

**BUILDING & BUILDING CODES COMMITTEE MINUTES
JUNE 20, 2017**

The Building & Building Codes Committee meeting was held on June 20, 2017, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:10 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dan Kasaris, Larry Antoskiewicz;
Council: Gary Petrusky, Dan Langshaw, Paul Marnecheck, Cheryl Hannan; **Administration:** Mayor Robert Stefanik, Law Director Thomas Kelly, Community Development Director Thomas Jordan, Finance Director Eric Dean, Building Commissioner Dan Kulchytsky; **Other:** Lou Krzepina, Mary Masterson, Harinie Jeyabalan, Bev Phiel.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the May 16, 2017 minutes as received.**
Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. Former City Hall and City Green Development

Mr. Jordan said that we have accepted the bid to tear down the former city hall and work will start in early July. There are some records still in the building that are being addressed for retention or destruction and other departments have been taking office equipment and hardware for use elsewhere in the city. He said that the Police and Fire Departments are planning some training exercises in the building as well before it is torn down. He said that the preliminary concept drawings for the possible new structure on this site have been completed by Brandstetter Carroll. The purpose of this was to see what concept could be used on this site, explore sight lines and views, determine what kind of pavilion could be built, etc. They are looking at a two level seasonal pavilion. In order for us to pursue the design and prepare the bid materials to build this pavilion, we are seeking to move forward with Brandstetter Carroll. Mayor Stefanik said that the price tag we have seen so far is about \$500,000 for the pavilion. He said that we are also looking at the possibility of changing the old sign on the corner of Rt. 82 and Ridge and replace it with an electronic sign, and finishing off the cemetery with the fence and pillars as well. He said that we are going to package this all together and possibly bond this out. It will be up to Council whether we take the money from the future capital or bond it out over 20 years. He asked Council to think about it and we can discuss at the next meeting. Mr. Antoskiewicz said that he wants to take the same approach that we took with the YMCA and with the new City Hall; let's do it up right and make it nice within reason. He agrees that the signage needs to be modernized, and possibly look to see if there is a better location for the sign because there is a pole at this intersection that blocks some of the visibility of the sign. He said that he has always been in favor of improvements to the cemetery and hopes that some type of signage is incorporated there for identification purposes. Mayor Stefanik suggested that Council view Brecksville's cemetery and see the nice entry arch that they have and said that this is similar to what we would be looking at along with the brick pillars that the other businesses have been installing along Rt. 82. Mr. Nickell said he too is in agreement with this concept. He said that he likes the drawings of the concept for the city green. He said that we have been encouraging the businesses to install the western reserve type fencing and that will tie in with the cemetery and Memorial Park. He has been saying for years that we need to modernize the sign at the intersection. Mr. Langshaw agreed that it makes sense to package these items together. He asked if we were looking at doing any improvements to the parking and lighting at the city green. Mr. Jordan said that we looked at the possibility of changing the parking lot configuration but have decided not to do it at this time. When the pavilion is designed, there may be adjustments made to the parking lot. He said that the volume of the parking spaces would not be decreased. Regarding the lighting, he said that this is something they can certainly look at. Mr. Jordan said that the proposal with Brandstetter Carroll as it is currently written has to do with the pavilion. It is about \$38,000 to do the design work. They are not currently master planning the entire city green which would include things such as parking and lighting. This can be explored further. He said that we have looked into the sign issue and the cemetery fence issue separately over the past few years and we have ideas of what that will involve. We can explorer relocating

the sign. Mr. Jordan said that when we talk about packaging these projects together, it is from a funding standpoint; we are not talking about packaging them together as one construction project. Mayor Stefanik said that our latest estimate for the cemetery fencing is \$50,000. Discussions were held regarding various grants that may be available for things such as lighting, etc. as well as the different types of lighting available. Mr. Kasaris asked what the hours of the park would be. Mr. Jordan said that it will follow a dawn to dusk schedule as the rest of the city parks do.

