

BUILDING & BUILDING CODES COMMITTEE MINUTES NOVEMBER 18, 2014

The Building & Building Codes Committee meeting was held on November 18, 2014, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 6:14 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dan Kasaris, Larry Antoskiewicz; Council: Gary Petrusky, Dan Langshaw, Paul Marnecheck, Steve Muller; Administration: Mayor Robert Stefanik, Community Development Director Thomas Jordan, Building Commissioner Dan Kulchytsky, Service Director Nick Cinquepalmi, Finance Director Eric Dean.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the October 21, 2014 minutes** as received. Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. City Hall update/project

Mr. Nickell asked for an update on what yet remains to be done with the new facility. Mr. Jordan said that the city seal that is to be displayed in Council Chambers is being ordered. He said they are ordering some benches for the front. He said there is a punch list that the contractor is working through that was developed with the city's own architect. The Building Commissioner also did a walk through with the architect. He said that there are still some issues that need to be resolved. The building has a number of energy features, one having to do with the heating system. He said that the idea is that this building will shut down the level of heat overnight and we need to program the heat to stay on during the evening meetings. Otherwise it starts cooling down at about 5:00 p.m. He said that we have employees who arrive early in the morning so we will have the building heat up a little earlier in the day. He said all of this is designed to make the building more energy efficient; it just needs some programming work. He said that the added security and technology is going to take some getting used to. He encouraged anyone with any items they feel need to be addressed to please let him know via email. He said that we are still working on completing the punch list. He said we have about \$10,000 left in the contingency. The contractor claims that there are some bills that fall outside of our specifications. Mr. Jordan said that he told them that he wants the building to be in as near perfect condition as they can under the specifications of the contract, and that we would be fair and settle the remaining financial issues post closing. We will work through this and advise Council if it is necessary to increase the contract limit. Mr. Jordan said that the voice recognition system for Chambers has yet to be installed. It is expected to be installed within the next week. Mr. Jordan said that they are working through the final issues with the furniture installer. He said at the next Council meeting, some of the improvements for the playground will be submitted to Council for approval relative to the playground equipment. He said that with the help of the Service Department and the volunteer that is removing the existing equipment, we were actually able to purchase more equipment than was originally planned. Installation is planned for the spring. Mr. Nickell asked if there will be walk-off mats installed at various locations. Mr. Jordan said that the front door will have a walk off mat. It did not fit properly when installed and they need to grind the floor to get this to fit. He said this is expected to be resolved shortly. Mr. Petrusky asked Mr. Jordan to elaborate on what grinding the floor entails. Mr. Jordan said that between the front foyer doors there is a poured concrete floor with a certain pitch so that water from boots, etc. runs into the drain. When the walk off mat was installed, it was too high and the doors were hitting the mat. So the concrete floor has to be ground down in certain spots so that it works as designed. He said that this work can only be done when we are not open. They are scheduled to do the work this Saturday.

2. Fence Ordinance

Mr. Nickell said that at the last meeting there were some questions about fees for surveys, but he doesn't think that this is in the latest draft. Mr. Kulchytsky said that Council should have received a draft copy of the fence ordinance. He said that the intention was to take the various sections that appear throughout our code and consolidate it into one chapter where we define fence types, clarify where these fence types are permitted in

