the reading thereof at this session be dispensed with. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

STATUS REPORTS – NONE

VISITORS

Montgomery County Recorder's Office, Recorder Brandon McClain – Recorder McClain addressed City Council and provided the following update.

Property fraud has affected citizens throughout Montgomery County. In an effort to be proactive, a Fraud Alert Notification (FAN) System has been implemented to take action against property fraud. This free service can be used by property owners to obtain notification when a document is recorded that is associated with your property. Registration is required for notification, and can be done online at www.mcrecorder.org or by visiting the Montgomery County Recorder's Office at the Montgomery County Administration Building.

Mr. Stephens asked if this is being done by people fraudulently signing their name to a deed.

Mr. McClain explained that it is, and shared that forgery is a breakdown of the system. Anyone can be a victim of property deed fraud, which is why it is important to be proactive versus reactive.

Montgomery County is expected to start issuing veteran ID cards in August or early September, providing current and former service members a quick way to prove they are eligible for benefits and other programs. The cards, which will be free to local veterans, are a form of state-issued identification.

Mayor Duncan shared that it is common that family members of elderly veterans do not realize the benefits that are available to them.

Mr. McClain agreed, and shared that the veteran ID cards will help all veterans obtain valid and available services.

Mayor Duncan thanked Mr. McClain for his service, and for taking the time to present this information.

Mrs. Michelle Tucker, 49 Ivanhoe Avenue, asked if the food truck policy is still under consideration.

Mayor Duncan shared that the previous ordinance will be rescinded based on citizen feedback. A new ordinance will be given a first reading at tonight's meeting that will provide limits on food trucks.

Mrs. Tucker shared that there are also two boy scouts from Troop 101 in the audience working on their communications merit badge.

City Council welcomed the two boy scouts.

LEGISLATION

AN ORDINANCE
BY VICE MAYOR BYINGTON NO 4865
TO REPEAL EXISTING SECTION 1006.7, VARIANCE STANDARDS,
OF THE OAKWOOD ZONING ORDINANCE AND ADOPT NEW
SECTION 1006.7, VARIANCE STANDARDS, OF THE OAKWOOD
ZONING ORDINANCE.

A copy of the ordinance, having been placed on the desks of each member of Council prior to introduction, was read by title.

Vice Mayor Byington explained that this is an ordinance to update the decision standards used by the Oakwood Planning Commission and Board of Zoning Appeals to evaluate zoning variances. It has been recommended by the City Law Director to align Oakwood's variance standards with Ohio Supreme Court case law.

As required by law, amendments to the text of the zoning ordinance require two public hearings. The first was held before the Planning Commission on June 6, 2018, and resulted in a unanimous recommendation of approval by the Planning Commission. The second public hearing will take place tonight.

Vice Mayor Byington asked Mayor Duncan to open the public hearing. Mayor Duncan did so, and asked Law Director Rob Jacques to make a staff report.

Mr. Jacques referenced a PowerPoint presentation and explained that he will discuss related Ohio Supreme Court decisions and proposed changes to the Oakwood ordinance.

Mr. Jacques shared that there were two Ohio Supreme Court cases where variance standards were evaluated: *Kisil v. Sandusky* and *Duncan v. Middlefield*.

Kisil v. Sandusky established two main points of variance law. The first is that there is a distinction between a use variance and an area variance. Mr. Jacques noted that the Oakwood Code does not permit use variances but does permit area variances. The second point is that there are two different standards to be applied: an "unnecessary hardship standard", which applies to use variances, and "practical difficulties", a lesser standard that applies to area variances.

Duncan v. Middlefield concluded that ultimately, variances are intended to be a relief-valve for avoiding an "unconstitutional as applied" challenge. Variances help prevent the argument that the Zoning Code is being applied in an "arbitrary and capricious" manner. As a result, the decision provides seven factors to consider in an effort to help guide the Planning Commission/Board of Zoning Appeals' determination of what is or is not reasonable for a particular property, and no single factor can control the decision. Mr. Jacques shared that the current Oakwood variance standards state that the applicant needs to meet each criteria.

