

Minutes of a Meeting of the
City of Bay Village Planning Commission
Held June 17, 2020
7:30 p.m.

Present: Jeff Foster, Warren Remein, Rick Kirk, Sara Byrnes Maier, Kendra Davitt and Dave Maddux

Excused: Jennifer Lesny Fleming

Also Present: Eric Tuck-Macalla (Building Director), Mark Barbour (Law Director), Councilman Tadych and Councilwoman DeGeorge

Audience: Conni and Sam Festor, Helen Honek, Mike and Marcia Pascuzzi, Jon and Rosie Kesselman, Cheryl and Chuck Dudek, Noelle Sayles, Nick LaRosa, Savica Radesic, Dave Mettler, Matt Viola, E. Krall, Don and Trudy Sabo, Rick Corbin, Jules Rewald, Colby Sattlet, Kelly Kocon, Edward Pavicic, Kevin Hoffman, Nicole Murton, Doug Schnicks, Chris and Christy Gray, Joe Ptak, Marlene Seicean, Charlie and Joanne Post

**Full recording of the meeting is permanently available on the City of Bay Village website under City Government /Planning Commission.*

Chairman Foster called the meeting of the Planning Commission to order at 7:30 p.m.

Following roll call, Mr. Foster called for approval of the minutes of the Planning Commission meeting held June 3, 2020.

Motion by Kirk, **second** by Maddux to approve the minutes of the Planning Commission meeting held June 3, 2020 as prepared and distributed.

Motion carried 6 yeas, 0 nays

Property Owner: 560 Forestview Road pp#20405007

Owner: Red Oak Investment Partners, LLC

Engineer: Polaris Engineering

Preliminary approval to split the lot 204-05-007 into four separate sections.

Chapter 1111- (Subdivision Design Standards)-(b) Location. All lots shall front and abut at the right-of-way lines by their full continuous frontage on a publically dedicated street or a street that has received the legal status as such.

Mr. Foster introduced the next agenda item and asked Mr. Hoffman to present to the room.

Kevin Hoffman from Polaris Engineering and Surveying introduced himself and explained that he was representing the developer. He explained that two weeks prior he came before the Planning Commission via Zoom. They had received comments from the Commission. He explained that they are extending Red Oak Lane north by 80'. He shared a drawing for the room and explained that the orange line represented the one big parcel. They are proposing that it be split off into three separate parcels. There will be a new home on Forestview and two homes will be split off in the back. During the last meeting the Planning Commission had some issues that there was not a turnaround. The Code calls for a 100' diameter turnaround but unfortunately the frontage on this lot is only 80'. They are proposing a turnaround. Which is generally an acceptable alternative per the fire code. The back portion of the lot near Tuttle Creek is in the 100 year flood plain. They will be filling that area to get the house out of the flood plain. They did a hydraulic study to prove that it was not going to have any harm on the surrounding properties. The study basically proved that there was no increase in the flood plain. He asked if there were any questions.

Mr. Foster clarified that the map and hydrology report Mr. Hoffman was showing was a proposed FEMA change.

Mr. Hoffman explained that they would be going for a LOMA-F. The City would need to acknowledge it in order to fill the lot. Generally it would mean that it would not cause an increase in the flood plain. On his map he showed the blue shaded area being the existing flood plain limits. The flood plain limits are approximate. FEMA has never done an actual study. They usually rely on the developer to do that when the property is being developed. The City does not require the flood plain to be changed unless it is over 5 acres/50 lots. Right now they can basically worry about their property but it is something the City can use as a tool for planning in the future or the City could complete in order to accurately define the flood plain. That could be an option for the future.

Audience member asked if they filled to that third lot if it would restrict the flow of the creek at all.

Mr. Hoffman said no. He explained that they had a study done by a person from Cleveland State who has a PHD and that there would not be an increase the flood plain.

Mr. Foster explained that they will take comments from the Board and City officials first and then the meeting will be opened up to the audience to ask questions to the applicant or state anything they would like to.

Mr. Foster clarified that the drawings Mr. Hoffman was sharing at the meeting were the same that were previously given to the Board in the submittal. He asked what the drawing was that was passed out at the start of the meeting.

