

CITY OF NORTHVILLE
Planning Commission
June 21, 2016
Northville City Hall – Council Chambers

1. CALL TO ORDER:

Chair Wendt called the meeting to order at 7:30 p.m.

2. ROLL CALL:

Present: Steve Kirk
Carol Maise
Dave Mielock
Christopher Miller
Matthew Mowers
Anne Smith
Jeff Snyder
Jay Wendt

Absent: Mark Russell (excused)

Also present: Patrick Sullivan, City Manager
Sally Elmiger, Planning Consultant
4 residents

3. APPROVAL OF AGENDA:

Motion by Kirk, support Maise, to approve the agenda as published.

Motion carried unanimously.

4. MINUTES OF PREVIOUS MEETING: May 17, 2016

Motion by Mielock, support Maise, to approve the May 17, 2016 minutes as published. Motion carried unanimously.

5. AUDIENCE COMMENTS: None.

6. REPORTS:

A. CITY ADMINISTRATION: None

B. CITY COUNCIL: None.

C. PLANNING COMMISSION:

D. OTHER COMMUNITY/GOVERNMENTAL LIAISONS: None.

7. PUBLIC HEARING

RESIDENTIAL DRIVEWAYS

Planning Consultant Elmiger gave the background for this item, referring to the document: *City of Northville Zoning Ordinance, Residential Driveways: An Ordinance to Amend the Zoning Ordinance of the City of Northville to define driveways and common driveways, to provide size and location standards for driveways in the required front yard of a residential parcel, and prohibit parking on the lawn in the front yard of a residential parcel or across a public sidewalk.*

Planning Consultant Elmiger explained that the purpose of the new ordinance language was to ensure that residential front yards had a reasonable amount of green space, and were not dominated by pavement. The new language allowed parking on a driveway in the front yard, but not on the lawn or across a public sidewalk. Proposed residential driveway standards required that:

- Driveways be paved, that they be a maximum of 18-feet wide and located in front of the garage.
- All pavement in the required front yard be limited to 35%.
- Changes to non-conforming driveways follow the current regulations regarding non-conformities, or alternatively, the property owner could request a variance from the Board of Zoning Appeals (BZA)

Chair Wendt opened the public hearing at 7:37 p.m.

Patti Mullen, BZA member, 409 Covington Court, Northville, asked what the grounds would be for a variance for the residents who could not comply with the proposed ordinance, but who wanted a driveway. Would there be a number of variance requests as a result of the new ordinance?

Chair Wendt explained that the Planning Commission must follow the ordinance. If an applicant could not meet the terms of the ordinance, they could go to the BZA, who had authority to grant relief.

Ms. Mullen asked why the ordinance was being changed.

Chair Wendt said that the ordinance was proposed to be changed because homes – especially newer homes – had a lot of concrete in the front yard resulting in an overuse of pavement. Commissioner Snyder added that homeowners were widening driveways, installing large circular driveways, etc., resulting in a loss of front yard greenspace.

Ms. Mullen said that she was looking at this language from the perspective of the BZA. Was this going to result in many people seeking variances? What happened if someone could not comply with the 18-foot width? What if there were a side-entry garage and the ordinance required driveways to be in front of the garage?

Commissioner Maise said that any current configuration that did not meet the new ordinance standards would be existing nonconforming, and therefore legal. But what would happen if the existing nonconforming driveways were to be expanded or altered? Would the homeowner then have to go to the BZA?

Planning Consultant Elmiger said a homeowner would need to either conform to the ordinance or seek relief from the BZA. She noted that the 18-foot width was a maximum width; driveways could be smaller.

City Manager Sullivan pointed out that the 18-foot width lined up well with a 2-car garage where the door faced the street. However, there were some garages that faced the side yard. In those instances the car had to be backed out and turned around - this was not always possible within an 18-foot width. If the 18-foot

width was just required in the front yard, and where a driver had to back out was behind the front of the house, perhaps this could be accommodated: there could be a wider width behind the house.

Ms. Mullen said that an applicant before the BZA had to meet 5 criteria, one of which was that they had to prove that the hardship was not self-created. This was a high standard, and it was hard to see how anyone could meet the necessary criteria to get a variance for a driveway.

Planning Consultant Elmiger listed the five criteria that had to be met for a BZA variance: (1) the hardship could not be self-created, (2) there had to be something unique about the property geographically, (3) substantial justice to other property owners, (4) the request was for the minimum variance necessary, and (5) public safety.