The seven factors are: 1) Whether property will yield a reasonable return or whether there can be any beneficial use of the property without the variance; 2) Whether the variance is substantial; 3) 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; 4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage); 5) Whether the property owner purchased the property with knowledge of the zoning

restriction; 6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Mr. Jacques also explained that there is an eighth "bonus" factor that allows the Planning Commission/Board of Zoning Appeals to consider "any other relevant factor."

Mr. Jacques then reviewed the proposed ordinance changes.

The proposed ordinance will eliminate all references to the "unnecessary hardship" or "particular hardship" standard, to be replaced with the "practical difficulties" standard. The existing standards will be replaced with the factors that were introduced in the *Duncan v. Middlefield* case. The "must meet all" standards approach will be eliminated and the deciding body will weigh and consider all of the factors of the application.

The new ordinance will also add some material that is not clear in the current code. The decision will be based on the application, staff report, and any relevant and credible public testimony and evidence presented. The standard of review that must be met by the applicant is to show practical difficulties sufficient to grant the variance by a preponderance of reliable, probative, and substantial testimony and evidence.

Mayor Duncan asked Mr. Jacques if there are any pending Planning Commission or Board of Zoning Appeals applications that would be impacted by these changes.

Mr. Jacques confirmed that there are not.

Mayor Duncan clarified that the proposed changes are to comply with the Ohio Supreme Court by replacing the current ten variance standards with the new proposed eight *Duncan* factors.

Mr. Jacques confirmed yes.

This was a first reading of the ordinance, so Vice Mayor Byington made no motion.

AN ORDINANCE
BY VICE MAYOR BYINGTON NO 4862
TO AMEND EXISTING SECTION 301, TERMS DEFINED, OF THE
OAKWOOD ZONING ORDINANCE TO CLARIFY CERTAIN
DEFINITIONS PERTAINING TO RESIDENTIAL USES, AND TO
ADOPT NEW SECTION 409, RESIDENTIAL GROUP RENTALS, OF
THE OAKWOOD ZONING ORDINANCE.

A copy of the ordinance, having been placed on the desks of each member of Council prior to introduction, was read by title.

Mayor Duncan asked Mr. Jacques to review the changes that were made to the ordinance since being introduced at the last meeting.

Mr. Jacques explained that there were two minor changes made to the ordinance. The first change was to remove an incorrect reference of multi-family. The other change is to remove the number specification relating to disabled individuals in supported living facilities. Mr. Jacques explained that these changes do not require an additional reading of the ordinance.

Vice Mayor Byington explained that this is another ordinance to update the Oakwood zoning ordinance, and is intended to accomplish two things:

1. It clarifies several definitions that pertain to residential land use. These are not substantive changes; they are merely intended to clear up wording that could be considered vague or ambiguous.
2. It adds a new section to the zoning ordinance to address Residential Group Rentals. The primary goal of this section is to adopt objective criteria by which the city's Building Commissioner can determine whether a group of people living together do, or do not, constitute a single "family."

The Planning Commission has already reviewed the proposed ordinance and held a public hearing on May 2, 2018. The Planning Commission unanimously recommended that Council approve it. Council introduced the ordinance with a first reading and public hearing at the June 6 meeting.

- Even with a permit, food trucks will be prohibited in alleys and on the following streets: Far Hills Avenue; Shroyer Road; Patterson Road; E/W Schantz Avenue between Oakwood Avenue and the Oakwood/Kettering corporate line; Oakwood Avenue between Far Hills and Irving Avenues; and Park Avenue between Far Hills and Harman Avenues.
- Hours of operation are between 11:00 a.m. and 9:00 p.m.
- Unless being operated on a closed road (such as for a block party), food trucks must be parked by the curb, must dispense food curb-side, and cannot impede the orderly flow of traffic.

This was a first reading of the ordinance, so Vice Mayor Byington made no motion.

Mayor Duncan encouraged citizens to review the proposed ordinance and to contact City Council or city staff if they have any concerns or questions regarding the ordinance.

Vice Mayor Byington explained that City Council does a first and a second reading on ordinances to allow time for citizens to review and provide comments and feedback. City Council received a lot of comments regarding the food truck ordinance and incorporated changes based on that feedback. He also encouraged citizens to contact City Council or city staff with any concerns.