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Mr. Hoffman explained that they had originally submitted a fire truck simulation where they had a 32' truck turn around at the end of the street. Currently there is not a turnaround. There is an easement for it but it never was put in. Building Director, Mr. Tuck-Macalla had shared that the Fire Department has a 39' truck. They reran the turning maneuver with that truck and it still works. They will most likely move some of the posts back or add a wood guard rail so somebody does not go into the yard of the sub lot closest to the creek.

Mr. Foster asked if the Building Department wanted to comment on the revised submission.

Mr. Tuck-Macalla explained that he had distributed the plans to the other City Directors. Police did not have a comment. Fire said the turnaround was for 31' truck and they have a 39' truck. He has not heard from the Service or Engineering Departments. They only received the plans the previous day and he did not expect any sort of comment yet.

Mr. Foster asked who typically reviews flood plain related issues for the City.

Mr. Tuck-Macalla said Chagrin Valley would do the review.

Mr. Foster clarified that it falls under the City engineer's purview.

Mr. Foster asked if the Law Department had any comment.

Mr. Barbour said not at this time other than to say that the main issues would be the turnaround issue and obtaining the LOMA prior to the lots being platted. You cannot build a house in front of a house in Bay Village anymore. If this is approved, they would have to construct a road before they could construct a house on Forestview if that is the plan.

Mr. Foster discussed the order of approval and because it was not a flood plain map, he wondered if the Commission would be at liberty to even approve this without that.

Mr. Barbour explained that he feels the proper way to handle it is to get the approvals first otherwise they are approving something on the will come which technically may not come.

Mr. Hoffman pointed out that this is a preliminary plan in the process. As part of it they would come for a subdivision and come back for a final with the improvement plans to show the profiles of the streets, water main extensions, etc. At that time, when they would come back for final approval they would need the City's acknowledgement to submit to FEMA that they could place fill on that lot. They could have all that done prior to coming back for final approval. This is just the preliminary approval. His client would have to spend the additional money for the engineering for the final approval to put the improvements in.

Mr. Foster asked if there were questions or comments from the Board.

Ms. Byrnes Maier had a question about the hydraulic study. (On page 2/proposed construction) The drawing is for the front of the lot. She asked what is included on Forestview. It also says that it is based on a partial survey and a partial grading plan. She asked what was used for the input

for the hydraulic study and if they did, did they have them currently. The City engineer needs to have a chance to actually review this.

Mr. Hoffman explained that their consultant did the survey and may not have done an accurate job of showing the parcel.

Ms. Byrnes Maier pointed out that he made a note to say that it is a partial grading plan.

Mr. Hoffman explained that they will not survey the entire area. He explained that the squiggles on the map represented a cross section and then they put that into a computer model to analyze the flow that are coming through the creek. The culvert on Wolf Road will hydraulically cause too much flow and it will hold back water. It will cause the elevation to rise in that area.

Mr. Foster asked if there were questions or comments from the Board.

Mr. Kirk stated that it was important to have the City engineer's comments on the proposal in advance of the next Planning Commission meeting moving forward. The Board does not have enough information to feel comfortable with a decision.

Mr. Maddux explained that one thing the Board has to ask is that even though it is an improvement on the existing situation on the end of Red Oak does it still meet the criteria of what is required by the Planning and Zoning.

Mr. Foster asked Mr. Tuck-Macalla, in terms of the turnaround compliance, does what is proposed meet the requirements.

Mr. Tuck-Macalla said it does not meet the requirement, it would need a variance.

Mr. Foster explained that the Board really does rely on the City engineer and their specialists to comment on that.

Mr. Hoffman agreed and said they would be surprised if they didn't.

Mr. Pavicic, the developer, stated that it is typically done on the final approval after a preliminary standpoint based on the Code. Once they get preliminary approval they would discuss the final engineering with Chagrin Valley to review that.

Mr. Pavicic reiterated Mr. Hoffman's point that there is no turnaround at the end of Red Oak Lane on both sides. (north and south) In 1981 the developer for the south side and the nature of Red Oak Lane was always supposed to be put through. It stopped at the property where Mr. Pavicic bought. The person he bought the property from was a builder and wanted to do it himself. He passed away 18 years ago. Prior to that a tree had fallen on his home and he rebuilt it to accommodate the idea that the street was going to go through. His grade is set up higher and everything is conforming, no variances are needed after the final approval but the turnaround. The turnarounds on both sides should have been put in and they never were. There are still easements there. With a turnaround, there will not be people turning around in driveways.

