

**PLANNING COMMISSION MEETING  
MUNICIPAL CENTER COUNCIL CHAMBERS  
Tuesday, May 6, 2014**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on May 6, 2014. Chairman Klevan welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Klevan then called the meeting to order at 6:00 p.m. asking the secretary for the roll.

1. Ms. Rush called the roll of the Board to establish a quorum:

**Commissioners Present:** Susan Burrow, George Hernandez, Dike Bacon, Hale Barclay, David Klevan, Alderman Forrest Owens and Mike Harless

**Commissioners Absent:** Steve Wilensky

**Staff Present:** David Harris, Wade Morgan, Tim Gwaltney, Cameron Ross and Pam Rush

2. A quorum for tonight's Planning Commission meeting was established.

---

Chairman Klevan stated there is a change to the agenda tonight on item number 5:

- Thornwood PUD, Northeast corner of Germantown Road and Neshoba Road – Request Preliminary Site Plan Approval – M. Spence Ray, w/McNeill Commercial Real Estate – Representative has withdrawn tonight.

3. **Approval of Minutes for April 1, 2014**

Chairman Klevan stated for those people who just arrived, tonight's agenda is on the front table. The first order of business is the approval of the minutes for April 1, 2014. If there were no additions, corrections or deletions to the minutes of the April 1, 2014, meeting of the Planning Commission, he would entertain a motion for approval.

Ms. Burrow moved to approve the Planning Commission minutes of April 1, 2014, as submitted, seconded by Mr. Bacon.

Chairman Klevan asked for a roll call.

**Roll Call:** Barclay –abstain; Burrow –yes; Hernandez – yes; Wilensky – absent; Bacon – yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**

---

4. **Amendment to the Regulations on Parking within the Required Front Yard in Residential Districts (Section 23-88 – Driveways)**

**INTRODUCTION:** Germantown's current regulations prohibit parking within the required front yards of residential lots. The only exception is in the case of a circular driveway. The Board of Zoning Appeals has requested that staff and the Planning Commission discuss an amendment to this requirement. Following are the current regulations:

**Sec. 23-88. Driveways.**

- (a) *Maximum width.* The maximum width of a driveway in the required front yard shall be 24 feet at the apron with a maximum driveway surface width of 18 feet, except that for houses that require additional width to accommodate garage/carport access, driveways

may be up to the width of the garage/carport within 20 feet of the garage/carport. **No parking spaces shall be permitted within the required front yard.**

- (b) *Parking spaces.* Parking spaces constructed in a legal location and of a permitted material prior to the effective date of this section shall be permitted and may be maintained in their current location.
- (c) *Nonconforming driveways.* Any driveway installed according to the ordinances in effect at the time of installation may be maintained, repaired or replaced in its present configuration. However, no driveway may be altered except in conformity with the provisions of this article.
- (d) *Driveway permits.* It shall be unlawful to commence the installation or alteration of a driveway until the city engineer or his designated representative has issued a permit for such work. Applications for driveway permits will be available at the offices of the city. The city engineer may require the owner to provide an official signed and sealed survey, by a land surveyor in the State of Tennessee, in order to determine the appropriateness of the application for a permit.
- (e) *Violation and penalty.* Any person violating any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-10. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this article shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this article may also be subject to injunctive proceedings.

(Ord. No. 2005-9, § 12, 9-23-05)

**DISCUSSION:** Staff researched other community's regulations on front yard parking for comparison purposes and found that most cities simply require vehicles to be parked on some form of hard service with an identifiable edge. Gravel is not an acceptable surface in those situations. Some communities limit the area of front yard pavement to a percentage (40% in several cases) or a set area. Raleigh, North Carolina allows parking pads within the front yard but requires either a berm or landscaping whenever a parking space is designed to be within 45 degrees of the public street. Staff suggests that Germantown's current prohibition be replaced with a similar requirement for landscaping. The proposed language is shown in red in the following draft amendment and examples of allowed and prohibited situations are attached.

**Sec. 23-88. Driveways.**

- (a) *Maximum width.* The maximum width of a driveway in the required front yard shall be 24 feet at the apron with a maximum driveway surface width of 18 feet, **with the following exceptions:** ~~except that~~
  - 1) For houses that require additional width to accommodate garage/carport access, driveways may be up to the width of the garage/carport within 20 feet of the garage/carport; ~~No parking spaces shall be permitted within the required front yard.~~**
  - 2) For residential corner lots only, a parking pad located beyond the limits of the driveway as described above may be permitted within the required front yard, provided the parking pad's paved area abuts the principal driveway, and does not exceed a maximum of 300 square feet within the required front yard.**

**STAFF RECOMMENDATION:** Approval.

Chairman Klevan asked if this motion was passed, would it go to the BMA for one reading?