2. **Amendments to Fees in the Building and Housing Code 214.08 (c)(3)**

Mr. Kelly said that he has done some research on this matter. The BZA is a statutory body and is not a body of the Charter. It is created by Ordinance. You can do many things with the BZA but ultimately the BZA does not have in its quasi-judicial capacity the authority to levy fines. He said from his perspective the answer to the question as to whether the BZA can engage in assessing charges that are in excess of those charged to every other applicant on the basis of some prior misconduct is no. Using a financial means to punish people in this circumstance is not appropriate. Mr. Kasaris said that the BZA has the ability to impose conditions upon granting a variance and he felt that as a condition of the variance we can simply say that instead of paying double they will pay triple. He said that we grant variances all the time with conditions placed on them. Mr. Kelly said that the conditions are designed for yard and area circumstances. They are designed to specifically address a particular problem. The BZA is not a court of law and they do not have the authority to levy financial penalties. Mr. Antoskiewicz asked if the Building Department is comfortable with the process that is currently in place or do they believe that an expanded penalty amount would deter or help the situation. Mr. Kulchytsky said that currently we believe that the system is working fine in terms of enforcement within the Building Department. We think that a double fine is adequate at this time. Furthermore if contractors have repeat offenses, we have the authority to revoke their registration. This alone usually brings the situation to closure so he does not recommend changing this at this time. Mr. Antoskiewicz said that in his opinion this, coupled with the opinion from our Law Director, warrants removal from the agenda. The other committee members agreed. **Remove from agenda.**

3. **Home Sales (Garage and Yard Sales)**

Mr. Kulchytsky said that this has been discussed during the past few B&BC committee meetings and provided a brief recap of those discussions. He said that he, Mr. Langshaw and the Law Department have put together some language that the Building Department can enforce without causing undue burden and will hopefully solve the problem of these yard sales. A copy of this language as follows:

***660.23 Home Sales.** No person shall sell or offer for sale any personal property on a residential lot in a residentially zoned district or on a nonconforming residential lot in any other zoning district nearer than 50 feet from the right of way or 75 feet from the street pavement, whichever is greater.*

Mr. Langshaw said that he likes this language better than his original proposal. It is to the point and does not infringe on those who still want to have a garage sale. For those who want to sell their junk, this keeps it out of the city right of way. It is a simple way to address this issue. Mr. Nickell said that his opinion has not changed. Telling residents that they can't put their car out front to sell it will irritate more people than we will be helping. He said it's just one of those things in America where you can sell stuff in your yard. It is unfortunate that some people take advantage of it, but that is what freedom is. He said that he won't support this. Mr. Langshaw asked if there is something in our code that already regulates the sale of cars, boats, etc. Mr. Kulchytsky said that there is an ordinance that allows for the sale of one vehicle per residential property at a time. Mr. Langshaw asked if this newly proposed language would impact that ordinance. Mr. Kelly said that the law requires that we read these in harmony if possible and to the degree that there is a specific exception that would allow for the sale of a single automobile on someone's front lawn, that would take precedence over this broadly written ordinance relative to the sale of personal property generally. This new language would not prevent someone from selling an automobile if they were in compliance with the other ordinance. Mrs. Hannan said that she would like time to reflect on this newly proposed language since she just received it this evening. She asked what the penalty would be for