Audience member asked if that was a promise.

Mr. Pavicic stated that it was absolutely a promise and explained that once they get approval with engineering and the Building Department, they will release the final plats and they file them. They will not be released until all the improvements are put in.

Mr. Pavicic stated that Councilman Tadych signed off on the easements back in 2001 on the south side. He wants to make sure that the improvements are done and the accountability is with the City to make sure they have all the improvements. (typically a 3 week project)

Mr. Pavicic asked if anyone pays flood insurance. The study they have would give the municipality the power to redefine the flood plain. The flood plain currently is not defined. They can get the data to them and neighboring properties could benefit from not paying flood insurance. He could work with the City on that to allow that to happen so Tuttle Creek will be defined at that point.

Mr. Hoffman added that on the previous plats, they both show a turnaround. Neither of the ends of the street called for a temporary cul-de-sac.

Mr. Pavicic pointed out that his plan is not to put a street through. He just wants to build the one lot and then he is done. The property owner next to his lot is not interested in selling and then there is also a situation that happened in 2017. He did not realize there was a lot split and they are also not interested in selling. The lot split was an irregular lot split which he did not understand how it could go through but it sounded like the former Building Commissioner who resigned, administratively approved it. The odds of a street going all the way through are small although it was the intention of the original developer.

Mr. Pavicic said he was more than happy to answer any other questions from the audience or the Board.

Mr. Foster asked if there were any other questions or comments from the Board.

Mr. Remein stated that there is no question that it impacts the waterway. Maybe it doesn't change the 100 year flood but you are definitely filling land adjacent a riparian waterway.

Mr. Pavicic said they are out of the required 25' riparian setback.

Mr. Hoffman agreed and said that there is a 25' buffer with trees in that area.

Mr. Pavicic stated that it will not affect that area.

Mr. Remein said there will be drainage from that property and asked if they planned to drain it to internal storm drains or if they are draining back to the street.

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Mr. Pavicic said they planned to drain it back to the street and then have it drained out to the storm system.

Mr. Remein said that it will impact the storm system, there will be an impact and they are creating a newly made urban pathway.

Mr. Pavicic explained he has a study that shows that it will not impact it. The properties that were developed in 1984 and 2001 all had similar type of impact. As a kid, the creek only flooded one time at the corner. People living on Bayfair/Conover have more of a chance of flooding.

Mr. Foster said that the thing the Board is struggling with is the documentation that was provided has not been vetted by the City yet. There is a proposed plan but it is not a modified flood plain map. It is still a zone A map.

Mr. Hoffman said that per Code, they are not required to revise the map. They can do a letter of map amendments to submit to the City to explain that there will not be an increase in the 100 year flood plain. The City would then sign a community acknowledgement which would then get submitted to FEMA as a LOMA-F. FEMA is concerned with insurance and making sure that your home is out of a flood plain and causing someone else to be in a flood plain. If it was over 5 acres/50 lots then you could require them to submit to FEMA to get it rezoned to get it removed from the flood plain. They submitted to FEMA to request what their elevation was. (646.1) They will be above that. In FEMA's eyes they are good and based on their study they calculated the flood plain at 645 on their lot. As you go downstream it lowers.

Mr. Foster clarified that as they look at it today, the lot is not buildable because half of it is currently in the flood plain without the fill.

Mr. Hoffman agreed and said that it would be part of the final development plan. Most cities are only concerned with the layout in the preliminary plan. The City engineer will get to have the final say. If he does not agree with them then they might have to walk away but they feel pretty confident in the study that the flood plain will not be increasing.

Mr. Foster pointed out that they would also need to obtain a variance for the turnaround.

Ms. Brynes Maier had a question on the hydrological report. The storm water management model files were supposed to accompany the report. She asked if they have be transmitted to the City engineer and to the Building Department. They need to be able to see the input. We also need to know where the area of construction is going to be to make sure we know the extents of the construction limits and what the proposed grading plan is.

