

**TOWN OF ELSMERE  
PLANNING COMMISSION  
MEETING MINUTES  
September 04, 2018  
6:30 P.M.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:**

**ROLL CALL:**

CHAIRMAN	CHARLES LINDELL	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	LEON BACKER	PRESENT
COMMISSIONER	SALLY JENSEN	ABSENT
COMMISSIONER	JOSE MATTHEWS	PRESENT
COMMISSIONER	DEBORAH NORKAVAGE	PRESENT
COMMISSIONER	KRISTA WRISTON	ABSENT

**PUBLIC COMMENT:**

Joseph Janvier, 1308 Kirkwood Highway, made a statement about concerns that he has regarding Petition 18-20 related to parking and that he would like to see the property brought up to code.

At 6:32 p.m., Commissioner Wriston joined the meeting.

**APPROVAL OF MINUTES:**

Approval of the minutes from the July 03, 2018 Planning Commission meeting

**ACTION:** Commissioner Backer made a motion to approve the minutes from the July 03, 2018 Planning Commission meeting. The motion was seconded by Commissioner Norkavage.

**VOTE:** 4 in favor, 2 abstained and 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Absent, Matthews – Abstain, Norkavage – Yes, Wriston – Abstain

## **NEW BUSINESS:**

### Review Petition 18-15, Tax Parcel Number 1900-400-345

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Chairman Lindell asked Code Officer Faedtke whether drawings have been furnished to the Planning Commission for the porch, which has not been constructed yet and is part of the request. Code Officer Faedtke replied that drawings have not been made available.

Applicant David Manners stated that his contractor had turned in a drawing in April when he had originally applied for the permit.

Code Officer Faedtke stated that the applicant had spoken with the code office earlier in the day about the proposed porch. She explained that the applicant hopes to construct the porch with Trex and space the boards 1/8 inch apart, which would not contribute to the lot coverage of the property. The applicant has agreed to remove the 200 square foot shed in the back of the property, which would result in the property being brought into compliance with regard to the allowable lot coverage. Code Officer Faedtke noted that the only variance which would be required is for the front setback.

Code Officer Faedtke stated that approval would need to be conditioned on removal of the 200 square foot shed in the back of the property.

Commissioner Backer asked questions about the spacing of the Trex boards and where the rain water would flow and expressed concern that a drawing or photos has not been presented. Mr. Manners stated the water would flow to a flower bed and that the ground is level.

Code Officer Faedtke stated that the code office has no objection to the petition.

Mr. Janvier stated that 259 Locust Avenue has a porch and that it looks great.

Lisa Manners, 231 Locust Avenue, stated that she has lived in the neighborhood for 18 years and that she wants to bring the property up to code. She further stated that they try to do projects each year and that she feels like they are being discriminated against because they want to build a new porch and not a 1950's style porch.

**ACTION:** Commissioner Backer made a motion to recommend approval of Petition 18-15 to the Board of Adjustment for the setback of 3 feet 4 inches with the condition that detailed drawings are provided to the Board of Adjustment and that the shed is removed by December 31, 2018. The motion was seconded by Commissioner Norkavage.

**VOTE:** 6 in favor and 1 absent

Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Absent, Matthews – Yes, Norkavage – Yes, Wriston – Yes

Review Petition 18-17, Tax Parcel Number 1900-500-104

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

At this time, Commissioner Anderson recused himself.

Ron Sutton, PE, Civil Engineering Associates, speaking on behalf of the applicant, gave a presentation about the applicant's request to operate a Domino's Pizza at 504 Kirkwood Highway. Mr. Sutton noted that the plan for a drive-thru has been removed and stated that the updated plan shows an entrance on Kirkwood Highway and a narrowed entrance on Northern Avenue, noting that DelDOT has provided approval of the entrance on Kirkwood Highway, and presented a proposed lighting plan. Mr. Sutton discussed plans for planting trees and installing a white vinyl stockade fence.

Chairman Lindell questioned the parking located within the setback area. Mr. Sutton replied that it is a building setback and they are allowed to have parking within this area. Code Officer Faedtke referenced Town of Elsmere Code Section 225-10D. and stated that parking against the building is allowed.

Elliott Rosado, Operations Manager, Domino's, answered questions related to the operation of the proposed business at the property. Mr. Rosado stated that the hours of operation will be from 10:30 a.m. to midnight on Sunday through Thursday and from 10:30 a.m. to 1:00 a.m. on Friday and Saturday. Mr. Rosado further stated that inside seating will be composed of three tables and 12 seats, that carryout will be closed at 10 p.m. and only delivery service will be available after that time.