violation of this new ordinance. Mr. Kelly said that it would be an unclassified misdemeanor and under our code those are all minor misdemeanors resulting in \$100 fine for a first offense. He said that it can be made a fourth degree misdemeanor if Council so chooses. He said that if there is a consensus with Council with regard to this language, we will ask the Council Office to prepare legislation that would allow for Council's consideration at a future meeting or for referral to committee. Mrs. Hannan said she does not feel comfortable with this at this time without looking at it in context with the different ordinances that we already have. She would like to be able to do a little more research. Mr. Nickell said that the administration has said that they are going to use some of the laws already on the books to help enforce these concerns, so Mr. Langshaw's efforts haven't been for naught and they are not falling on deaf ears. Mr. Langshaw said that if there was something already on the books the administration would have already been enforcing this. There currently is no mechanism in place to do this. Mr. Antoskiewicz said that he understands what the problem is and he understands where both sides are coming from and that it is not just black and white. He said that he can see where a resident who wants to sell a car is not going to understand the difference between the codes and will think that they can't do something that they have always been able to do. He asked if there is a way of doing this so that we limit the amount of items that can be for sale. Mayor Stefanik said that in the beginning, we talked about limiting it to 4 yard sales a year and it was said that this would be hard to enforce. He disagreed. If we see that someone having a yard sale 2 weeks in a row a light should go on. He said Council could send in action forms when they see one. He said that we know who the offenders are. As soon as they have their 4th yard sale in a year, they can't have anymore. He said that he is tired of looking at the junk on the front lawns of the same 5 people and he thinks that the residents are sick of it too. Mr. Antoskiewicz disagreed that this would be easy to enforce. Mr. Kelly said this is complaint driven. We don't have enough personnel to drive around doing inspections for these types of things on a regular basis. So if there is a particular individual or property owner that is doing this on a daily basis we can respond but we would like to see this proposal given some consideration. It gives the Building Department and the safety forces the opportunity to at least tell an individual that you can sell your golf clubs if you like but you have to do it at least 75 feet back from the roadway. He said that this will solve a good portion of the problem. Mr. Langshaw said that we are trying to maintain property values and provide a good character and image of our city and it doesn't make sense to be selling junk. If you really want to sell it, you can use Craigslist. He said that he will introduce legislation to address this for Council's consideration at a later meeting. Mr. Jordan said that regarding the language that was presented to Council this evening, he said that it can be refined into an ordinance and bring it back to the committee. He asked the B&BC Committee to vote yes or no on this tonight so that they know how to proceed. If it is a no vote and Council in general wants to pursue a different line of enforcement, we could explore that at a later time. Mr. Antoskiewicz doesn't agree with the 4 sales per year option, but could live with the language that was presented this evening and see how it might work out. He thinks that this is easy to enforce and there is nothing arbitrary about it. Mr. Kasaris said that his position on this new language is no. He said that it is too far back from the street. If someone is trying to see what is for sale, it could be a safety hazard. Mr. Petrusky agreed that it is too far back to be practical in most areas. Mr. Langshaw said that the setbacks could be adjusted. Mr. Jordan said that most of the offenders are located on state routes with large front lawns which is part of the genesis of these setbacks and agreed that in most subdivisions this would be right up against the house, but most people don't sell golf clubs on their front lawns in subdivisions. As written, it is intended to make it more difficult for people to do this. Mr. Langshaw asked if it would be possible to have different setback distances for main roads vs. subdivisions. Mr. Jordan said that it is a possibility but he would still like a consensus from the committee before they move forward. Mr. Langshaw said that as a Councilman he will exert his power to introduce legislation so that the B&BC committee does not have to make a decision on this. He will introduce it and amendments can be made if necessary. The Mayor can cosponsor if he wants. Mr. Nickell said that since Mr. Langshaw is moving forward with this, we can remove it from committee. **Remove from agenda.**

NEW BUSINESS**1. Fair Housing Report**

Mr. Nickell said the Fair Housing Review Board met on June 13, 2017. There was one brief complaint but there was no follow up so the complaint was closed. He said that they will meet again on September 19, 2017 at 5:30 p.m. He said they discussed leaving materials about fair housing issues at the Community Fair in the city's booth and also at the realty offices in the city. Mr. Petrusky suggested leaving information at the library as well.

2. Painting of Buildings

Mr. Nickell said that there was a concern raised at a previous Council meeting by a resident who was concerned about the color of paint used at an auto repair establishment. Mr. Nickell asked Mr. Jordan to comment on this for the record. Mr. Jordan said that there are some districts within various cities such as historic districts that restrict the colors permitted, etc. North Royalton has no history of this and he is not at this time recommending that we start getting into restricting what color paint people can use. We hope businesses would recognize that if they do something unattractive to the exterior of the building that it would have a negative effect on their business and that it would self-correct. It is his experience that this happens. Mr. Kasaris said that one thing he noticed on this facility is that the back of the building is unfinished and asked if there is anything we can do to require that they finishing the building. Mr. Jordan said that if it is unpainted and peeling, we can ask them to correct it. Mr. Kasaris said that if you look at the far west wall, they started painting it green and just stopped. Is there something we can do to have them finish painting? Mr. Jordan said that he will look into this. Mr. Nickell also asked that they look into a car that has been sitting on this same property for quite some time.