Ms. Mullen said the requirement that the hardship could not be self-created was the most difficult standard to meet.

Planning Consultant Elmiger said the intent was not to eliminate side-entry driveways, where the pavement was behind the front face of the house. The 35% requirement referred to the required front yard.

City Manager Sullivan said the new ordinance did not provide for a 3-car garage. Ms. Mullen pointed out that someone could easily have a double lot with a 3-car garage. Commissioner Kirk gave a specific example of a 3-car garage on a corner lot, where the ordinance standards would not be met.

Planning Consultant Elmiger said previous versions of this draft ordinance allowed the driveway to widen to the garage. That language could be added back in.

Commissioner Mowers said that it was difficult to think of and address every situation. The concern was to prohibit instances where garages were all the way to the front for front-facing structures. New homebuilders should work with the Building Official as they developed their plans. It was important to have design standards regarding what and how much pavement should be allowed on lots in the City. Side-facing garages were usually in side or rear yards, where pavement could be increased.

Ms. Mullen asked if the ordinance couldn't be simplified to say: no more than 35% concrete in the front yard.

Commissioner Mowers explained that there were other issues included parking pad installations and other concrete installations. Front yards should not be turned into parking lots.

City Manager Sullivan asked how nonconformities would be addressed. If a resident had a 20-foot wide driveway that needed to be removed and replaced, under the nonconforming structure ordinance if more than 50% of the value was being replaced, then what was built had to be brought into ordinance conformance.

Planning Consultant Elmiger read from Section 22:3.c.2): *Driveways. Driveways that do not conform to the City of Northville Manual of Uniform Criteria and Design Standards for Construction shall be removed or redesigned to the greatest extent possible. Where required to maintain reasonable access to sites, waivers of those standards may be permitted by the City Department of Public Works Director.*

Planning Consultant Elmiger explained that this was the current ordinance. If the draft language proposed tonight went forward, the paragraph just read would need to be amended to refer to the ability to seek relief from the BZA.

Regarding driveways, City Manager Sullivan asked how a modification to a nonconformity should be defined. Could a nonconforming driveway be repaved without seeking a variance?

Planning Consultant Elmiger said the paragraph just read did require nonconforming driveways to *be removed or redesigned to the greatest extent possible*. There was currently some flexibility on the DPW Director's part as to what was reasonable.

Commissioner Snyder noted that when driveways were repaved, there were opportunities to improve drainage issues.

Commissioner Kirk said that some property owners would postpone improving their driveways rather than face the loss of a nonconformity. Commissioner Maise thought the flexibility given under Section 22 was a good thing. She was not sure the BZA would have that same flexibility.

Planning Consultant Elmiger said that perhaps the Building Official or Building Inspector, along with the DPW Director, should have some latitude regarding bringing driveways into conformity. City Manager Sullivan questioned this. Why would the City set a required dimension and then give one person the latitude to change that?

Commissioner Maise said this went back to Ms. Mullen's original question: by adopting this ordinance, what nonconformities were being created?

Planning Consultant Elmiger explained the current driveway standards in the *City of Northville Manual of Uniform Criteria and Design Standards for Construction*: driveways were to be a minimum of 16' and a maximum of 18' wide, with latitude given to the DPW Director to allow for different widths. There were narrower driveways in the older parts of town. Newer construction would have wider driveways.

Commissioner Maise wondered what the criteria would be for giving latitude regarding the driveway standard.

Ms. Mullen confirmed that any driveway right now would be grandfathered, should the proposed ordinance be adopted.

Commissioner Smith said that it was important to remember that the work on new ordinance language had started because residents were putting parking pads in their front lawns.

Ms. Mullen remained concerned that the BZA would not have the justification to grant variances for driveways. Couldn't the ordinance prohibit paving in excess of 35% in the front yard, unless more pavement was required for ingress and egress into the garage?

Planning Consultant Elmiger explained that a previous version of the draft ordinance said the maximum width of the driveway would be limited to 20 feet when not within 25 feet of the garage. Was this language preferred? There would still be the protection of no more than 35% pavement in the required front yard.

Regarding nonconformity issues, Planning Consultant Elmiger noted that unless something was said in the ordinance, the Building Inspector would require anyone ripping up a driveway for repaving to come into conformance with the ordinance.

General discussion followed regarding different sizes of lots and what the 35% limitation would mean to variously sized lots.

Chair Wendt asked if there were any other public comments.