In response to a question from Commissioner Norkavage, Mr. Rosado stated that there will be between two to four delivery drivers. Responding to questions from Chairman Lindell about deliveries, Mr. Rosado explained that he normally receives two deliveries per week with an option for a third and that he can request certain delivery days and times.

Chairman Lindell noted this answered some of the questions that the Commission had at its meeting in July.

Commissioner Norkavage inquired about the outside refrigeration unit and the additional noise. Mr. Rosado replied that most of the condensers are inside, that the outside unit

runs very quietly, and that the sound is equivalent to the sound of a newer home air conditioner.

Commissioner Backer asked Mr. Rosado a series of questions. In response Mr. Rosado stated that there will be between one to four employees, that LED bulbs will be used for lighting, and there should be no problem coordinating the time of the supplier deliveries.

Commissioner Matthews asked about the dimensions of the sign. The applicant stated that their sign contractor follows the size requirements of the code. Code Officer Faedtke noted that the signs affixed to the building cannot be larger than five percent of the face of the building and that free-standing signs cannot exceed 24 square feet.

Commissioner Matthews also inquired whether the new location is an expansion or relocation and whether any employees from the old location would be offered jobs at the new location. The applicant stated that they consider it to be a relocation and that the other store closed in November under different ownership so they do not have information related to those employees.

Code Officer Faedtke stated that the code office is in support of the petition that the project brings the property more into compliance and brings a positive look to the property.

Fred Carlson, 104 Western Avenue, asked questions about the 20-foot buffer zone. Mr. Sutton and Mr. Carlson discussed the requirements for a buffer zone and whether parking is allowed within this buffer zone. Mr. Carlson explained that he recalls when Council passed this requirement and that nothing is supposed to be in the buffer zone including parking. Mr. Carlson also expressed concerns with the plan for the trees and stated that the trees should be on the residential side of the fence.

Steve Burg, 108 Northern Avenue, questioned the increase in traffic despite the changes to the entrance on Northern Avenue and expressed concerns about tractor trailer deliveries, parking on the street, and trash collecting. Mr. Burg stated that people who live along Northern Avenue need to be considered. Chairman Lindell noted that deliveries can be coordinated after 10 a.m. when there is less congestion. Mr. Burg replied that there is always congestion, that it is hard to imagine how they are going to get a tractor trailer through there, and that he does not think that the tractor trailers should be allowed on Northern Avenue.

Sharon Burg, 108 Northern Avenue, stated that she has no real objections now that the drive has been removed and that her other concern is the traffic pattern on Northern Avenue.

Chief of Police Laura Giles spoke about the traffic study that was performed on April 09, 2015. Chief Giles stated on this date there was 368 vehicles within a 24-hour period and that the traffic study was done because then-Mayor Burg was concerned about speeders.

Alex Sardine, Delaware Director, Domino's, stated that only a very small percentage of deliveries will be in the neighborhood behind the property and he does not believe that the delivery truck will park out in the street which is further from the store.

Chairman Lindell asked whether it was possible to shut down the Northern Avenue entrance. Mr. Sutton replied that a number of other businesses on the south side of Kirkwood Avenue have entrances on the side street and on Kirkwood Highway. Mr. Sutton further stated that he doesn't understand why they should be treated any differently than any other business in this area.

Attorney Frederick Mitsdarfer, council for the applicant, stated that the delivery truck can be restricted to only turning into the property from Kirkwood Hwy to address the concerns from the Commission and the residents.

Mr. Burg replied that there are no guarantees that the drivers will do this and that he still has concerns about traffic and increased congestion on a small street.

Chief Giles noted that the traffic analyzer was just delivered which may be utilized to study the traffic.

Rob Anderson, 107 Northern Avenue, made a statement and expressed concerns about the noise and lights late at night, runoff, and the required 20-foot buffer.

Mr. Giles stated that when Code reviewed this application it found it to be substantially in compliance with the code and there were no variances needed and that all of the other issues brought up are essentially between the applicant and the Commission.

**ACTION:** Commissioner Norkavage made a motion to approve Petition 18-17 with the conditions that deliveries must access the property only from Kirkwood Highway, stormwater runoff must not cause a problem on the southside of the property, and any traffic issues must be reported to the chief of police to arrange for a traffic study. The motion was seconded by Commissioner Backer.

