

The Pendleton Board of Zoning Appeals (BZA) met on September 17, 2019 at 7:00pm at the Pendleton Town Hall, 100 W State Street, Pendleton, Indiana. The meeting was called to order at 7pm. Board Members present were Tammy Bowman, Jerry Kelly, Mike Romack and Tim Pritchard. A quorum was established with four of five members present. Representing the Town were Planning and Zoning Administrator Kayla Hassett, Assistant Planning Director Rachel Christenson and Planning Clerk Kate Edwards.

Others in attendance included Josh Butler of 178 Fall Creek Parkway Pendleton, Jay Hubble of 3019 Huntsville Road Pendleton, Dawn and Ed Hubble of 1114 Pendle Hill Avenue Pendleton.

## **MINUTES**

**MIKE ROMACK MOTIONED, SECONDED BY TIM PRITCHARD, TO APPROVE THE MINUTES OF THE AUGUST 20 2019 MINUTES. MOTION CARRIED.**

## **OLD BUSINESS**

### **CU04192016-02 – Appeal of Conditional Use Approval Conditions – 627 Falls Park Drive**

Christenson presented via Google Drive which included the Application for a Conditional Use from 2016, BZA Notice of Public Hearing for September 17 2019, Map overlay of the existing zoning, current pictures of the athletic facility and Staff Findings.

Christenson shared that the Pendleton Athletic Facility is on a unique parcel zoned agricultural. When it was sold, Hubbles came to Planning with their proposal of putting an athletic facility there. Staff felt the best approach would be to do a Conditional Use rather than rezone the property. Planning could have rezoned it to Planned Business, however, having it in the unique area that it is, with access by going through the park, Planning felt they would maintain more control over what types of businesses could go in there, to ensure the uses could be compatible. This was approved by the BZA with the stipulation that they had to follow the Planned Business guidelines, which the petitioner agreed to.

Christenson reviewed the current pictures of the facility and property noting that the parking lot is still unpaved, which will be discussed during this meeting. She reviewed the provided timeline of events from April 19, 2016 through June 19, 2018. The June 19, 2018 appeal was for an extension on the lot paving and landscaping installation, which was granted and extended to June 30, 2019. The Finding of Fact for that extension, signed July 17, 2018 was also provided on Google Drive for review.

Planning Staff spoke with the Parks Department and was advised that there have been no issue with the parking lot not being paved. This site is land locked with no road frontage but it does connect up with the sports complex parking lot and the drive area and there is an easement that the park granted to Hubbles for use.

Staff also included on Google Drive the Hubble's landscape plan and Christenson indicated that is also a topic for this meeting because it does not match up with the Planned Business Design Guidelines. The guidelines include landscaping according to the standards established in Section 158.11 of the Zoning Ordinance. There is also a parking lot perimeter requirement that the screening of parking lot perimeters should consist of a masonry wall, planter, earthen berm, plant material or a combination of such elements which has a minimum height of 4 feet from grade level at the time of planting. Also if a parking lot abuts a nonresidential zoning district,

perimeter landscaping should be provided across 50% of that portion of the parking lot abutting the property line. In this case, the property line we are talking about is the western most property line.

A Comparison of Required versus Proposed chart was provided breaking down Requirements, Required for Site, and the Hubble Proposal.

**Staff Recommendation:**

- The Planning Staff recommends Hubble's are given until November 30, 2019 to complete parking lot and landscaping requirements.
- Planning Staff recommends a 5' landscaping bed along the west and north perimeter of parking lot using the required number of planting materials per ordinance.

Christenson indicated that if the commission feels differently about the extension date, she is suggesting that the parking lot and the landscape be done at the same time.

Jay Hubble addressed the commission beginning with their proposed landscaping plan. He referenced pictures they provided to help explain their rationale for the proposed plan relating to the slope of the property. He added with the Park's cattails being high along the base of the slope, landscaping along there would not be visible from the Park's road, adding the cattails are present year around. Dawn Hubble added the slope is so steep it is difficult to mow without getting stuck, indicating that to landscape there would require a lot of buildup. She added the intent of the Ordinance is to help the aesthetics of parking lots from the view of the adjacent property. With the cattails present, the shrubs won't be seen from the Park road. Jay advised they do want to add landscape to their property but with the paving of the parking lot and adding that they have had enough success that they are considering expansion and they don't wish to invest in something that will have to be removed or relocated. Dawn added the Town has already approved future batting cages on the south side of the existing facility and the north end is their only option for parking lot expansion. Ed explained the Park owns approximately 60 feet of the drive towards their property.

Ed Hubble went on to talk about paving, reminding that they had to build up three feet from the northeast corner to the southwest corner and he believes that is the cause for the sinkage across the parking lot, which is still occurring. They definitely want the parking lot paved for appearance and elimination of dust, but they want to do it at the right time with a solid base. He reminded that Dr Begley, the previous owner, donated dirt to the park to build up the baseball diamonds because that area was extremely low, and perhaps the Hubble property was effected by that. Ed indicated that their structure is on a footer, so the building is not being effected. He indicated they brought in gravel three to four times to fill new sink holes, so they are trying to buy some time to allow another freeze and thaw in hopes of allowing for a good base for the paved parking lot.

