

DDA and Planning Commission Meeting Minutes
Byron Municipal Building
July 19, 2018

Meeting called to order at 6:06 pm by Chairperson Vandemark

Roll Call – Present: Murphy, Bailey, Prestonise, Vandemark, Miller, Bowers Absent: Dickinson, Streeter, Murphy-Alderman . Attorney Chris Johnson from Gormley Law, Bert Gale of AGS, Mary Anne Wervey of Zeremba Group, and Mike McPherson from Atwell were also present, as well as some public.

Agenda Approval: Murphy motioned to approve agenda; seconded by Bowers. Voice Vote: All Ayes. No Nays, 3 absent; passed

Minutes Approval: Murphy motioned to approve minutes from June 21, 2018 meeting. Seconded by Bowers. Voice Vote: All Ayes. No Nays, 3 absent; passed.

Communications: Vandemark said he received a reply from the Erik Jones Racing representative. They are holding off on a picnic/party this year and will try for next year, which his sponsors will organize.

Financial Status: Miller reported DDA bank statement of \$23,389.20 in checking. Two bills presented – 1 for \$42.40 Trophies for Regatta; 1 for \$142.84 Signs to advertise Regatta and Duck Race. Bowers motioned to pay both bills; seconded by Murphy. Roll Call: All Ayes. No Nays, 3 absent. Bowers motioned to accept status report pending audit; Bailey seconded. Roll Call: All Ayes. No Nays, 3 absent; passed.

Planning Commission Business: Proposed request to rezone of Parcel #78-016-66-009-000. Mary Anne Wervey of Zeremba Group Real Estate for Dollar General explained the reason for the request for additional rezoning of .37 acre parcel. They forgot the extra land for retention pond at the prior rezoning request. They would like to start building by fall, if possible. Mike McPherson with Atwell showed new area of request which is about 250' from the intersection. There is a difference in topography from what they assumed originally and had hoped retention could go under the original rezone area, but found later that it could not and that they would need the additional .37 acre section of the parcel. Mike showed the diagram of the proposed site to the board and audience & answered a few questions.

Open Public Hearing on proposed rezoning of Parcel #78-016-66-009-00: Bowers motioned to open Public Hearing. Bailey seconded. Voice vote. All Ayes. No Nays. 3 absent. Public Hearing opened. Vandemark offered to audience members 3 minutes each to speak about the request to rezone the .37 acres of parcel #78-016-66-009-000 from Residential to Commercial for a retention pond for the proposed Dollar General store (hereafter referred to as DG). Resident Janet Cole spoke and said she would like a sidewalk on the West side of Saginaw St & expressed strongly that she would like to see that added at the expense of Dollar General rather than the Village. She said it would also be nice to have a turning lane because people drive fast heading north out of town and is concerned that someone will get hurt.

Beth Carr also spoke with the same concerns as Janet of wanting to see a sidewalk and a turning lane. Janet Cole spoke again that a bike path would also be nice. At this time, Janet also asked about who is

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on the Planning Commission. Miller answered, as well as Attorney Johnson that the DDA is the Planning Commission by Statute and was passed by the Village of Byron about a year ago.

Residents Bob & Katie Dean suggested a caution light at Emmett & Lehring Rd for safety.

Bowers motioned to close the Public Hearing. Murphy seconded. Voice vote. All ayes. No nays. 3 absent. Passed.

Consideration to Adopt Rezoning Request: Vandemark opened discussion for Planning Commission members to ask questions. Bailey asked about the sidewalks and whether we could request that to be done. Bert Gale suggested that the Planning Commission (hereafter referred to as PC) wait to address that subject at the time we discuss the Site Plan. Vandemark asked why they're not squaring off the property parcel, as the section for requested rezoning is now an unusual shape. Mike M of Atwell answered that they're trying to limit the amount of land to be rezoned.