**VOTE:** 4 in favor, 1 opposed, 1 recused, and 1 absent Motion carried

Lindell – Yes, Anderson – Recused, Backer – Yes, Jensen – Absent, Matthews – Yes, Norkavage – Yes, Wriston – No

Commissioner Wriston stated that the reason for her vote against the motion is that, as a resident, she understands traffic issues and concerns with lighting.

At 8:08 p.m., Chairman Lindell announced that the Commission would take a five-minute recess.

At 8:15 p.m., Chairman Lindell called the meeting back to order. At this time, Mr. Anderson returned to the Commission.

Review Petition 18-20, Tax Parcel Number 1900-400-216

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Fernanda Argudo spoke on behalf of the applicant and stated that they are proposing to have a rental upstairs and a Zumba business downstairs and that they are in process of fixing up the property.

Chairman Lindell asked about the plans for parking and stated that there is no parking on Kirkwood Highway.

Ms. Arguna replied that they plan to pave an area in the back and to also park along Elm Avenue.

Code Officer Faedtke stated that she rode by the property today and there is not enough space for both egress and ingress.

Ms. Arguna stated that there won't be much traffic, only about 15 cars for an hour a day. A discussion followed about parking. Ms. Arguna stated that it won't be too far to walk. Carmita Rodriguez, also speaking on behalf of the applicant, explained that they are trying to do the right thing.

Chairman Lindell stated more spaces will also be needed for renters.

Commissioner Norkavage asked if they have any plan for accommodating 15 cars. Ms. Arguna stated that they hoped to add a few spaces on the property. Ms. Rodriguez noted that it is only for an hour a day.

Code Officer Faedtke stated that the town is opposed due to the additional lot coverage and the town's NPDES permit as well as the parking issues.

Mr. Janvier stated that he encourages use of the property but the property needs to be fixed up, that the garage in the back is unsafe, and that he had a chance to purchase the property but it was too much work for him.

Mr. David Reed, 1304 Kirkwood Highway, made a statement that the property was built for residential use 90 years ago, that the garage is in really bad shape, and that he is concerned that people will park along Kirkwood Highway.

**ACTION:** Commissioner Norkavage made a motion to recommend to deny Petition 18-20 to the Board of Adjustment based on the parking required in Section 225-10 of the Town Code. The motion was seconded by Commissioner Backer.

**VOTE:** 6 in favor and 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Absent, Matthews – Yes, Norkavage – Yes, Wriston – Yes

Review Petition 18-24, Tax Parcel Number 1900-100-258

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Applicant Orlando Santiago Vasquez spoke about his petition and stated that he is requesting approval for a patio to be able to barbecue and for seating. Mr. Vasquez also stated that the shed that was shown on the survey on the right side of Exhibit 18-24K has been removed.

Chairman Lindell asked the applicant whether he would be willing to reduce the existing concrete pad by 256 square feet of concrete and then he wouldn't need a variance. Mr. Vasquez stated that this area is being used for a driveway and for parking his car. A question arose about the area on the survey which is labelled as a shared driveway. Code Officer Faedtke stated that the applicant is using the driveway and that it is not being used as a shared driveway.

Chairman Lindell explained to the applicant that if he is willing to consider a pervious material, then a variance is not required. Commissioner Norkavage explained the difference between pervious and impervious pavers and asked Mr. Vasquez whether he would be willing to use the pervious material. Mr. Vasquez agreed that he would use whatever material he is required to.

Chairman Lindell noted that the applicant does not have any available space to remain compliant with the allowable lot coverage unless he removes existing coverage or uses a pervious material.

Code Officer Faedtke stated that if the applicant uses a pervious material then the petition does not need to be considered by the Board of Adjustment.

Mr. Giles stated that since the applicant has agreed to use a pervious material that the Planning Commission does not need to vote on anything.

Chairman Lindell announced that Petition 18-24 is being withdrawn due to the fact that the applicant has indicated that he will be using a pervious material and will submit documentation to Code prior to applying for a permit.

**OLD BUSINESS:**

None

**ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:**

None

**PUBLIC COMMENT:**

None

**ADJOURNMENT:**

**ACTION:** Commissioner Backer made a motion to adjourn the meeting. The motion was seconded by Commissioner Norkavage.

**VOTE:**            6 in favor and 1 absent    Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Absent, Matthews – Yes,  
Norkavage – Yes, Wriston – Yes

At this time, the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the September 04, 2018 Planning Commission meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

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**CHARLES LINDELL, CHAIRMAN**

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**LEON BACKER, SECRETARY**