AN ORDINANCE
BY VICE MAYOR BYINGTON NO 4864
TO AMEND EXISTING SECTION 725.01, STREET SALES
PROHIBITED EXCEPT IN BUSINESS DISTRICTS, OF THE
OAKWOOD BUSINESS REGULATION CODE TO CREATE AN
EXEMPTION FOR THE OPERATION OF LICENSED MOBILE FOOD
VEHICLES.

A copy of the ordinance, having been placed on the desks of each member of Council prior to introduction, was read by title.

Vice Mayor Byington explained that this is the other ordinance to update the Business Regulation Code as it pertains to food trucks, and it was introduced with a first reading at the June 6 Council meeting. However, since a new food truck ordinance was just introduced tonight and will have a second reading at the August 6 Council meeting, Vice Mayor Byington made a procedural motion that City Council defer the second reading of this ordinance until August 6 so that the second reading of both food truck regulations occurs together. The motion was seconded by Mr. Epley.

Upon viva voce vote, motion passed and the ordinance was deferred until the August 6 Council meeting.

AN ORDINANCE
BY VICE MAYOR BYINGTON NO 4866
AN ORDINANCE PROVIDING FOR AN ELECTION ON THE
QUESTION OF A RENEWAL TAX LEVY IN EXCESS OF THE TEN-
MILL LIMITATION FOR CURRENT EXPENSES AND THE
GENERAL OPERATION OF THE CITY.

A copy of the ordinance, having been placed on the desks of each member of Council prior to introduction, was read by title.

Vice Mayor Byington explained that the City has an existing 3.75 mill property tax levy, first approved by Oakwood voters in 2013, that is due to expire at the end of 2018. At the June meeting, Council took the first legislative step to put this matter on the ballot for renewal, and this ordinance is the second and final step. It is important to note that since this is a renewal instead of a new levy, it will maintain the current level of property taxation and will NOT increase property taxes.

Thereupon, it was moved by Vice Mayor Byington and seconded by Mrs. Hilton that the second reading be waived and that the ordinance be passed.

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

MR. WILLIAM D. DUNCAN.....	YEA
MR. STEVEN BYINGTON	YEA
MR. ROBERT P. STEPHENS.....	YEA
MRS. ANNE HILTON.....	YEA
MR. CHRISTOPHER EPLEY.....	YEA

There being five (5) yea votes and no (0) nay votes thereon, said ordinance was declared duly passed and it was so ordered.

STAFF REPORT

Personnel & Properties Report: Mrs. Jennifer Wilder, Personnel & Properties Director, referenced a PowerPoint presentation and updated Council on the following topics: Properties, Personnel, and City Events.

The Zoning Department exists to protect Oakwood Residents. By enforcing the Zoning and Property Maintenance Codes of the City of Oakwood, the City is working to protect property values. This is done by reviewing & analyzing land use, zoning proposals, requests, and administering permits for improvements made to properties.

Mrs. Wilder introduced staff in the zoning office. Lyndsie Corn, the Receptionist, has been with the City for almost two years. She processes all building and zoning permits, schedules inspections, and answers a multitude of questions residents may have about zoning regulations. Sherri Laidler, the Department Secretary, has been serving the community for over 10 years. She wears many hats in her position as she also supports the personnel department, as well as facility maintenance of the beautiful historical city building. Ethan Kroger, Oakwood's Code Enforcement Officer, has been with the City for the past three years. Residents and businesses work with Ethan on a daily basis when looking to improve their property. Mrs. Wilder encouraged residents to contact Ethan before taking any steps on property improvement projects. She explained that Ethan will meet residents at their property and walk them through the permitting process so that residents have a clear understanding of the process.

The Oakwood Zoning Department is a busy place, with almost 400 permits issued in 2017, and also almost 400 inspections completed that year.

In addition to on-going property maintenance efforts, the zoning department annually conducts a city-wide automobile tour to identify violations of the Oakwood Property Maintenance Code. The most common violations seen this year include dead or diseased trees and chipping or peeling paint. Property owners are sent a letter advising them of the violation(s) and establishing a date to complete the repair(s). City staff works with property owners who require additional time to correct violations. In the rare circumstance that a property owner makes no attempt to correct a violation, citations are issued to appear in Oakwood Municipal Court.

