

City of Norton
PLANNING COMMISSION
Tuesday, June 12, 2012

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers at the Safety Administration Building. Chairman Spisak called the meeting to order at 6:05 p.m.

I. ATTENDANCE:

PRESENT: Mark Spisak, Ralph Dowling, Janet Jacobs and John Conklin,

ABSENT: Richard Easterling, Excused

ALSO

PRESENT: Russ Arters, Supt. of Bldg. & Zoning
John Moss, Community Development Director

II. PUBLIC APPLICATIONS:

- A. Proposing to rezone from a R-1 District
to a B-3 District
For the property known as
4331 Cleveland-Massillon Rd/ PPN 4602054
Grace Property Investments, Ltd., Owner
Laura & Fred Lindquist, Agents
Currently zoned R-1 Residential District
[To allow the building to be used as a
Auto Service Garage.]**

Chairman Spisak said this was a public hearing and asked if the neighbors were notified via first class mail as required per section 6.03 of the City Charter; the stenographer replied yes.

Chairman Spisak asked the applicant to stand at the podium and address the Commission.

Fred Lindquist, Owner, said he had a friend that was going to put a service garage in the building on the property. He said that after his friend talked to Mr. Russ Arters, Superintendent of Building and Zoning, he realized it was zoned residential. He said that is why he was before the Commission to change the

*Planning Commission Approved Minutes
6/12/12*

by Rebecca Lukats Interim Boards & Commissions Secretary

*** Note: These Minutes are not verbatim. ***

zoning; he noted that his potential renter has since backed out of the deal. Mr. Lindquist said he did not know how long the process took, but thought he might as well change the zoning now, so it would be easier to sell or get another renter to commit.

Chairman Spisak wanted to clarify that no one was putting anything in the building now, not even the auto service garage, and that he was just asking it to be rezoned. Mr. Lindquist said yes. Chairman Spisak stated that Mr. Arters just gave them a copy of the zoning in the area and to the south is I-1, directly across the street is B-2 and it is B-3 across the tracks at the Gas Station and Drive-Thru currently located on Cleveland-Massillon; Mr. Arters concurred.

Chairman Spisak asked if anyone wanted to speak for or against the application.

Mr. Gene Ellis, 3223 Trotter Road, Norton, Ohio 44203, spoke against the application. He has lived in the area for 44 years. In 1968 when he moved there, there was only a house on the corner, single car detached garage with a small machine shop in the garage, owned by a Mr. Harris. He said in 1970 Mr. Harris passed away and his son took over and wanted to expand. He said his son started building whether or not he got a building permit, a building out of used lumber and attached it to the house; it was a site. After Mr. Harris's son's divorce, he sold it and they fixed the building as it is today. Mr. Ellis said he watched them build it, and the septic tank is on the parking lot, but he knows they did not put a leach bed in. He said in all the years he has been there, he has never seen the septic tank pumped out so he wonders where that is going, as it has to leach somewhere. He said the building has been an eyesore over the years. At one time the tenants of the building had a machine shop with irregular hours. He said they would come in at midnight or 1:00 AM, leave the doors open on a hot summer night with their radio blasting; there was constant turmoil living with it. He commented a few years ago the Millers tried to put a service station and garage in the corner at Weber Drive, but the residents of Trotter Road objected and it did not go through; he said they do not want this one either. He said if they ever widen Cleveland-Massillon Road, there lot would be smaller so there wouldn't be much parking lot for that building. He said they already get a lot of traffic on Trotter from the shortcut people take from Parkway and Gardner Boulevard, and they do not need more traffic resulting from this business. He said the neighborhood wants to keep it zoned residential. Mr. Ellis said the property last year was not kept up, it was mowed twice, and it was not unusual to see 14 –16 inches of tall grass at any one time. He asked that the Commission consider the Trotter residents objections to this rezoning.

Chairman Spisak thanked Mr. Ellis and asked for the second time if anyone wanted to speak for or against the application.

Ms. Chris Morrison, 3212 Trotter Road, Norton, Ohio 44203, lives next door to the house beside this building. She wanted the Commission members to know that even though the address is on Cleveland Massillon and the truck entrance is on Cleveland- Massillon, the office is on Trotter, the mail is delivered to the mailbox on Trotter, and there is another garage entrance on Trotter. She said they do not want anything moving in there, as they bought their house years ago in good faith. She said at the time, there was a small machine shop there, but they were done by 3:00 PM, and then it was quiet; they are afraid of what would go in there. She said they have small children in the neighborhood, there would be added noise and more traffic in the area. She said the houses in the area are very nicely kept and they do not want this in their neighborhood and would appreciate consideration from the Commission.

Chairman Spisak thanked Ms. Morrison and the third and final time if anyone wanted to speak for or against the application.