residential and nonresidential districts, installation methods, and resolve some unique situations that exist in our code relative to corner lots. He said that he has already received some comments on this draft. He said the intention of this ordinance was not necessarily to change the intent of our current code regarding fences. If there is a certain type of fence that is permitted in Rural Residential, this ordinance will consolidate this into this chapter and still maintain the requirements in the current code. He said that he has been asked if this legislation should include more information on the commercial districts. He said that this was not included in this ordinance because the current ordinances refer all fences to the Planning Commission. He said that they would be willing to look at requirements for fencing in Commercial Districts if Council so desires, however currently it goes to Planning Commission for review. Mr. Kasaris said that he understands that if we are going to have a new business that wants to install a fence it would go to the Planning Commission. He asked why an existing business that wants to install a fence would have to go to the Planning Commission. Mr. Kulchytsky said that the intention is that when a new business moves into the city they are required to appear before the Planning Commission. They then approve a site design that may or may not include fencing, landscaping, etc. He said our current ordinance treats it as once you have an approval, you should go back to Planning Commission with any changes to that approval. The exception to this is the General Industrial District. The code allows for latitude to the Building Division for placement of fences. Mr. Kasaris said he does not understand the logic of an existing business having to go before the Planning Commissions for a fence. Why can't they just go to the Building Commissioner for approval. Mr. Kulchytsky provided an example. He said that it would be appropriate for an individual who has a business in the Town Center District, which has unique requirements and is held to a higher esthetic, to be reviewed by a body such as the Planning Commission. Currently no fences are allowed within the Town Center District other than those required by Planning Commission. Mr. Kasaris said it is an esthetic, uniformity issue. Mr. Kulchytsky said that is correct. Mr. Nickell said that we had previously talked about side yards and corner lots and asked if the adjustments that were recommended by the committee were included in this draft. Mr. Kulchytsky said that an adjustment has been included for a property that abuts two streets. In other words their side yard is facing a side street. Our previous code required their fencing to align with the side street's front yard setbacks. So if the houses are set back 50-60 feet, the fence was required to align with those houses. This resulted in the fence landing midpoint to the house in some cases. He said that we have resolved this problem by allowing that fence to be set back 15 feet from the sidewalk. Mr. Nickell said that was good because in the past, these situations were required to go before the Board of Zoning Appeals for a variance. Mr. Petrusky said then if the sidewalk goes around the yard, there would be 15 feet of grass between the sidewalk and the fence. Mr. Kulchytsky said that is correct. He said we discussed having 10 or 15 feet. We currently have it at 15 feet, but it still allows both 10 and 15 feet site lines down the street. Mr. Langshaw asked if there is anything in the draft ordinance that clarifies that there is no survey required and that it is the homeowners liability if they install the fence on the adjoining property since it is not part of our inspection process to verify property lines. Mr. Kulchytsky said that there are two sections in the new code that deal with this. Section 1465.03 makes it the responsibility of the homeowner and of the installer to ensure that the fence is installed within the property line of the homeowner. It is not the responsibility of the Building Department to locate those lines, nor during our inspections to help ensure that those property lines are met. Section 1465.07 clarifies that our inspection is to verify the stability of the fence, the construction of the fence, but not the property line. Mr. Marnecheck said that it is proceed at your own risk. Mr. Kulchytsky said in a word, yes. Mr. Antoskiewicz said we have talked in the past about placing a notation on the building permit stating that it is the applicant's responsibility to ensure proper placement of the fence. Is this something we are planning to do? Mr. Kulchytsky said that in the process of redoing this ordinance, we will also be redoing the application form and it will contain a statement that they will have to sign off on stating that they understand the requirement that it is incumbent upon them to locate the property lines. Mr. Kulchytsky said that there were some questions regarding concertina wire, which is basically razor wire. He said it was not included as a permitted fence type in residential districts, so it isn't shown on the list of restricted fences. However, in the interest of keeping the language consistent, if we excluded a particular type of fence, we added it to the list of restricted fences. Mr. Kulchytsky also said that a question was raised regarding snow fences. He said that this is covered in the beginning sections under General Requirements (1465.04). He said that this covers all of the districts. He said that there was also a question of whether or not the requirement to install gates would be retroactive. He said that this language is to ensure that there is always a gate in any new fence that is installed within the city that allows for safety forces