Mr. Morgan answered it will go for three reading to the BMA. It will go sometime in July or early August for the final reading.

Chairman Klevan asked would this affect the case that's before the BZA, if this ordinance passes? Can he just withdraw, because he now meets the new ordinance?

Mr. Morgan noted that is correct; his plan would to meet the ordinance. Since the BZA has deferred it for 90 days, we would simply defer it further, because of it going forward for the BMA reading. If passed he could simply withdraw it, and then it would be unnecessary for a variance.

Chairman Klevan asked if there was anything, we could do to let the community know the changes that might affect an opportunity for them.

Mr. Morgan stated there are various publications that the City puts out such as (FYI, water bill inserts, and City website).

Alderman Owens asked if there were permits for driveways?

Mr. Morgan answered there is not a permit for the driveway or a parking pad. There are street cut permits for when the driveway intersects the public street.

Mr. Bacon asked if this would require a permit?

Mr. Morgan stated no, only if it involves a point where it touches the public right-of-way, either the sidewalk or the street curb. If it totally within the yard closest to the house, it would not require a permit.

Mr. Bacon asked how does the City enforce the dimension? How do they know they need a permit?

Mr. Morgan answered it is our Code Compliance staff or Construction Inspectors that are driving around checking on any work going on. They are very knowledgeable of what is allowed and what is not allowed such as a driveway going on. Then they notify the contractor or homeowner to see if it permitted; if not, they stop the work until they get a permit. For new homeowner the City puts out a little publication with the (utility bills). Staff encourages the homeowner and contractors to discuss with the (engineering and code) about getting the information out.

Chairman Klevan stated on the current situation there is no option; that the BZA has to grant automatic hardships on ordinances.

Mr. Harless asked what happens to the homeowners that currently live on a corner who exceeds the 300 square feet of parking?

Mr. Morgan noted those already existed and were legal.

Mr. Harless asked if there is an existed homeowner on the corner, when the BMA passes this and a week later, a code officer sees the house has poured 330 square feet of concrete. They will be issue a stop work order and told to tear the 30 feet up.

Mr. Morgan answered he would be given the chose either removing the excess area or apply for the BZA for a variance.

Chairman Klevan stated there are certain numbers of homes in the subdivisions that are in a grandfathered situation. That was in place before the ordinance was changed. This ordinance deals with corner lots only.

Ms. Burrow stated I do not understand why we do not have the permits for the request documented. This would omit the problem of what is correct or not.

Mr. Gwaltney stated that work within the right of way, such as a driveway apron, is a permitted process, meaning a permit must be pulled and ECD staff inspects the forms prior to concrete being poured. However, what is being discussed tonight is work that more likely takes place outside of the right of way on private property that as of now does not require a permit. We will post as much public notification as we can and monitor the situation. If we begin to detect many non-conforming driveways, we will consider creating a permit process for this activity.

Ron Poe at 1581 Lawton Trail stated he had the honor of serving on the BZA a couple of years ago. His concern is with changing the zoning ordinance, with an amendment to it for the corner lots. Why should the neighbor next door have a parking pad. He asks for consideration of subdivisions with very small lots (front yards with little grass) to help when you are coming in off the street. The driveways to pull in our garages are 15 square feet inside yards and front yard setback. We have one neighbor who has poured a lot of concrete in front of his door and he actually lives on the corner lot.

**ZONING SUBCOMMITTEE: (DAVID KLEVAN, CHAIRMAN)** – The subcommittee met on April 16, 2014 and withheld a recommendation.

**PROPOSED MOTION:** To approve the proposed amendment to Section 23-88 – Driveways, regarding the provisions for parking within required front yards.

Chairman Klevan moved to approve the proposed amendment to Section 23-88 – Driveways, regarding the provisions for parking within required front yards, subject to the comments listed in the staff report, as submitted, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

**Roll Call:** Barclay –yes; Burrow –yes; Hernandez – yes; Wilensky – absent; Bacon –no; Harless – yes; Owens -yes; Klevan –yes. **The motion was passed**

- 
7. Chairman Klevan asked if there was any old business to come before the Commission. There was none.
  8. Chairman Klevan asked if there was any new business to come before the Commission. There was none.
  9. Chairman Klevan asked if there were any liaison reports. There was none.
  10. **ADJOURNMENT:** The meeting adjourned at 6:30 p.m.