Ms. Sandra Carr, 4321 Cleveland Massillon Road, said she lives in the red house right on the corner with the shop; she does not want a car repair shop next door. It would not be a good thing; they have a century home registered with the Norton Historical Society and think it would take away from it. She commented if he was going to put something in the building, like what was there previously it would be ok, but not a car repair.

Chairman Spisak thanked Ms. Carr and if anyone wanted to speak for or against the application several more times; no one spoke.

Chairman Spisak commented that at some point this building was built in a residential neighborhood.

Mr. Arters agreed, but said they can't do anything about the past. He said that what happened in the past 35-40 years ago and they can not change it, they just have to deal with it. Mr. Arters commented that the building is a commercial building, it is located on a main highway, and the address is on Cleveland-Massillon as deemed by the County Auditor, even though the main entrance is on Trotter. The Auditor uses the front door entrance as the street address. He said at the time the address was given out, it probably goes back 40 years or more when the house was there, with its front door entrance being on Cleveland-Massillon, and it has stayed the same. Mr. Arters said that Auto repair shop was mentioned, but it is only allowed in a B-3 District. The previous woodshop according to the code is under building supplies or millwork which is a B-3 District. If it was downsized to a B-2 District, the auto repair business would not be allowed. Mr. Arters stated that it is an existing building, an existing condition, on a main thoroughfare, and when the Cleveland-Massillon Road widening happens on the east side, it would probably only be decreased by 5 feet. Mr. Arters said at the Site Plan Review, you could eliminate the parking or down size

or decide something else. Mr. Arters said as the map shows, the I-1 district comes right up to the front pin right behind his property and goes all the way down Trotter and down into other property.

Mr. Arters asked Mr. Lindquist if he wanted to take it down to a B-2, which would eliminate a lot of concern by the neighbors. Mr. Arters said B-3 would allow anything to go in there with a site review plan approval, and be easier to sell real estate wise, but it would be up to him.

Mr. Arters didn't understand the residents concern with traffic, because they have the two office buildings at Woodbine now with traffic going in and out all day. He said it just depends on what they want.

Chairman Spisak commented that the Commission is suppose to review this as not zoning it for a specific business; Mr. Arters agreed.

There was more discussion about the rezoning and questions regarding the widening of Cleveland-Massillon Road, and the current step ladder zoning they have. Mr. Arters again suggested a B-2 zoning for Mr. Lindquist, for at least that way he could still use the building as a business to lease or sell to a variety of businesses allowed, and also be in compatibility with the offices across street; there would be several possibilities. Mr. Arters said as far as the septic issues, when it came through as a new business, they would have to be looked at and put into a grinder pump just like the Woodbine building has now.

Mr. Ralph Dowling commented that if it stays R-1 he really can't use it for business, it would have to be torn down, Mr. Arters agreed. Mr. Dowling said that no matter what B district could be proposed, there will still be added traffic in each, the B-1, B-2 and B-3. Mr. Arters said he shares the neighbors concern about the traffic from Trotter, but says he bets if they watch the traffic, it probably all goes into the Woodbine Building's parking lot, because it goes right to it. He said it is a very popular place to go to, as there are 20-30 cars in the parking lot all day long. The people use Trotter as a shortcut to get to the Woodbine Building.

Mr. Dowling's concern is that there will be more cars and a little more noise on Trotter with the rezoning. His main concern is that if it stays R-1 it would end up being a building that would stay vacant, become dilapidated, and would soon be abandoned if it is not rezoned. Mr. Arters agreed it was done as a residential lot. There was more discussion about B-2 zoning being more non-invasive and would go along with the neighborhood better. One thought if the B-3 zoning occurred it would be too intrusive to include incompatible businesses, like industrial type or sexually oriented businesses. Mr. Arters said with residential there, the sexually oriented businesses would not be a factor there. They discussed what was allowed in B-2 zoning.

The members discussed a previous request for zoning down the street on Cleveland-Massillon road from an R-3 to an I-1.

Mr. John Conklin asked Mr. Arters if the I-1 District touched this property, and Mr. Arters said yes, up in the front corner and angles down Trotter to Parkway. Mr. Conklin raised the question if Council would be upset for spot zoning. Mr. Arters discussed the I-1 and B-2 zoning in the area, and said they are only recommending Commission with Council having the final say on it. Mr. Arters commented that the long range plan 30 years ago for the City showed B-2 district all along Cleveland Massillon Road, but it never happened.

Mr. Dowling asked if they did not agree with B-3, could they amend it to a B-2. Chairman Spisak commented he would have to re-apply. Mr. Arters stated that it would be up to the applicant to change his request to down size to a B-2 instead of a B-3. There was more discussion as to the difference of permitted uses in a B-2 District versus a B-3 district.