access. It is not intended to apply to fences already installed. Mr. Petrusky asked if this ordinance would be retroactive regarding enforcement of those who have existing fencing problems. Mr. Nickell asked if Mr. Petrusky was referring to fences that are deteriorating and in need of repair. Mr. Petrusky said no, he said he wants to know how we will handle fences that are not in compliance. Mr. Kulchytsky said that this is covered in the ordinance under exemptions. If a fence has a permit and is a permitted fence type, then it is allowed to remain. If you went through the permit process, secured a permit, had approvals, reviews, and inspections, then it is allowed to remain. We will be pursuing noncompliant fences under various aspects of this ordinance as well as the property maintenance code. Mr. Petrusky asked about someone buying a home with a fence already installed, and they don't know if there was a permit or not, and then all of a sudden there is a neighbor dispute. How would we handle that. Mr. Kulchytsky said that we would check to see if there was a permit for the fence. If no permit was issued, then it would fall outside of this ordinance and they would receive a notice from us asking them to verify the fence, get us the location and get a permit for it or remove the fence. Mr. Petrusky said that this is his concern. He used his house as an example. He said that he has been in his house over 10 years. His yard was fenced in when he bought it. He has no idea if there was ever a permit pulled for this fence. Now what if his neighbor wants to sell his house and says that the fence is encroaching on his property. If it can't be validated that there was a permit issued for this fence, is he then liable to tear the fence down and put it back up, or do they just have to pay for the permit. He feels that there may be some conflicts with preexisting fences that were put in under good intentions. Mr. Kulchytsky said that with this proposed ordinance, and well as our previous ordinance, we do not locate the property lines. So if it's a question of a property line dispute, this is a civil matter between neighbors in the instance Mr. Petrusky is describing. However a permit would have been required regardless. Mr. Kulchytsky asked the Law Department for some insight on this, perhaps it would fall under an existing nonconforming use. Mr. Kelly said that in the example Mr. Petrusky described there are a number of things at issue. First, as Mr. Kulchytsky properly stated, it is a civil matter between property owners and does not involve the city. Second, as to an existing fence which is the subject of this dispute, this also falls within the purview of the civil dispute for the court to decide. He said very likely if Mr. Kulchytsky were to come to him with something like this, he would tell him we would stay out of it and let the disputants work it out between them or have a court determine it. We are not going to get into the middle of this sort of controversy for a lot a reasons, not the least of which is we don't have any jurisdiction. The question of whether we would prosecute some one for having a fence without a permit, again it's a matter of some discretion on the part of the Building Commissioner. Based on the fact pattern established in this example, very likely we would not do so. Mr. Kasaris asked if you tear down a part of a preexisting fence and replace it due to maintenance needs, how would that be covered. Mr. Kulchytsky said that the Building Department does not typically review minor repairs. For example if you had to replace some siding on a shed, we would not be inspecting this. If it was a substantial renovation and you had to take down the entire fence, then this would obviously merit an inspection. If it is just replacing a post or two, we would not typically pursue this. Mr. Kasaris asked if this was the final draft for Council's consideration. Mr. Kulchytsky said no, he still needs to meet with the Law Department to discuss some of the finer points and make some additional adjustments based on discussions held in the Building Division. He recommended that the committee wait until they can see the final draft at their next meeting before making a recommendation. Mr. Nickell said that this will stay on the agenda until the next meeting.

NEW BUSINESS

1. Ordinance 14-128

Mr. Antoskiewicz said that this matter came up at the last Planning Commission meeting. There was a business owner who wanted to open a salon as an accessory use in Office Building Zoning, but this is not a permitted use in this zoning classification. He asked Mr. Kulchytsky to expand on this further. Mr. Kulchytsky said that the section we are referring to is Use Regulations for Office Building Districts. He said in their review of the uses permitted in an Office Building District, certain accessory uses that are commonly found in office buildings such as restaurants, barber shops, dry cleaners, etc. are not permitted in our current code. Therefore we have made some corrections to include items such as newsstands, salons, barber shops and other common uses that would normally be seen in an office building. Mr. Nickell said that the ordinance states that the use cannot exceed 30%. He asked how this would work in a single stand alone office building. Mr. Kulchytsky said let's say you have a three story office building, we needed to provide some sort of limitation

to it; we didn't want to have it open ended as accessory uses. We felt that an accessory use would be a lesser portion of the building and that 30% would be appropriate. Mr. Nickell asked if a building such as the former Pizza Hut that was zoned Office Building and someone wanted to make the whole building a salon, could they do that? Mr. Kulchytsky said they would not be able to do that. Only 30% would be permitted for the accessory use. This would be more for a large 10,000 square foot office building, 30% would not be unreasonable for an accessory use. He said there are very often situations where you have larger office buildings where it would not be out of the ordinary to have significant amenities provided for their staff within the campus. Mr. Petrusky asked if there could be multiple accessory uses with 30% each, or is the total available accessory usage 30%. Mr. Kulchytsky said that it would be the aggregate.

Moved by Mr. Nickell, seconded by Mr. Kasaris to recommend approval of this Ordinance to Council. Yeas: 3. Nays: 0. **Motion carried.**

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Nickell **to adjourn the November 18, 2014 meeting.** Yeas: 3. Nays: 0. **Motion carried.** Meeting adjourned at 6:48 p.m.