Gas lines through the requested rezone area were discussed. Mary Anne said she spoke with Consumers Energy & they reviewed the plans & gave authorization and approval. She presented copies of emails to the board for proof. Bert of AGS advised that he also had indication that Consumers granted approval. Vandemark asked whether both parcels will be rolled into one. Mary Anne said yes, that is the plan. Atty Chris Johnson suggested that prior to considering approval of this additional rezoning of .37 acre parcel that the PC should request that the original 1.83 acre parcel be merged with the .37 acre parcel to avoid any future potential issues; also that if the new parcel is approved, that the new joint parcel be separated from the original parent parcel; and thirdly that Consumers Energy grant approval for use of the parcel as proposed by DG.

Miller moved that the PC recommend to Village of Byron Council to approve the request and approve a resolution to rezone the .37 acre parcel from Residential to Commercial on Parcel 78-016-66-009-000 with the following 3 conditions: 1) The initial 1.83 acre proposed parcel that was approved for rezoning on May 14, 2018 be merged into one parcel with the .37 acre parcel that is subject of this rezoning application, and 2) That the created joint parcel then be split from the current parent parcel which is currently zoned residential and 3) That approval from Consumers Energy be obtained for the construction of storm water retention site over Consumers Energy easement over this joint parcel. Bailey Seconded. No discussion. Roll Call. All Ayes. No Nays. 3 Absent. Motion passed.

Dollar General Site Plan Review: Vandemark explained that the Site Plan review is based on the Village of Byron's 1989 zoning along with the recent resolution approved by the Village requiring a Site Plan to be submitted. Vandemark reviewed the Site Plan review checklist as presented by AGS and dated July 9, 2018.

The first section to address is: "Subsection 1, F. Conditions NOT met. Lot coverage percentage not provided. The current Zoning Ordinance does not have a lot coverage requirement for the Commercial (C) zoning district. Planning Commission to determine adequacy of the submitted plans." Village of Byron Ordinance Enacted 2018-3, 2018 under Section 152.101 c. F states "Pertinent area, height, lot coverage and setback requirements of the zoning district in which the parcel is located". Bert Gale clarified for the board that "lot coverage" means the % of the amount of land that the building is

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covering must be listed on the Site Plan. It was not listed, so condition was Not Met. Mike from Atwell, representing DG indicated that 12.7% of the lot is how much space the building is taking up of that lot. Since the percentage of the lot coverage has been given verbally at this meeting, and then the requirement is now met, per Bert.

Subsection 2 A. Condition NOT met. "Adjacent parcel information within 100' on South and East side of project site not provided. PC to determine adequacy of the submitted plans. Vandemark indicated that adjacent parcel is residential.

Subsection 2 B, IV. Condition NOT met. "No information for fire lanes provided. PC to determine adequacy of the submitted plans." Bert explained that DG didn't show any fire lanes on the Site Plan. Vandemark asked for explanation. Bert indicated this would be a lane specified for emergency vehicles and that it is most commonly seen in larger developments.

Subsection 2 B, VI. Condition NOT met. "Acceleration, deceleration & passing lane & approaches", no information provided in Site Plan. Vandemark inquired about whether a traffic flow review was done. Mike explained that their plan is "Per the County" as a typical detail applied.

Subsection 2 K. "Any other pertinent physical features"; meaning is there anything else the PC wants to see on the plans?

Subsection 2 L. Is the site plan in "compliance with Byron Village engineering design standards"?

There was discussion here about the possibility of adding a sidewalk on the West side of Saginaw St from Lehring Rd to the store. Vandemark inquired of Mary Anne as to whether they have considered it. She indicated that the project is currently over budget, but that their engineer would have to look at the grading. More discussion from Mike about how it would fit in the plan if they were to add a sidewalk. The consensus of all board members was that a sidewalk is needed for safety. Prestonise expressed a concern that if a sidewalk is insisted despite budget concerns, that we could lose the chance of getting a new business at all.

Bert suggested that we stipulate that they meet Village water/sewer hookup guidelines. Mike explained that it is on the plan already.