Michelle Kelly, 423 Beal Street (home) and Kelly & Kelly, 422 E. Main, Northville MI, distributed a packet of materials from a FOIA Request to the Commission. She said she had read the minutes from the last years' meetings and she had spent time reading the zoning ordinance. She wanted to discuss the new ordinance Section 18.04, which had recently been adopted by City Council regarding garden ornaments.

Chair Wendt asked Ms. Kelly if she wanted to comment on the draft ordinance regarding driveways being discussed this evening.

Ms. Kelly said she was opposed to the ordinance changes.

Chair Wendt closed the public hearing at 8:03 p.m.

Ms. Kelly continued her comments regarding Section 18.04, the garden ornaments ordinance. She believed that Commissioner Mowers had a personal and pecuniary interest in that ordinance. Ms. Kelly referred to a legal conflict between Commissioner Mowers and her son, who had constructed Commissioner Mower's pergola. She referred to the FOIA packet she had just distributed. Based on information in that packet, Ms. Kelly asked that Commissioner Mowers resign from the Planning Commission because she felt he had used his position to further his own personal interest, and that he had a pecuniary interest in the adoption of Section 18.04, in terms of litigation against her son. She asked for an investigation regarding this matter, and said she would be filing formal charges against the City.

Commissioner Snyder left the meeting at 8:10 p.m.

Commissioner Mowers responded to Ms. Kelly by giving a brief history of the issue of his pergola, which was in a location that violated City ordinance in 2013 and the new ordinance 18.04. He explained he had tried to get a variance but had been denied. Commissioner Mowers continued that he had not used the Commission for personal gain and felt no need to resign. However, if his fellow commissioners wanted him to resign, he would do so.

In response to comments from Ms. Kelly, City Manager Sullivan said that:

1. The communications regarding the ordinance violation in question went back 3 years, to the original ordinance that was in place at that time, and enforcement letters were presented to Commissioner Mower. The more recent ordinance (Section 18.04) was actually a more liberal ordinance, but the pergola was in violation of that ordinance also.
2. A similar violation of the ordinance had occurred on a different property 6-7 years ago. In that situation a pergola was built in a side yard setback, and the City required that the pergola be removed.

Chair Wendt asked if any Commissioners had any further comments regarding this matter.

Commissioner Smith said the Commission did not have enough background to comment.

Ms. Kelly read from the Planning Commission bylaws, Section 8:

A member of the Planning Commission should only abstain from voting on a motion if he/she has a bonafide conflict of interest. A conflict of interest shall include:

d. Issuing, deliberating on, voting on, or reviewing a case which results in pecuniary benefit to him or her.

Again, Ms. Kelly asked that Commissioner Mowers resign from the Commission.

Ms. Kelly also read from the Planning Commission bylaws, Article V – Removal from Office:

The City Council may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Failure of a member to disclose a potential conflict of interest as required herein constitutes malfeasance in office.

Chair Wendt said the City Council would receive the minutes for this meeting, and they could decide whether to move further on this matter.

Commissioner Maise wondered if this was a legal matter that would get turned over to the City Attorney.

In response to a question from Commissioner Smith, Commissioner Mowers again reviewed the history of the pergola in question, which had been in violation for 3 years since 2013. The pergola had to be removed, and was “part and parcel” of the landscaping also installed. Commissioner Mowers came on the Commission in 2014. There was current litigation. He was happy to talk about this if the Commission so desired.

Chair Wendt said this matter should go to City Council.

From the audience, Ms. Mullen expressed confusion as to what could be enforced “after the fact.” Ms. Mullen related this issue to the grandfathering of existing driveways. She wanted to make sure that grandfathered driveways could not be enforced against years after a new ordinance had passed.

City Manager Sullivan said that the two situations were different. When the pergola was built, it was in violation of the ordinance at that time. Nothing had changed in the ordinance that would make the pergola legal now.

After brief further discussion, the Commission returned to the agenda item: Residential Driveways.

Planning Consultant Elmiger said there were two outstanding items:

- 1) Did the Commission want to add language that allowed for more pavement within 25 feet of the driveway?
- 2) Did the Commission want to eliminate the provision regarding nonconforming driveways since this was redundant language, or did the Commission want to add new language that gave more flexibility to the Building Inspector regarding nonconforming driveways, where the property owner wanted to continue the nonconformity as the driveways were repaved or reconstructed?

Regarding the first issue, Commissioner Smith said adding language that allowed for more pavement within 25 feet of the driveway would allow homeowners to widen the driveway as they approached the garage.