MISCELLANEOUS

Bev Phiel, 5820 Goodman Drive, addressed the committee. She said that her back lot is adjacent to the North Royalton Nursery side lot. In 1979 they built their house on Goodman Drive. She said that the nursery is zoned residential. When the original owners died and their heirs sold the property, Mayor Halek allowed the property to continue as a nursery under the grandfather clause. In 1991 there was a judgement entry between the city and the next owners of the nursery with 8 stipulations, one of which reads "the defendant has and shall continue to limit storage of raw materials to only bulk mulch, top soil and mix to be kept in no more than 2 storage bins constructed of railroad ties, which ties shall not exceed a height of 4 feet. Further defendant shall at all times practical cover the aforesaid raw materials within said storage bins with tarp or plastic. All other raw material including but not limited to gravel and sand shall not be permanently stored save and except for defendants own use and consumption." She said that in 2002 Grace Brothers, who now own the nursery, requested an approval from Planning Commission for a site plan and approval plan. They wanted to add more greenhouses at that time. She said she and her husband were at that meeting. On page 56 and 57 of those minutes Mr. Grace stated that he was aware of the settlement and knew that they would have to abide by it. Her husband asked if Grace Brothers was intending to bring their landscape business to the property on Ridge Road. Mr. Grace said no and the request for the additional greenhouses was approved. In 2012 Grace Brothers started building several storage bins for raw materials. She inquired about it but did not get any more than a shoulder shrug for a response. She said that they have dust from unmaintained driveways and there were semi-trucks unloading at 7:00 a.m. For the past 5 seasons she has talked with her Councilman, the Mayor and Law Director. She said that they are fed up with the dust and asked that the judgement entry be enforced and that they get rid of the landscape business. She asked why the property is not inspected and why the judgement entry is not being enforced. Mr. Kelly said that he knows that Mrs. Phiel has a legitimate complaint in the sense that every spring it appears that Grace Brothers, in their efforts to operate their business in what they believe to be a reasonable manner, end up kicking up dust. He said that he has been to her house and has seen the dust. He said that we have spoken to Grace Brothers in the past. At times we find them to be reasonable and cooperative and that they water down the back property and the area that creates the dust. At other times, usually at the beginning of the season, they end up failing in their duties. Mr. Kelly said that he has been advised by Mr. Kulchytsky that they have sent them violation notices in the past and that typically this has

remedied the problem. In this instance, it is his understanding that Mr. Kulchytsky intends to personally visit the property and see to it that they do what they are supposed to do and what they need to do in order to avoid having this circumstance repeated. Mrs. Phiel asked about the landscape materials that he has. She said that they have a least 10 bins that are uncovered and very high. According to the judgement entry they are only supposed to have 2 storage bins. Mr. Kelly said that this will be looked at as well. He said that this is a complaint driven experience. We don't send people to every place that is required to be in conformance with regulations. Now that we have this complaint, we will go and inspect it and see what can be done. Mr. Nickell asked if rather than just spraying the dust with water that will eventually dry out again, isn't there an oil based spray that can be used to minimize the dust. Mr. Kulchytsky said that there are different methods by which they can maintain the dust at a reasonable level. The first is to use a raking system to break up the rock, bring it up to the top and then water it down. This is what they did last year and unfortunately this is only a temporary solution. He said that they brought up the potential of using a spray system method which utilizes a binding agent that holds the dust together. He said that he will follow up with them on this. He said that they will also check the compliance of the bins as they pertain to the judgement entry. Mr. Nickell asked if there is a time restriction that can be placed on deliveries, such as not sooner than 8:00 a.m. Mrs. Phiel said that they have been doing this lately. She said that the bins in question are right behind their property. Mr. Nickell asked what action could be taken if they do not comply. Mr. Kulchytsky said that we have a nuisance ordinance that we could apply to this particular situation outside of pursuing action against the judgement entry. Mrs. Phiel said that she is asking the city to enforce the judgement entry and not allow them to have the landscape business in the back. Mr. Langshaw asked if it would be possible to review with this business what is expected of them. Mr. Kulchytsky said that as part of their review of the site, they will pull the Planning Commission documents, the judgement entry and any drawings on file prior to conducting the investigation. Mr. Langshaw asked what happens if they are found to be in nonconformance. Mr. Kulchytsky said that we would send them a notice stating that they are out of conformance with the requirements. The dust nuisance would be a second prong of this review.

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **adjourn the June 20, 2017 meeting**. Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 7:05 p.m.**