Ed shared that they believe they could move forward with the planting of the four required trees, by keeping them out of the parking expansion to the north and the batting cages area to the south. They could move them in the future if needed. They were advised by a landscaper to not plant just yet because of the drought, but more like late September thru October. Christenson

indicated after the first frost is the best time. She asked them also to keep in mind that the trees noted in the Ordinance are supposed to be perimeter trees.

Bowman asked them to share their timeline thoughts on adding the batting cages and the need for additional parking. Ed indicated if they get an extension on the paving, say for 2020 or the year after, that would come first, then phase two adding the batting cages would follow. He added they want to see how things go before doing the north parking. Ed noted that they would agree to a stipulation that paving must come before any addition of batting cages or building expansion.

Bowman inquired about the Park's cattails and the terrain and asked if it is what nature demands there and is there an equivalent to exchange for the traditional shrubs. Christenson advised that we cannot plan on one property screening another properties parking lot, but she thinks there are planting materials that could be used that better lend themselves to this site and they can be creative on what materials they use on a slope like this. She reminded that things of other properties can change, such as the removal of the cattails to allow for better drainage if needed, which is why Planning looks at each property individually. She feels there are certainly things that can be done on a slope such as this to meet the landscaping requirements, perhaps even helping the Hubbles not mow on that slope. Perhaps some ground covers and some shrub planting materials or even grasses that would lend themselves to the site better. She reminded that the plantings do not need to be in a straight line. They can be undulating and can be in groupings.

Pritchard suggested that time be extended to November 2020 for the paving. As far as landscaping, he requested a revised landscaping plan based on Christenson's suggestions. Christenson added that, if the board is comfortable doing so, when the Hubbles submit a new landscape plan, Staff can approve it.

Ed advised they can make the landscaping work now if required, but the paving is the bigger issue. Christenson added that this is a unique site and has unique constrains with it, its not on a road, it is land locked, there is an easement to it, they did however agree that it would following the Planned Business Guidelines and there are some things we need to think about other businesses in Pendleton being held to the same standards. She added, if it is still appropriate to extend this for another year that is up to the Commission. She added, as Staff, it is necessary to remain consistent.

Dawn shared that they hate to go against the experts that have been to the property, who were competent in their recommendation that there needs to be more time for settling. Ed adding that they are the ones to pay the cost of repairs if done too soon, plus patching never looks good.

J Kelly read the Zach Berline email to Jay Hubble that they should wait until Spring 2020 for an evaluation. Ed noted that last year it was agreed to give another year for re-evaluation, which is why they are here, and they are still being advised not to move forward yet by the experts. Google Drive presentation also included documentation from Campbell Brothers concrete.

Romack complimented the Planning Staff for their efforts to make everything as equal as they can for everyone in the town and their recommendations are good recommendations, but he felt another year would be beneficial for settling. He went on to suggest there are landscaping materials out there that would help so they don't have to mow. Christenson advised the

plantings need to be at least 18", but the ground cover around the plantings could eliminate the need to mow.

Ed requesting that the paving and curb system be in place prior to implementing the landscaping, but advised they will submit a revised proposed landscape plan to Planning for their review.

Christenson said they could work together on the landscaping plan and get it together prior, so they can get their budget in line for that, and June 30<sup>th</sup> isn't the best time to be planting anyway, so we can work with it so the paving can be done first and then the landscaping in the fall of 2020 would be fine.

Bowman added that the whole goal is to do it once and do it correctly.

**TIM PRITCHARD MOTIONED, MIKE ROMACK SECONDED, THE APPROVAL OF CU04192016-02, WITH PAVING COMPLETED BY JUNE 30 2020 AND LANDSCAPE DESIGN FOR APPROVAL BY STAFF AND COMPLETION BY NOVEMBER 30 2020. MOTION CARRIED.**

**CU08202019-01 – Conditional Use for two-family residence in  
Historic Residential zoning district – 178 Fall Creek Pkwy.**

Hassett shared that the Ordinance was written because we do have some homes in the older part of Town that have been two-family for many years and it was recognized that if there isn't sufficient parking spaces or other amenities, that use might be not so great for neighboring use to single-family. It comes before the BZA to approve and make sure that everything was thought through and addressed.

The Butlers are constructing an in-laws suite with a two car garage addition to the rear of their historic home. The Butlers would like an additional electric meter to put that unit on its own meter. Different utility services is an indicator of two-family properties.

Google Drive presentation included aerial photos of the property and photos of the home and construction. Hassett noted that it was obvious there was ample parking to satisfy the two parking spaces per dwelling unit requirement. Adding that it is a 2.5 acre lot that can accommodate this.

**STAFF RECOMMENDATION**

Approve.

Josh Butler addressed the Commission advising his main reason for doing this was because he wants to take care of his parents and this is the best way he can show his appreciation.

When asked, Butler shared information about the garage.

Kelly asked if this would be able to be a rental in the future. Hassett reported, if the Commission approves this, it could potentially be a rental unit. Butler added that they have considered that for future use once his parents are gone.

**TIM PRITCHARD MOTIONED, SECONDED BY MIKE ROMACK, THE APPROVAL OF CU08202019-01 AS SUBMITTED. MOTION CARRIED.**

**FINDING OF FACT WAS SIGNED BY ALL MEMBERS AND ATTESTED TO BY KATE EDWARDS.**

**NEW BUSINESS - none**

Next meeting is scheduled for October 15, 2019 at 7:00pm.

Meeting adjourned at 8:05pm.

Kate Edwards  
Planning Clerk  
Town of Pendleton