Subsection 5 C. "Number of employees, customers, clients or patients in peak usage." Condition NOT met. Mary Anne gave answer of an estimation of 8 -10 employees, with an average of 4 full-time and 2 - 4 part time. Each shift to have 3 – 4 employees at any one time during peak time. Number of customers is typically around "30 trips" a day.

Section 152.096(c) Signs. Current zoning ordinance does not allow. Documentation the PC board was given ahead of time in the Site Plan packet did not include a revision to the proposed sign drawing. DG submitted a correction after the original documents were prepared and distributed. Mary Anne spoke that a sign vendor uses their own process for the design, size, etc. Bert explained that a sign is not allowed per the 1989 zoning. The PC should consider whether to approve a free standing store sign subject to the future proposed new zoning guidelines. There was discussion on where the proposed sign will be on the property. Mike indicated that the exterior light on the sign goes off at night at closing.

Sect 152.116 A. Off-street Parking and Loading Regulations General Requirements. Condition NOT met. Proposed number of parking spaces is 25 and the zoning requirement is 61. There is a July 23 date set for a variance request to the Zoning Board of Appeals (ZBA). Pert Bert, the PC could condition approval

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of the Site Plan on the condition of the ZBAs variance decision. Bowers asked if there is a requirement of the width of the spots. Mike advised that 10' is the width of the proposed spots.

Section 152.116 D 3. Condition NOT met. The two Regal Wall pac wall mounted lights on the northwest corner of the building appear to not reflect light away from the residential zoning district. At the request of Vandemark, Mike showed on the plan the location and description of the lights on the building. Bert explained the difference between the proposed type of lighting vs what the zoning allows. He said the PC could recommend that they put a different kind of shade that requires that lighting not be allowed to go toward residential area. Mike advised that they are LED lights and the further out the light goes, the less bright it will be and that it should not be a problem for the lights to not be shining into the residential area. Mike indicated that that most of those lights are off during closing time, but that 3 or 4 are left on all night for security.

Section 152.116 D 5. Condition NOT met. Parking area not screened on the South, West, and North sides. The height of the Hicks yews (aka shrubs) for screening from the residential area is indicated as 2 feet. The minimum height required by ordinance is 4 feet. Mike indicated that the hedge row planned is facing Byron Rd/Saginaw St and that the South side has a slope. During this discussion, Mike mentioned that if the PC could allow them to not have a 6' screening fence behind the building & along Lehring Rd, but keep the retention wall which is required, then it may free up more funds for them to include a sidewalk.

152.117 C. Condition NOT met. Minimum required parking spaces. This issue is just a repeat of the parking space issue, which is being addressed by the ZBA on July 23.

Pursuant to 152.101b, the Site Plan standards were reviewed and discussed. Vandemark read the standards, so the board understands what we are to consider. The standards are as follows:

"1) The proposed design will not be injurious to the surrounding neighborhood or impede the normal and orderly development of surrounding property for uses permitted by the Village's Ordinances."

No concerns were expressed by the PC and no changes from the original site plan were recommended for this standard.

"2) The location, design and construction materials of all buildings and structures will be compatible with the topography, size and configuration of the site, and the character of the surrounding areas."

Attorney Johnson added that the PC could indicate that "As outlined, the building sits lower than the grade of the road, and there will be a concrete block retaining wall." There were no comments or concerns expressed by the board.

"3) There will be a proper relationship between streets, sidewalks, service drives, driveways and parking areas protecting the safety of pedestrians and motorists."

Atty Johnson indicated that the driveway is proposed 225' away from the intersection and that we have discussed installation of a sidewalk.

"4) The location of buildings, outside storage receptacles, parking areas, screen walls and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and the occupants of surrounding areas."

Per information provided, the PC feels that all requirements and standards have been met.

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"5) Village requirements and standards for streets, lighting, driveway approaches, grading, surface drainage, storm sewers, storm water retention facilities, water mains, sanitary sewers and necessary easements will be met."