Mr. Hoffman stated that he has sent over everything to Mr. Tuck-Macalla in a zip file but would resend.

Mr. Foster asked if there were any more questions from the Board or the audience.

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Rosie Kesselman asked for clarification on how the fill process works in a flood plain and what it would mean for the neighbors on either side of the house.

Mr. Pavicic explained that it would be similar to their neighbor across the street. The grade and elevation follows the other neighbor's grade. The fill would be 1 1/2'-2' at the most.

Mr. Hoffman explained that if you want to fill your lot, you are allowed to do that through FEMA and City regulations but you have to submit a study that says that what you are doing is not harming other properties. Since it is only one lot the City would sign a community acknowledgement form and then FEMA would make sure of it as well. He explained that each person could submit to FEMA to figure out their base flood elevation with letter of map change. (LOMC) You can request to remove your property or part of your property from the flood plain. They will give you an elevation so you know what you need to be above by surveying your property and giving you a grading plan. Once you have the study it can be submitted to the City so they can sign off.

Ms. Kessleman asked what he meant by "community sign off".

Mr. Hoffman said it would be the Building Department in the City.

Mr. Pavicic discussed two properties on the north side of Red Oak that went through this process.

Audience member asked if they would be expanding the retaining walls that exists on the properties in the south in order to hold that fill in.

Mr. Hoffman said there is a wall to the south but the City has a riparian setback of 25' and they will be staying out of that area.

Audience member asked what keeps the fill from going in the creek.

Mr. Pavicic said staying 25' away from the creek is what keeps the fill from going into the creek and grading down.

Mr. Festor asked if the proposed home will have a basement.

Mr. Hoffman said that FEMA does allow you to build basements in the flood plain. There are certain requirements and guidelines such as it cannot be any lower than 5', certain sump pumps and the fill must be compacted well. If it is not compacted well water will flow through the fill and could cause pressure on the basement walls.

Mr. Hoffman reiterated that will be staying 25' from the creek. They are proposing to make their storm sewer connection to the creek but they will not be filling right next to the creek.

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Marlene Seicean discussed how her house is next to another house that was built and the grading does not match hers. It is significantly higher. She has complained several times and there is no drain on that property. The way it is graded is that it grades to her property.

Audience member agreed and said that you can see from the street that the house is up on a mound.

Ms. Seicean said that after a good rain her back patio is flooded. She has had the City come out and said she had a low spot. She felt her neighbor's property created a high spot. Her sump pump is constantly working now to keep up.

Mr. Pavicic was confused and thought we were discussing 560 Forestview.

Ms. Seicean clarified that she was talking about the grading he has done in the past and wondered how he planned to do it for the proposed project.

Mr. Pavicic said he knew he got an occupancy permit for that and that this is the first time he is hearing anything. He had the final grading inspected. He explained that this has nothing to do with this current project. This was never brought to his attention but he would be happy to stop by and take a look at her property even though he does not own the property.

Mr. Hoffman explained that usually what happens on the property is once the excavator leaves the landscaping changes the grading.

Ms. Seicean said there is no drain and it is very obvious.

Charlie Post had a question for the Law Director, Mark Barbour. He asked if this goes through and it is developed and sold to new owners and something unexpected happens hydrologically, does the developer at that point have any liability and if not, can it be built into the agreement.

Mr. Barbour explained that once the developer sells the property, he is transferring his liability typically to the buyer. As far as putting in some kind of caveat that this developer would be responsible for some kind of future problem it would be difficult to make the approval contingent on that. When the Planning Commission makes an approval, it is implicit that it is going to work and if it does not, they haven't met their obligation.

Mr. Post asked what the recourse would be.

Mr. Barbour stated that the recourse would be against the property owner or the developer depending on when the problem occurs.

Colby Sattler discussed that 1984 development of the area and the original connection that was to be made at the end of Red Oak Lane. He asked why they were trying to shoehorn this in here and why are going through all these lengths to build. Bay Village is a great place to have real estate but why is he putting himself through this. There are other areas of Bay Village that they are not going to have this kind of headache and make these type of enemies. He should want a

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positive lasting legacy within the community. Another fundamental question is when does this all end? We are chipping away at properties and shoehorning farmhouses into these lots. When is enough, enough? They may have all the engineering and the plans but is that all it takes to forever change the fabric of the community and development. He feels for the people on this street and others in the community.

