

CITY OF GENEVA
Planning Commission/Board of Zoning Appeals
Monday, Nov 7, 2016

The Planning Commission Regular Meeting came to order at 5:30 p.m.

Pledge of Allegiance was said.

ROLL CALL:

Mr. Grenier, Mr. Perkins, Mr. Starkey, Mt. Netzel, Mr. Cordova present

Others present: Amanda White, Jim Santiago, Tony Moyers, Joe Yankie

NEW BUSINESS

Case 011-16 Bob Beall has submitted an application for a conditional use permit for shop storage and truck parking.

Ms. White says Tony Moyers is present, he was present at last Planning Commission, who recommended he apply for a Conditional Use Permit rather than a Home Occupancy Permit. She says that in the interim, both she and Mr. Starkey, on separate occasions, have visited Cedar Ct. to observe the traffic count and speed. She says that she has seen the speed be extremely slow, 5-10 mph. Mr. Starkey asks if there have been any complaints from the neighbors, Ms. White says no; letters have been sent, but with no response. Mr. Starkey says he has not. He asks Mr. Moyers if he has had any interactions with the neighbors who complained at the previous Planning Commission meeting. Mr. Moyers says he has directed his employees to slow down, but no he hasn't. Mr. Starkey says he parked at the end of the street and saw everyone was behaving. He recommends doing a six-month CUP, due to the R-4 zoning. If there is no outcry, then moving ahead with a more permanent CUP. He says he'd rather take baby steps on this one. He says six months should be sufficient time to see.

(Mr. and Mrs. Yankie enter).

Mr. Starkey asks her how things have been working out. Mrs. Yankie says she is not thrilled; things slowed down for a few weeks, but there is still work before 8 a.m. She says she has no issue with someone running a business out of 57 Cedar Ct. But she doesn't feel safe letting children play in front yard because of the nature of the business. She says the amount of traffic has slowed, but not the speed and also the business is operating before 8 a.m.

Mr. Moyers asks if the noise ordinance does not say 7 am. Ms. White responds that it does.

Mr. Starkey says both he and Ms. White have observed several times and saw that it was slow. She says she is a stay-at-home mom and she sees it all the time. She says that Mr. Moyers had said there were no deliveries, but there was a Mars electric truck parked out front. Mr. Moyers says that truck had nothing to do with his operations.

She says she pays her taxes, and has fought to have a safe neighborhood. Mr. Yankie says they are not going as fast as they were, but still they are going too fast. Just today one of Mr. Moyers' employees was blasting music, had strobe lights on. Mrs. Yankie says they are looking for mutual respect.

Mr. Netzel says it is clearly a residential street, though a business has long operated there. She says as long as changes she asked for were made, she is fine with the business being there. Mr. Netzel asks if it feels like there is room for compromise. She says she agrees that the amount of traffic has decreased, but not the speed. She asks again about the 7 a.m. timeframe as they are always up by 7 a.m.

Ms. White says a technicality is that under the Home Occupancy permit, business could not begin before 8 a.m. but the general noise ordinance, is 7 a.m. That is why 8 a.m. was specified regarding the Home Occupancy permit at the last meeting, but not necessarily applicable here.

She says she doesn't have a problem with that. She says that since Bob Beall owns it, can Mr. Moyers apply for this. Ms. White affirms that Bob Beall did apply for a conditional use permit, and that is appropriate. She says they are asking for mutual respect, and there was temporary progress but it seems to have reoccurred. Mr. Starkey asks if speeds are exceeding the 25 mph limit? She says there are only a few houses between 57 Cedar and Rt. 20. She says they aren't asking for special privileges, it's just that they are the only ones with children on the street. Her husband says they are at a loud decibel level.

Mr. Yankie asks about a decibel level on the trucks. Mr. Moyers says his trucks are registered with Madison, so the exhaust is under any thresholds.

Mr. Starkey says he isn't comfortable with a permanent CUP. Mr. Perkins says he thinks six months is fine, but he says that they do not get above 25 mph over a distance of three houses. Mr. Moyers says that if Mrs. Yankie would tell him which truck is the issue, he will deal with it. He says the tenant of 57 Cedar Ct. also has children, and they play in driveway and on the yard. He again asks Mrs. Yankie to just let him know about any issues.

Mrs. Yankie says she will. Mr. Starkey asks for her to let himself or Ms. White know so he has a comfort level to make decisions.

Mrs. Yankie says she is here to do whatever she can to make whatever change she can. She says she wants to be comfortable where she lives.

Mr. Starkey makes a motion to grant a six-month CUP for 57 Cedar Ct. Mr. Perkins seconds. Mr. Netzel suggests an amendment, that three complaints filed equals it being brought up at the next meeting. Mr. Starkey expresses his reluctance, as it is too easy to call and file complaints. Mr. Cordova says they can voice their concern at any public meeting. Mr. Starkey says if any complaints come in, administrative will review and evaluate.

Mr. Netzel says that other CUP where we are so worried about traffic coming in and out, this is an obvious case where there is an increase.

Mr. Moyers says he has five vehicles going in and out, some days he is in and out 20 times, sometimes once in the morning, once in the evening.

Mr. Starkey says he wants to hear any complaints, if it's happening. Mr. Yankie reiterates all the problems in her neighborhood she has reported to the police. Mr. Yankie says there have been in and out traffic all night long at another house.