The PC could choose to stipulate that the developers will be held to this standard.

"6) All buildings or groups of buildings will be so arranged as to permit emergency vehicle access by some practical means to all sides."

No comments were made regarding this standard. The PC feels that there is enough space for emergency vehicles in the proposed Site Plan.

"7) Appropriate site design measures have been taken which will preserve and protect the landscape, existing topography, natural resources and natural features including, but not limited to lakes, ponds, streams, wetlands, steep slopes, groundwater recharge areas and woodlands."

According to information provided, the Site Plan meets design measures and the PC concludes that the retaining wall should protect the topography. Mike added that the roof drains of the building are routed to the retention pond.

"8) Sites which include storage of hazardous materials or waste, fuels, salt or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, ground water or nearby water bodies."

This is not applicable in this case, per Bert Gale

"9) Landscaping, including greenbelts, trees, shrubs and other vegetative materials, is provided to maintain and improve the aesthetic quality of the site and the area."

If desired, the PC can add conditions here regarding the height of shrubbery and whether it is adequate or not. The PC could also note that the addition of a sidewalk requirement is in lieu of the vegetation requirement.

"10) The proposed use is in compliance with the Village's Ordinances and any other applicable standards and laws."

Vandemark asked how we address the sidewalk issue. There was discussion that if the PC required a sidewalk, it would just be from the corner of Lehring & Saginaw St down to the parking lot and that concrete should be required and not allow asphalt.

Bert then advised that the board should deliberate at this point and review each of these standards. In deliberations, the following was discussed:

- 1) Condition should be that the Site plan is contingent on the number of parking spaces, granting variance by the ZBA as to the number of spaces
- 2) The freestanding sign can't be built until the new ordinance is adopted & that they meet those requirements set within the new zoning ordinance. Also that the Zoning Administrator will be given authority to approve that sign at that location.
- 3) That the Site Plan approval is contingent on approval of rezoning of the .37 acre & 2 parcels becoming one. And once approved, they be split from the original parent parcel.
- 4) Sign finalizing to give zoning administration final decision on the sign size & placement as long as it meets guidelines.

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- 5) Contingent on concrete sidewalk to go from NW corner of Lehring & Saginaw St, adjacent to existing sidewalk, approximately 160 linear feet connected to impervious parking lot or sidewalk in lieu of privacy fence on South & West side of building/property line
- 6) Contingent to submit for permanent record one (1) copy for the Zoning Administrator & one (1) copy for the Village a new site plan drawing with conditions stipulated here in motion. Stipulate that the PC is accepting staff's report as conditions met and reviewed all items of conditions not met.
- 7) For the lighting, the PC stipulates that the wall pac light should be adjusted to not illuminate adjacent residential properties

There was discussion that PC is okay with 2' height of the yews/shrubbery at the parking spaces.

Miller motioned that "The Planning Commission approves the proposed site plan regarding the construction of a Dollar General store with the following conditions:

- 1) That the Site plan is contingent on the number of parking spaces approved by the variance granted by the ZBA as to the number of parking spaces.
- 2) Contingent that the free standing sign cannot built until the Village of Byron approves its updated Zoning ordinance and is adopted and meet those requirements and give the Zoning Administrator the authority to approve that sign in that location shown in the plan only.
- 3) Contingent on the approval of the rezoning of the .37 acre area and of the 2 parcels becoming 1, once approved and split from the original parent parcel.
- 4) Contingent on a concrete sidewalk to go from the NW corner of Lehring Rd and Saginaw St, adjacent to existing sidewalk and connected to the impervious parking lot or sidewalk at the DG location, in lieu of the privacy fence on the South and West sides of the property line
- 5) Contingent that they submit for permanent record (1 for ZA and 1 for the Village) new site plan drawings with the conditions stipulated herein.
- 6) The Planning Commission is accepting the staff site plan review document as it relates to all the conditions met and additional has reviewed all conditions not met
- 7) Contingent that the exterior wall pac lighting should be adjusted to not illuminate on adjacent residential properties

Bowers seconded. No discussion. Roll call vote. All ayes. No Nays. 3 absent. Motion passed.

