



LIMA-ALLEN COUNTY REGIONAL PLANNING COMMISSION

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Executive Director

TO: DEVELOPMENTAL CONTROLS COMMITTEE
Mr. Randy Ackerman Mr. Paul Basinger
Mr. Brad Baxter Mr. Steve Ewing
Mr. Jerry Gilden Mr. Bruce Plumb
Mr. Doug Post Ms. Aloka Roy
Mr. Walter Rysz

FROM: Mr. Kevin Cox, Chairman

DATE: October 22, 2019

RE: D C C Meeting

There will be a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, October 29, 2019** at **3:00 p.m.** in the Conference Room of the Commission office located at 130 West North Street, Lima, Ohio.

The agenda will be as follows:

1. Roll Call
2. Approval of Agenda
3. Approval of DCC Minutes – September 17, 2019
4. Review Spencer Township Variance Petition (SP-V01-19)
5. Ponds & Landscaping Regulations
6. Status Update: FY 2021-2024 TIP/STIP
7. Other
8. Adjournment

Cc: Brian Binkley, Spencer Township Zoning Inspector
Ron Leffel, Allen McMichael and Rick Keller Spencer Township Trustees

NOTE: Please call the Commission office and confirm whether or not you will attend.



DEVELOPMENTAL CONTROLS COMMITTEE

October 29, 2019

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A quorum being present, Kevin Cox brought the meeting to order and proceeded with the agenda.

1. **ROLL CALL**

Mr. Randy Ackerman	Jackson Township
Mr. Brad Baxter	Bath Township
Mr. Kevin Cox	Perry Township
Mr. Steve Ewing	Auglaize Township
Mr. Bruce Plumb	City of Lima
Mr. Doug Post	Amanda Township
Ms. Aloka Roy	City of Lima

GUESTS

Mr. John Leahy	Balyeat, Leahy, Daley, & Miller
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STAFF

Mr. Thomas Mazur	Lima-Allen County Regional Planning Commission
Ms. Lisa Steffen	Lima-Allen County Regional Planning Commission

2. **APPROVAL OF AGENDA**

Motion 30 (10-29-19) DCC

Doug Post made the motion that the agenda be approved. Seconded by Steve Ewing; motion carried.

3. **APPROVAL OF DCC MINUTES – SEPTEMBER 17, 2019**

Motion 31 (10-29-19) DCC

Doug Post made the motion that the DCC minutes of September 17, 2019 be approved. Seconded by Aloka Roy; motion carried.

4. REVIEW SPENCER TOWNSHIP VARIANCE PETITION (SP-V01-19)

Thomas Mazur reported that the applicants, Donald & Dorothy Miller, trustees for the Miller Living Trust, are requesting a variance to the width to depth ratio. Currently, the applicant has built a second house on a 7.09 acre parcel. A survey, dated September 10, 2018, and signed by Clayton Bacon, depicts the dimensions of the second lot exceeding the width to depth ratio. The survey depicts the creation of a 3.05 acre parcel from the original 7.09 acre parcel. The land division was never presented to the Regional Planning Commission for approval until this October. Thomas Mazur reported that the applicants filed and secured a zoning permit for the construction of the second home from Spencer Township officials on June 6, 2019. The contractor who built the new home physically secured the zoning permit from Spencer Township. The Township contends that the applicants meet Spencer Township zoning requirements for setback requirements. However, the Township failed to recognize that the construction of a second home on a single parcel is not a permitted use. Thomas Mazur reported that a contractor has installed a mound system for the household sewage treatment system. The Health Department has not issued a permit for the mound system to date; engineered prints are pending. The applicant had soil samples taken in March 2019. The area expected to be employed by the septic system remains undisturbed. The applicant has not applied to the Health Department for a well permit. Thomas Mazur reported that the applicant secured an address for the proposed parcel on June 26, 2019 (2757 Southworth) from the Allen County Engineer's Office. The applicant has not inquired as to the need for a stormwater and sediment control permit from the Allen County Engineer's Office to date. Thomas Mazur reported that the applicant requested the Allen Soil & Water Conservation District prepare a Natural Resource Review for the site on October 9, 2019 pursuant to a request from the Spencer Township Trustees. On October 15, 2019 an inspection found construction of the home to had been all but completed on the site. The report released on October 21, 2019 informed applicants of the need to have the land division approved by the Regional Planning Commission. Thomas Mazur reported that conversations with Bacon & Associates have provided no clear evidence of the applicant's intent to deceive the Township or the County agencies. In fact, in a conversation with Clayton Bacon on October 28, 2019 a statement was made that "the client told me what they wanted and I do not remember telling him that the proposal did not meet the County Subdivision width to depth requirements (Section 303.4/Table 2). But that he would have to check his files." There was no return call from Bacon & Associates. Thomas Mazur reported that staff asserts that the applicants failed to acquire the mandated approvals of the Allen County Health Department. Staff also contends that the Miller's failed to obtain an approval from the Regional Planning Commission for the creation of a new lot. Staff also emphasizes that the applicants could still meet the width to depth ratios without jeopardizing the integrity of either building site simply by changing the property lines. Thomas Mazur reported that the question as to whether the Miller's, their contractors or consultants were responsible for acquiring approvals from the regulatory authorities is not known. The applicants did, however, fail to address the typical land division process which is explained and widely available in hard copy, via telephone or fax and online. The variance request is not one based on necessity but rather convenience. Thomas Mazur reported that the fact that the Township issued a zoning permit for a second home, without a septic system permit from the Health Department, has also worked to undermine the safeguards built into the local land division process. Thomas Mazur reported that staff recommends that the variance be denied based on the fact that applicant failed to meet the depth ratio and that the applicants failed to secure the mandatory approvals from the Allen Health Department for well and septic systems. Staff further recommends that the RPC send out guidance to the existing township zoning inspectors to remind them that no zoning permit should be issued without a Health Department permit being issued for a household sewage treatment system. Thomas Mazur reported that the Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions

4. REVIEW SPENCER TOWNSHIP VARIANCE PETITION (SP-V01-19) (Continued)

as specified by the Committee; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

John Leahy, representing the Miller Trust, commented that he believes it is one of those situations where a property owner had the survey done and it was approved by the Allen County Tax Map Office and the property owner thinks they are good to go and then realize after the fact that a split was needed. John Leahy commented that the intent is to split the 3.04 acres with 178 feet of road frontage from the 7 acre parcel. John Leahy commented that the brother of the property owner is going to reside in the new residence and other family members live on properties to the north and west. John Leahy reported that they have been working with the Health Department and they must get an easement for drainage purposes from neighboring properties. The daughter of the property owner, Margie Miller, already has a drainage easement established with neighboring properties and it is their intent to do a new easement with the petitioner who intends to replace the current 6 inch tile which is failing with a 12 inch tile. John Leahy commented that it is his understanding that the Miller's have been in contact with the neighboring property owners and they are on board with the easement being granted. John Leahy commented that he doesn't believe that the petitioners intended to skirt the regulations and they thought they were doing what was necessary and required. Doug Post questioned if it was necessary to have a written easement for drainage. John Leahy responded that there is already a written existing easement that Margie Miller has with the property owners and the intent would be to put the new easement in the same location and upgrade the tile and get the easement recorded. John Leahy presented a map to the Committee showing them where he believes the easement is going to go. Doug Post questioned who pays for the tile work. John Leahy reported that the Miller's indicated he would pay for getting the tile in place.

Aloka Roy questioned if anyone put a Stop Work Order in place until all of the permits have been obtained. Thomas Mazur commented that the Township could do that but it doesn't sound like they want to stop the work as it has largely been completed.

Doug Post questioned why the Township issued the permit in the first place. Thomas Mazur responded that the Township was unaware that the property had not been split and the lot meets the current Spencer Township zoning requirements. The property fails to meet the County Subdivision Regulation width to depth ratio requirements. Kevin Cox questioned how far out of range the property was to meeting with width to depth requirements. Lisa Steffen responded that it was 1:4.2. Thomas Mazur commented that it is not far off but they are able to meet the requirements by moving the property line.

John Leahy commented that he had met with Matt Elling with the Health Department and it is the property owner's intent to get the easement in place and get it recorded as one of the requirements they need to meet for the Health Department. It is Mr. Leahy's understanding that the neighboring properties are on board with the easement. John Leahy questioned if the DCC would approve the variance subject to the condition that they obtain the easement with the neighboring properties and get it recorded. Thomas Mazur commented that that would be the preferred method of dealing with the drainage issue. Thomas Mazur commented that the house is already up and the 178 feet of frontage is not that big of an issue but RPC will not be able to approve anything until the Health Department signs off on their requirements. Doug Post questioned who is responsible for repairing anything in the easement should it fail in the future. John Leahy responded that the terms of the easement include these stipulations as agreed upon by the property owners and go with the properties even if they are sold in the future.

4. REVIEW SPENCER TOWNSHIP VARIANCE PETITION (SP-V01-19) (Continued)

Motion 32 (10-29-19) DCC

Brad Baxter made the motion to approve SP-V01-19 subject to the drainage easement being obtained and recorded and that the petitioner meets all requirements of Allen County Public Health. Seconded by Doug Post; motion carried.

5. PONDS & LANDSCAPING REGULATIONS

Thomas Mazur reported that last Friday morning staff met with officials from Amanda, Marion, Richland and Shawnee townships, the Allen County Engineer's Office, the County Prosecutor's Office and City Prosecutor's Office to discuss problems with ponds and landscaping mounds. Thomas Mazur commented that the Allen County Subdivision Regulations require a setback of three feet from the property line for every foot that a mound goes up. Thomas Mazur commented that every parcel is different in terms of soil, topography, impacts, etc. Thomas Mazur commented that any type of mounding, even flower beds, can cause problems. Thomas Mazur commented that discussion as to whether a mound is a structure took place with some townships saying yes and others saying no. The County Prosecutor is looking into the issue and will hopefully come up with some language that can be used in the zoning regulations for the townships. Thomas Mazur reported any decision from the Prosecutor's Office will be forwarded back to the Township.

Motion 33 (10-29-19) DCC

Doug Post made the motion to accept the ponds and landscaping regulations report. Seconded by Bruce Plumb; motion carried.

6. STATUS UPDATE: FY 2021-2024 TIP/STIP

Thomas Mazur presented Committee members with a 2-page overview of the Draft TIP/STIP process. Staff has been meeting with local political subdivisions to discuss projects and potential projects. Formal notification was sent out to all the local political subdivisions soliciting projects for the upcoming TIP. Thomas Mazur reported that the table includes those projects that staff considers eligible for funding.

Motion 34 (10-29-19) DCC

Steve Ewing made the motion to accept the FY 2021-2024 TIP/STIP status update.. Seconded by Doug Post; motion carried.

7. OTHER

a. City of Lima Housing Survey

Thomas Mazur reported that the City of Lima has hired Harsany & Associates to do a housing assessment. Thomas Mazur reported that there is an online survey that is part of the study and must be completed by November 7. Aloka Roy requested that anyone who has time to please take the survey. The link was included on a handout.

8. ADJOURNMENT

Motion 35 (10-29-19) DCC

Bruce Plumb made the motion that the meeting be adjourned. Seconded by Doug Post; motion carried.