Yellow door hangers are the main way the City communicates with residents when there is a property concern. The tag is not a citation, but rather the first step in communication. This could potentially lead to a citation if the property maintenance concern is not corrected within the prescribed timeframe.

Oakwood Ordinances prohibit the placement of any debris in City roadways, except leaves during the 10-week fall leaf collection season. Debris of any sort, including yard waste, placed onto the streets, including the gutter line along the curb, can cause safety issues. The debris interferes with the flow of vehicles and bicycles, and can be detrimental to the stormwater collection system. The City offers several options for disposing of yard debris. The "Do It Yourself" options include: 1) yard debris dumpsters at the Creager Field parking lot (at the corner of Shafor Blvd. and Irving Ave.); 2) monthly drop-off at the Foell Public Works Center, 210 Shafor Blvd, on the first Saturday of the month between 8 a.m. and 12 noon; and, 3) a city dumpster can be dropped off and collected free of charge if the only material in the container is yard debris. The City collects yard debris from property frontages on a monthly schedule from January through September, and bi-weekly from October through December. The collection dates are published in the Oakwood Scene newsletter and are posted on the Oakwood website. For City collection, yard debris should be placed off the street and just behind the curb, ideally just a day or two before the scheduled pick-up date. Branches should be no longer than 6 feet and all material should be placed in manageable piles for efficient pick-up. Yard debris material must not be placed around trees, fire hydrants, cable TV boxes, posts/poles, etc., or in the street, gutter, or center median on boulevards. When yard debris is found in the street or gutter, the City will leave a yellow door hanger directing the property owner to remove the debris from the roadway within 72 hours. If the debris is not removed within 72 hours, the Public Works Department will remove the debris and charge the property owner with a special pick-up. Under the City's refuse program, each property owner is entitled to two free special pick-ups per year.

Additional pick-ups thereafter, including those made for yard debris, will be billed to the property owner at \$100 each.

Trees and other vegetation are an important part of Oakwood's ambiance, but proper maintenance is essential for reasons of public safety and community aesthetics. Code Enforcement Officer Ethan Kroger conducts city-wide sidewalk inspections twice each year to identify locations where trees or vegetation are encroaching public sidewalks. Oakwood is a walkable and bike-friendly community, and sidewalk encroachments can force walkers and bikers into the street if they are not able to pass. If a sidewalk encroachment is minor, Mr. Kroger may trim it on the spot. If it is more significant, then a yellow tag will be left at the address that allows five days for the trimming to take place. If not corrected within five days, Oakwood Public Works may be called in to trim, depending upon the severity of the encroachment. Oakwood's goal is to have safe and passable sidewalks for resident enjoyment.

The Oakwood Beautification Award Program recognizes residential, business and rental property owners who enhance the beauty of Oakwood by making landscaping or building improvements. Properties are nominated by citizens or staff, and judged by members of the Oakwood Property Maintenance Board. Awards are given May through August, and are publicized in the Oakwood Scene newsletter, on the City's website, in the Oakwood Register, and properties receive a sign in their yard. Recognition at an Oakwood Council meeting will be done this fall.

The Vectren gas line work that began in late spring replacing underground gas distribution pipes in areas around Monterey Avenue, Hillview Avenue and Triangle Avenue has been completed. Yard restorations are currently underway on these streets. The work on East Drive that involves a large trench being dug and a new 16" pipe installed is underway. The work on Shafor Boulevard to Hathaway Road has been completed, and work continues in the next block to the east. Asphalt roadway restoration will follow. Public Works Foreman Tom Long has been working with Vectren to ensure the work is completed safely, and with the least impact to Oakwood residents. Residents are encouraged to contact Tom Long if they have any questions or concerns.

The Element Oakwood condos are currently in the foundation stage, after having to address unplanned drainage issues. The next steps include underground plumbing, and residents can expect to see framing work by late August.

The original approval for the Russell Wealth Management development from November 2017 for a 22,000, 3-story office building has lapsed. The Oakwood Planning Commission recommended approval of a smaller office building that City Council will review at the August 6 meeting.