Mr. Lindquist approached the podium to respond to the comment of changing from a B-3 request to a B-2 request. He said that is what the building was set up for was a B-3 use; he could not see it being used for something like a restaurant as listed under a B-2.

Chairman Spisak commented that in his opinion it should not be left as an R-1 District.

Mr. Arters commented that auto repair is listed under a conditional use in Section 1298 of the code, so it could come before the Commission to grant or deny it. Mr. Arters said it is not a guarantee that an auto repair would be allowed at this location, it is up to the Commission to grant the condition use if the zoning is changed to a B-3 District. Chairman Spisak made a comment that if they changed the zoning to a B-3 District then an auto repair shop does not have a permit by right. More discussion followed with terminology in the code of auto sales used. Mr. Arters said it does not say auto repair, so he would have to get clarification from the Law Director.

Mr. Conklin asked if auto body work was the same as auto repair. Mr. Arters said no auto body work would have to be a B-3, but auto repair is a conditional use.

For clarification in the minutes, Mr. Lindquist was asked whether or not he was willing to change his request from a B-3 District to a B-2 District. Mr. Lindquist said he did not know the difference between them, and said he just wanted the same type of business of millwork to go in there. Mr. Arters said to get another

mill work company or wood working company in there now, it would still have to be rezoned to a B-3 District.

Mr. Gene Ellis asked to speak and was recognized again by Chairman Spisak and asked to come to the podium. Mr. Ellis complained about the noise of the milling work done there before, he was not sure how much horsepower the engine was for the wood chipping, but that was one problem they had to deal with, was the noise of that. He said the saw dust was collected from the conveyor that went into a tank that had to be emptied every other day of operation with a truck coming in at 5-6 AM banging around waking everyone up. They then had to listen to the shrill from the milling from 7:30 AM until 5 PM. He said it is not silent, it is very noisy; that is what they were hoping to get away from.

Chairman Spisak thanked him.

Chairman Spisak commented for discussion purposes that to the south of the property it is zoned I-1, and allowing a B-3 District there was still within keeping similar zoning on that side of the road. Chairman Spisak said they can't have Mr. Lindquist tear his building down because it is R-1; they are trying to get the zoning back into some kind of structure.

Mr. Arters said that when they start looking at what DB Hartt did, he has not had a chance to read it completely, but that that would be the start of conditional uses and permitted uses and different uses and changing everything down that corridor. Chairman Spisak said that was fine, but as of now it is not in place.

Mr. Conklin stated if they leave it as an R-1 it could become an eyesore because you can't do anything with it, if it is zoned B-3 then there are some things you would not want to go in there, and Mr. Lindquist prefers not to go to a B-2. Mr. Conklin asked if it touched an I-1 District, could they just extend it to include this property.

There was more discussion about Council having the final say in the matter at the public hearing, they are just a recommending board.

Chairman Spisak recognized Ms. Chris Morrison and asked that she step to the podium if she had a question. She said just south of Mr. Lindquist's property is a residential little house and then there is another residential house. She asked what those properties were zoned. Mr. Arters said they area all in that I-1 District and technically the back of her property is in the I-1 District. Ms. Morrison thanked them.

There was continued discussion about what properties were included in the I-1 District and what property that district abutted. There was discussion about the building on Mr. Lindquist property not being able to accommodate some I-1 uses.

The Commission members struggled with changing the zoning to B-3, and whether they would recommend approving or denying it, how would Council interpret their recommendation. They could see that in the end Council may deny their recommendation and deny the R-3 zoning and make Mr. Lindquist file all over again for a different zoning request. Ms. Jacobs asked if they could put in their recommendation that they deny the R-3 District but would recommend a B-2 District, just so it could be changed from the unusable R-1 District. There was more discussion about this option.

Mr. John Moss was asked his opinion by the Commission. He said we need businesses in Norton. He understands the neighbors concerns, but businesses help pay taxes that the residents don't want to have to pay. He said he wants them in operation. He said he is in favor of some business use there with no preference as to the type of business allowed but that it should be zoned consistent with the building.

Chairman Spisak asked if there was any other discussion from the Commission members; no one spoke.

Chairman Spisak said he would like to see it zoned in a business fashion. Chairman Spisak said he was ready to make a motion and see what happens.

Chairman Spisak moved to recommend denial of rezoning the R-1 District to a B-3 District, and recommended it be considered to be rezoned to a B-2 District for the property known as 4331 Cleveland-Massillon Rd/ PPN 4602054 Grace Property Investments, Ltd., Owner, Laura & Fred Lindquist, Agents, by PC Resolution 15-2012. Ms. Jacobs seconded the motion. ROLL CALL: Chairman Spisak-Yes; Ms. Jacobs-Yes; Mr. Dowling – Yes; and Mr. Conklin – Yes. The motion carried 4 – 0 to deny recommendation for a rezoning from a R1- District to a B-3 District, and recommended approval of a R-1 District to a B-2 District.