Mr. Moyers asks about his plow truck and that in winter months it may be in use before 7 a.m. The Yankies say they understand that. They understand running one's own business. Mr. Yankie does snowplowing.

Mr. Netzel says that if the business is running optimally, it's good for the neighborhood.

The motion is passed unanimously that a six-month CUP is issued.

012-16 Christ Episcopal Church has applied for a variance to erect a sign in the ROW. Ms. White says a grandfathered sign was there previously. The City does not permit signs in the public ROW; also, the property in question does not belong to the church. Some vandalism occurred, the sign was damaged and a new sign with a new post was erected without a permit. The sign would not be permitted according to code.

Mr. Santiago says the sign was erected in the 60s, the sign was stolen by vandals, the post was broken in the process. He presents some pictures of temporary signs in the ROW.

Mr. Starkey says this is a tough one. The concern is, Assumption wants to put one up, Nazarene wants to put one up. It's easy to say it's just this one. This sign is irrelevant, it's the bigger picture. What about when a business wants to put one up in an employee's yard.

Mr. Santiago says, as Ms. White said to him, every business wants a sign on 534 pointing an arrow to their business. Mr. Santiago says they are directing it to a church. Mr. Perkins says he had a sign on Rt. 20 through the city. The state came in 40 years later, said it is an illegal sign. They said they would charge \$100 a day if he doesn't remove the sign.

Mr. Cordova says this is in the ROW in front of a residence, what happens when someone else moves in and doesn't want the sign? Mr. Santiago says they will take it down. Mr. Starkey says it's easy to say yes to the sign, but the what-ifs. Mr. Starkey asks if it can be revisited after the zoning code rewrite, which is happening currently. Mr. Cordova says he doesn't equate this sign with a Cup of Joe's sign.

Mr. Grenier says anyone who wants to put a sign in the ROW will get a variance. Mr. Starkey says the next person will just bring in a picture of this sign and debate it using this as evidence.

Mr. Perkins says it's been there since the 60s. Mr. Starkey says no, it was just put in in 2016. Mr. Santiago says the sign there was horrendously bad and replacing it improved it. Mr. Santiago says the face was replaced first, but it was replacement of the post which triggered zoning.

Ms. White says the 2015 Reed vs. Gilbert US Supreme Court Decision says that a sign cannot be judged by content. Whereas the Planning Commission is looking at a sign for the church and deeming it appropriate based on its content, that ruling says that signage can only be judged based on size, setbacks, materials and other content-neutral criteria.

Mr. Santiago says the Sanctuary of Geneva has a sign on Andover Bank property. Mr. Starkey says the key to that statement is, it's on the bank's property, not a public ROW.

Mr. Perkins says he doesn't feel that the city's rules should be superseded. Mr. Starkey says 2' from here someone wants to put another sign up, then another. Then if you say no, it's government. Mr. Cordova says if we say ok to this, then three months from now if someone else wants it. His justification for granting this sign is that the church is replacing an existing, vandalized sign.

Mr. Starkey says they didn't come to get the permit until zoning department says they were in violation.

Ms. White says it's very clear in the ordinances that nonconforming signs may not be completely replaced and she reads aloud the city's code.

Ms. White says that the precedent set will mean that the Planning Commission will have to present compelling evidence to refuse future requests. It's her duty as zoning administrator to let the Planning Commission know about possible ramifications.

Mr. Starkey asks if the sign has helped to bring one person to church, Mr. Santiago says yes, especially during the summer.

Mr. Netzel says part of him thinks a new precedent should not be said.

Mr. Starkey says he is thinking that based on the church's presentation, allowing the grandfathering to continue.

Mr. Starkey says that based on the vandalism that took place, the grandfathering of the sign can continue. Mr. Cordova adds based on the documented vandalism through the Geneva Police Department, the grandfathering of the sign can continue.

Mr. Netzel says the intent of the writers of the code was to get nonconforming signs to continue perpetually. Mr. Netzel says possibly put vandalized sign as an exception to elimination of nonconforming signs. Mr. Perkins says his sign was erected in 1969 and the state said they put the law in 1968.

Mr. Starkey makes the motion, Mr. Cordova seconds, it passes unanimously.

Mr. Starkey says the Episcopal Church is waiting for the volunteer to bring over his equipment to level it. Mr. Santiago says it should be done at the end of November.

Mr. Grenier says 30 Park St. wants to put up a shed. Ms. White says the zoning department conducted a rental inspection and all maintenance equipment is currently stored in the basement. Tim Parks asked that outdoor storage be provided for these items. She says they proposed a shed that would be at the rear 5' of the property. It will be a wooden shed with asphalt shingles, painted to match the main building.

Mr. Starkey makes a motion to approve, Mr. Grenier seconds, the motion is approved anonymously.

MINUTES APPROVAL

Mr. Starkey makes a motion to approve, Mr. Netzel seconds, Mr. Cordova abstains the motion carries unanimously.

OLD BUSINESS

Mr. Netzel asks if at the next meeting there could be a discussion about ways to inform the public. Ms. White says that Mary Ann Hill will be adding agenda to website and Facebook. Mr. Netzel says there should be a deeper conversation about ways to get people informed. Mr. Starkey asks if Mr. Netzel could get some interested people together to work on that project. Mr. Netzel says he will be in contact with Mr. Starkey via email.

The meeting was adjourned at 6:23.