Commissioner Miller suggested leaving the language as it was. On a smaller lot, widening the driveway closer to the garage would give the appearance of a parking pad. On a larger lot there was more latitude to arrange the house to accommodate the 18-foot maximum width.

Chair Wendt agreed with Commissioner Miller.

Regarding the second issue, Planning Consultant Elmiger said that eliminating the provision regarding nonconforming driveways would basically say that the current nonconforming ordinance would apply to driveways. However, if they wanted, the Commission could add other language. For instance, as an example, nonconforming driveways could be able to remain and be repaved in their current configuration, but if the nonconforming driveway were reconstructed, then it would have to be brought into ordinance standards.

Commissioner Maise asked if reconstruction of driveways required a permit. City Manager Sullivan said that a permit was not currently required; this could be required, however.

Planning Consultant Elmiger added said a permit was required for a driveway and other concrete work if it was against a house. The Building Inspector also reviewed driveways during site plan reviews for new construction, mainly to make sure drainage would not negatively impact neighbors.

City Manager Sullivan suggested that a nonconforming driveway be allowed to remain grandfathered, if it was repaved or reconstructed in the exact same place, and the nonconformity was not being expanded. Perhaps a permit would be required.

Planning Consultant Elmiger summarized that *existing driveways may remain as long as the nonconformity was not expanded.*

Chair Wendt asked Planning Consultant Elmiger to bring modified language back to the Commission. The modifications were significant enough that another public hearing would probably be required.

Food Trucks

Planning Consultant Elmiger explained that it was brought to the City's attention that a food truck was being parked at the Brew Pub at North Center and Rayson. She was asked to discover whether this was permitted at this site.

Planning Consultant Elmiger reviewed the site plan approval for the Brew Pub and the City's ordinances regarding this question. The site plan information showed that parking at the Brew Pub was insufficient for the use and the applicant had to acquire agreements with adjacent property owners to meet the parking requirements. The food truck occupied one or more spaces, which reduced the number of spaces available for Brew Pub patrons.

Also, the site plan did include allowing Pub customers to bring in food from outside, but didn't include a food truck as a source of this food. They did specifically state during site plan review that they would provide menus of other restaurants for their patrons.

For those reasons, Planning Consultant Elmiger didn't think the site plan would allow food trucks without a formal amendment. However, the Zoning Ordinance did not address food trucks at all. Food trucks were allowed as part of a Special Events permit.

The question became: should food trucks be addressed in the Zoning Ordinance and be an allowable use? Or, were food trucks not a significant enough issue to be addressed at this time?

Food trucks had also been seen at the Cider Mill Winery.

Commissioner Maise asked whether this should be addressed in the City Code or in the Zoning Ordinance. Planning Consultant Elmiger said she was not prepared to make a recommendation regarding this. Food trucks could be controversial because restaurants who had brick and mortar stores did not appreciate the additional competition with food trucks that were not paying taxes, and that did not have to meet the same zoning requirements, etc.

Discussion followed. Other communities had imposed geographic limitations as to where food trucks could operate, though at least one of these had been struck down in Court.

The current situation had come to the City's attention via a complaint. The food truck was at the Brew Pub several nights a week for several hours. Food trucks used generators and could be odorous. If the Brew Pub had a restaurant, would the required parking increase? If this was a licensed vehicle parked in a parking lot, could a food truck be denied parking privileges?

City Manager Sullivan wondered if this was a big enough issue to regulate. If food trucks needed to be regulated, the use should be regulated in the Ordinance, and not enforced via parking standards.

Commissioner Mowers thought the question was whether or not the City wanted to have food trucks. The discussion could include the Chamber of Commerce and restaurant owners in the City. If food trucks were allowed, they should be part of the greater business community, and should be regulated by the Code or Zoning Ordinance.

Commissioner Maise said writing an Ordinance would require thorough analysis. The decision had to be made as to whether food trucks were permitted as part of festivals and special events, or were they always permitted?

Harbor Springs, Traverse City, and other cities had ordinances regulating food trucks.

Commissioner Mielock said he would like to get feedback from City Council before the Planning Commission began to spend a lot of time on this issue.

8. ADJOURN

As there was no further discussion, Chair Wendt asked for a motion to adjourn.

MOTION by Maise, support Smith, to adjourn the Planning Commission meeting at 8:44 p.m. Motion carried unanimously.

Respectfully submitted,
Cheryl McGuire
Recording Secretary

Approved as published 7/19/16