Chairman Spisak thanked Mr. Lindquist as he was told that the Council Clerk will notify him as to when it will be on Council's Agenda.

Mr. Lindquist asked if there was a list of what could go into a B-2 District; Mr. Arters said he would drop off a list for him. Mr. Lindquist reiterated that the building is what it is, being a wide open building, and that there was not many businesses that could go into that building. He stated B-3 seem to cover more of the types of businesses he felt should go into that building. Mr. Arters told Mr.

Lindquist to come into his office to meet with him some day, and they would go over what would be allowed.

II. OLD BUSINESS:

Chairman Spisak asked if there was any old business.

Mr. Arters said he needs their comments for recommendations for zoning in relation to the D.B.Hartt report. Mr. Arters said they would make their recommendations in house and get back with them for a final draft; it would then go to Council. Mr. Arters said in two weeks they will have a big discussion on it, but said he knows it will take a little longer to be completed. Chairman Spisak said Mr. Dowling would not be at the meeting in two weeks; Mr. Arters said he just needed his comments.

Mr. Dowling said after reading through D.B. Hartt's report, it is hard to relate from the old code to the new code, most are recommendations. Mr. Arters agreed and said that is what they are looking for, they want their comments on D.B.Hartt's recommendations, whether they want to change them or not. Mr. Dowling said as he went through it he was highlighting things he did not understand; some things were fuzzy in the code like warehousing in a B-3. Mr. Arters said that was fine to highlight, and he could come in to discuss it with him if he wanted.

Chairman Spisak said it looked like the Commission should focus on the uses, and some of the other changes were administrative updating; Mr. Arters agreed. Chairman Spisak asked the Commission members to focus in on all the little gray boxes to clarify in their previous chart models.

Mr. Arters had to leave the meeting at 6:50 PM, as he had another meeting to attend to.

There was more general discussion about the zoning code drafting. Chairman Spisak even though it is a lot to look at and digest, in his opinion they should stay focused with uses and everything else will fall into place. He said not to worry about setbacks, as they have good numbers for those from discussions at previous meetings. He said that along with permitted use discussion, the consultant has proposed that they do not allow pyramiding. Chairman Spisak said that would have a big impact on permitted uses in a zoning area. They talked of a broader range of uses, so they will look at other communities' uses for input. There was also discussion about how they can not have conflicting code sections and terminology.

Chairman Spisak said they mentioned in draft about not having riparian set backs, and he will have to ask Mr. Arters about that, because he though it was already established.

Chairman Spisak asked if there was any other old business; there was none.

III. NEW BUSINESS;

Chairman Spisak asked if there was any new business.

Chairman Spisak asked the secretary if they were applications to be heard at the next meeting. She said the cut-off date for filing was that day, and there were no pending applications to be heard.

IV. CONSIDERATION OF MINUTES:

None.

V. ADJOURNMENT:

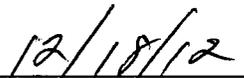
With no further business before the Commission, Chairman Spisak announced the next scheduled meeting would be June 26, 2012, and adjourned the meeting at 6:55PM



Planning Commission Chair/
Vice-Chair



Planning Commission Vice-Chair/
Member



Date

**RESOLUTION
PLANNING COMMISSION**

Tuesday, June 12, 2012

PC RESOLUTION NO.: 15 - 2012

RE:

Application R3-2012 - Rezoning
Proposing to rezone from a R-1 District to a B-3 District
For the property known as
4331 Cleveland-Massillon Rd/PPN 4602054
Grace Property Investments, Ltd., Owner
Laura & Fred Lindquist, Agents
Currently zoned R-1 Residential District
[To allow the building to be used as a
Auto Service Garage.]

The Planning Commission does hereby make the following recommendations on the above:

TO DENY APPROVAL FOR REZONING TO B-3
AND RECOMMEND FOR REZONING TO B-2

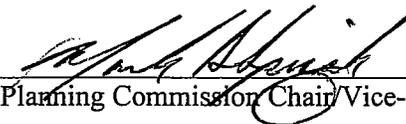
Vote on Motion: FOR 4 AGAINST 0 ABSTAIN

Therefore PC Resolution No. 15-2012 has been:

APPROVED DENIED X TABLED

This resolution shall be sent to:

Administration for it's action or for X it's information, and
Council for X it's action or for it's information.



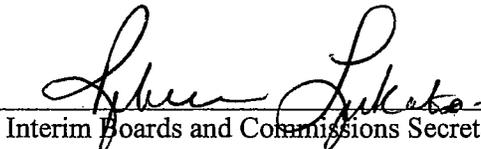
Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

6/12/12

Date



Interim Boards and Commissions Secretary