Mr. Foster spoke for the Planning Commission. He explained that they have the Code that is their tool. The developers come to them. They are all volunteers and do not work for the City and have a passion for how this City gets developed and they want to make sure that it gets done in the right way. The City came up with a Master Plan a few years ago that is being implemented. There are a lot of great ideas. One idea is having an Architectural Board of Review for residential properties. There is an Architectural Board of Review in the City but it currently only reviews commercial properties. A lot of other communities, it reviews everything. As a Board, they have been encouraging Council to adopt that. That would be one tool that could be created within the City. It is something that the residents could talk to their Council person about. No neighborhood has changed more than his. (Kenmore/Sunset area) People are turning cottages into large houses. People want to be in Bay. It is a great community and people want to build it to the max and that is not going to stop. Residents coming to meetings is what needs to happen more often because it is great. Everyone needs to be engaged with that. There is a certain point the City can get to but we can do better.

Audience member said that the developer is tweaking this and tweaking that and sneaking it in. He asked what the residents could do right now to stop them from tearing down the trees and putting in these houses.

Mr. Pavicic thanked the residents for their comments. He explained that he loves this community and lived here until about a year ago and plans to come back when his children are older. He explained that they are following the laws and they are not sneaking in anything anywhere. This was in the Master Plan and voted on by City Council to adopt it. The road on the Master Plan shows this street going all the way through but he is not putting it all the way through because he has spoken to the people on Red Oak and they do not want that. There are 800 homes that are small cottages. A lot of the cottages cannot get funding by the banks because there needs to be so much money put into them and it is not worth it.

Mr. Remein asked who it was not worth it to. He said that there are people who have invested in the cottages and it is worth it to him.

Mr. Pavicic stated that there has been a lot of demo all across the City. He also said that one thing nice about developing in Bay is that it raises the property tax. By allowing new construction in the City, it stabilizes the base. The home will be worth a lot more and will increase the tax base.

Audience member stated that Mr. Pavicic has a certain track record as a developer.

Mr. Pavicic stated that he was not sure what he was referring to.

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Mr. Foster said he appreciated their comments but asked that the audience keep their comments focused to the application before the Board.

Ms. Kessleman discussed the Master Plan and asked for clarification. She asked if it was set in stone or a suggestion. She also discussed how in the Master Plan it is pointed out that there is an interest in the preservation of green space. She asked how they look at a plan like this and decide that houses are better than trees or trees are better than houses.

Mr. Foster explained that the Master Plan is a framework and not a detailed plan. It is meant to be a guide. It is similar to a recipe. You know you want to make a cake but you need certain ingredients. It is a document that was adopted by Council to be used as a tool to guide development. Developers can be our friends because they invest in our community. In regard to green space, the City cannot tell residents what they can do but they can encourage them to keep trees when it is possible. There are guidelines and suggestions in the Master Plan that can be used as an example of how the community can encourage that. If someone has a piece of property, they are allowed to build within the law.

Ms. Kessleman asked a hypothetical question on if an application could be denied based on what is written in the Master Plan.

Mr. Foster said not necessarily.

Audience member stated that trees is one of the most mentioned words in the beginning of the Master Plan. He explained that Bay Village is losing the tree canopy faster than the County average. The City is not doing a good job and is not preserving our charm.

Mr. Foster explained that the Master Plan is not a law, it is a guideline. The Zoning and Planning ordinances are a law and that the Planning Commission adheres to. The Master Plan is a framework in which they make their decisions. If there is a conflicting interest, the Law wins. Good, bad or indifferent, that is what it is.

Ms. Kessleman asked again if a variance could be denied based on a conflict within in the Master Plan.

Mr. Barbour said yes.

Audience member who had previously submitted a written request to the Board spoke. He had a question about the 40' easements to the properties to the south. He explained that his email had to do with the 40' easement at the back of the property line and all it says on the plat is creek maintenance. He asked if the same easement will be in place on the new parcel and assumes it is in place on the existing one.