Miller advised that she would provide the info to the Village Clerk the day following this meeting so the ZBA can have all necessary info for their July 23 meeting.

Zoning Ordinance/Master Plan Update: Vandemark indicated that the updates are still in progress. A meeting needs to be set with John Enos and with Bert Gale. Hoping to get info on what is proposed to be changed from the original printout that all PC members already have copies of. Hope to have it addressed by September to propose to Village Council. There was brief discussion on one of the items to discuss at that time will be whether to opt-in on the choice of medical marijuana facilities. Prestonise asked what if the township votes to not allow medical marihuana in the Township and since the Village falls within the township, how does that affect the Village. Bert Gale advised that the Village is a separate entity and can make their own decisions. Bert also advised that there is a State vote coming up

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in November which may change any decision that a municipality approves anyway. The DDA/PC will get updated information on this issue.

SRTS Application Update: no update at this time

Way finding Signs Update: The Village was informed of the plan for the sign at their last Council meeting. Exact dimensions from Edwards Sign need be reviewed. Bowers will do a mock up of the sign and Vandemark will get the dimensions to her. Bert advised to read the new draft ordinance to be sure the sign falls within those guidelines.

River Regatta & Duck Race recap: River regatta had about 200 – 300 spectators and only 2 boats entered. Consensus is to continue doing the fundraiser. Advertising needs to be done better with earlier. Prestonise reiterated that signs by the road similar to the Gaines Rodeo should be done, as that reaches a larger audience.

DDA profited \$1205 on the duck race and we did well on the River Regatta thanks to sponsorships. Prestonise expressed concern that if the DAM in Corunna is taken out, there could possibly be no water in the river in the future.

Any Other Business: Miller advised that DPW Dan Warren price checked some flag poles and kits with brackets and checkered flags. Vandemark also had some prices from Amazon. Miller motioned to spend up to \$500 on pole kits and checkered flags. Bailey Seconded. Vandemark will get pricing & Dan Warren will get his pricing and get to Miller. Roll Call. All Ayes, No Nays. 4 absent (Bowers had left meeting by this time)

Public and Board Member Comments: Katie Dean expressed she was upset regarding the handling of the Fun Day vendors, as she was told at a previous meeting that she could still run the vendor area, but then the school took over, and the school never called her to tell her that they were taking over and she was not happy that Vandemark didn't call her either. Vandemark apologized and explained that the school is the one who made that decision.

Beth Carr indicated there is a flag place on Bristol Rd and that she will check pricing and get info to Beverly.

Board comments: Prestonise expressed concern that with all the requirements expressed during this meeting that he doesn't understand why anyone would ever want to open a business here, because what we just had to go through makes it tough for businesses to come to town.

Murphy expressed the meetings need to move along and public comments need to be stopped when they are speaking out of turn during the meetings.

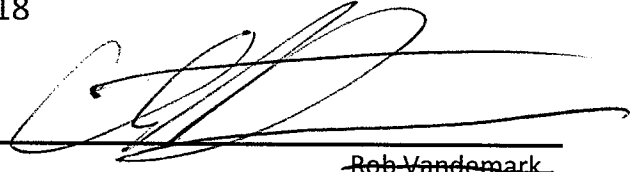
Vandemark inquired from Prestonise about whether a decision has been made about a recording secretary. Prestonise said he discussed with Attorney Gormley & said an individual may need to be hired to be the recording secretary. Details to be worked out later. A clerk is needed.

Meeting adjournment: Miller moved to adjourn. Seconded by Bailey. Meeting adjourned at 9:18pm

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Beverly Miller, interim Recording Secretary

Date



~~Rob Vandemark~~

Chris Dickinson