Kettering Health Network bought the 2600 Far Hills Building in April 2017. While no building or zoning applications have been received to date, the plans remain to establish medical offices there.

Morning Sun Florist, 2411 Far Hills Avenue (formerly Rife's Jewelers), is completing exterior finishes and interior remodeling. The planned opening is scheduled for September.

Goodwill, 2322 Far Hills Avenue, opened in December 2017. While there have not been any parking complaints since opening, in an effort to encourage patrons to use the parking lot located just to the south of the store, Goodwill will be placing a sign directing store patrons to the Goodwill parking lot.

Mrs. Wilder then reviewed the 2018 employee retirements and hires. PSO Mike Russell retired on April 15 with 25 years of service in public safety, 18 of those years at the city of Oakwood. PSO George Williams retired on May 24, with 21 years of service in public safety, seven of those years at the city of Oakwood. New hires include: PSO Justin Slone; Old River Maintenance Worker Alex Schooler; PSO Jesse Shaffer; OCC Receptionist Marvel Ellcessor; and Public Works General Service Worker Troy Gearhart.

The Oakwood Farmers' Market is currently open on Saturdays from 9 a.m. – 1 p.m. through October 20. The market is located on Orchard Drive in the public municipal parking lot. More information is available on the Oakwood Farmers' Market website or Facebook page.

As a free service to Oakwood citizens, the City has contracted with Shred-It to be on-site at the Public Works Center at 210 Shafor Boulevard on Saturday, September 29, from 8:00 a.m. to 11:00 a.m. to provide document destruction services. The Oakwood Public Safety Department has installed a locked prescription drug drop-off box in the lobby entrance to the city building located at 30 Park Avenue. This drop box offers a way for residents to conveniently dispose of

unwanted or expired prescription drugs and is accessible to the public 24 hours a day, 7 days a week.

Mrs. Wilder thanked City Council and added that she is fortunate to witness daily examples of dedication to public service, which makes Oakwood a great place to live and work.

Mrs. Hilton commented that she was surprised and pleased that the Farmers' Market is being extended into October. She then asked how property maintenance issues are reported.

Mrs. Wilder shared that there are several ways that the City receives property complaints. Most violations are typically reported by residents and members of the Property Maintenance Board.

Mayor Duncan thanked Mrs. Wilder for her presentation.

CITY MANAGER'S COMMENTS – Mr. Klopsch provided an update on the following items:

Even though Mrs. Wilder has only worked for Oakwood for five months, she has learned a lot about Oakwood in a short amount of time. The City is happy to have her on staff. Code Enforcement Ethan Kroger has taken on more of a leadership role on the Planning Commission and the Board of Zoning Appeals, and is doing an outstanding job for the City.

Auditor of State Dave Yost will be presenting Finance Director Cindy Stafford with the Auditor of State Award for excellence in financial reporting at 2:30 p.m. on Wednesday, July 18 in Council Chambers. The City once again had a clean audit report. Only 8% of the jurisdictions in the State of Ohio are recognized with this award, so it is an honor.

In addition to the Vectren work that Mrs. Wilder mentioned, there is a lot of other construction going on throughout the City.

The north end of Oakwood has an AT&T contractor installing communication lines.

The annual Sidewalk, Curb and Driveway Apron Project is well underway. Most of the work is taking place in the southeastern quadrant of Oakwood.

Beginning tomorrow, there will be some quick curb repair work on W. Hadley Road and Acorn Drive in advance of the asphalt mill and overlay project, which is scheduled to begin this Friday, July 20. If the weather cooperates, the work could be done in about one week. All of the property owners that are impacted by the work have received two notifications.

The Shafor Park Tennis Court project is progressing nicely. A ribbon cutting ceremony is tentatively scheduled for 5 p.m. on Monday, August 20.

COUNCIL COMMENTS

Mr. Stephens congratulated Mrs. Wilder on her first presentation to City Council.

Mayor Duncan gave a shout-out to Oakwood's Sister City, Le Vésinet, France, for France winning the 2018 World Cup.

The public meeting concluded at 8:45 p.m.



MAYOR

ATTEST:



CLERK OF COUNCIL