Mr. Foster directed the question to the Building Department.

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Mr. Barbour did not believe the easement had been recorded or shown on the plat from 1984. It is not shown in the City's record or the county. It is questionable as to if it exists or if it was actually given and what the purpose of it was.

Audience member proposed that an easement be put in place because the City uses Tuttle Creek as a storm system.

Helen Honek asked how large these houses would be. She asked if they would be the size of the north or the south side of Red Oak Lane.

Mr. Pavicic said that they have not finished the design but once he has an idea he would be more than welcome to share the plans. The existing home on the lot is staying as is and they will be adding a garage.

Mr. Pavicic said the existing home is staying. It meets all the Code. They will be demoing the back so there is no auxiliary building. There will be two new driveways coming off of Red Oak.

Audience member asked how far the turnaround intersects with the Road.

Mr. Hoffman showed where on the drawing and said that it would be 30' off the curb and there would be a 25' radius. They do not want to get too close to the house.

Audience member asked why would the City Code call for a cul-de-sac if a turnaround was acceptable per the fire code.

Mr. Foster stated that it does not comply with the City ordinance and would require a variance. The applicant has proposed that but it has not been approved by the City.

Mr. Foster explained that it is in the City ordinance so you do not end up with dead end streets. The ordinances do not mention a turnaround.

Mr. Hoffman explained that when there is a request to extend the street again, it is hard to regrade the lot at that point. They are starting to see that in a lot of other cities. Some other cities have also been doing a smaller cul-de-sac. In Avon, they only require a 60' diameter cul-de-sac instead of 100'.

Audience member commented that he does not see a lot of new developments where they are putting in a turnaround, they seem to be putting in cul-de-sacs. He assumes it is considered to be preferred.

Mr. Hoffman agreed that on a more permanent basis a cul-de-sac is preferred but temporarily, a turnaround is what they are seeing more and more.

Audience member asked why he said temporary. He wondered if there was a plan to have the street go through all the way.

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Mr. Pavicic said it is the City's intention down the line for the street to go through per the Master Plan. It could be 100 years down the line or 50 years but that is the intention.

Mr. Hoffman explained that the streets were made the same at both ends. For fire safety purposes it would be in the best interest for the road to go through. The person who owns that portion of land does not want to sell their land, so the street will not go through.

Audience member asked if the developer planned to take the proper responsibility for the property that they are building for the next 20 years or will it be on the home owner. Will he keep all his promises and guarantee it will stay a beautiful community.

Mr. Foster made clear and stated that the Planning Commission has not approved anything yet. The applicants have a right to present whatever they want and the Board has to hear their hearing. Anybody can bring anything to this Board.

Mr. Hoffman stated that it should be acknowledged that every home on the street was woods at one time. If you live on that street, your house would not be there if somebody did not come by and develop it. They do not want to cause any harm or cause any City issues, they just want to complete the neighborhood. Mr. Pavicic is making an investment in the neighborhood.

Mr. Foster asked if anyone who has not spoken yet had something they would like to add.

Cheryl Dudek commented that in the early 2000's they put in 11 rather large homes on the street and now they are looking at adding an additional three. They will all be added to the existing sewer or creek. She wondered if anyone had looked at the effect of adding the additional homes and the water and sewage issues that are going to happen because of it. When it rains, the creek comes high up. The City owes that to the people that are buying these houses and living in them.

Mr. Foster stated that that is for the applicant to answer. He explained that it is part of the process and when a developer wants to build houses it is their burden to prove that and show that to the City. All the documents they are discussing are part of the process. There is a whole other layer, should this be approved that would need to be submitted from an engineering standpoint to address all those issues that were brought up.

Ms. Dudek mentioned that there are already two houses on the street that nobody is even living in right now. The impact of having a person coming out to survey right now would not be accurate. She also discussed the fact that they are not meeting the cul-de-sac requirement. She asked why they are not just putting two houses there instead. Why are they asking for a variance? Why can't they just leave it how it is?

Mr. Pavicic said that they are leaving the house on Forestview. But it is a good question because they did not meet those requirements in 1984 or 2001 either. He explained that they were here to present their case.

Ms. Dudek clarified that they have every intention of building three houses no matter what and even if it does not meet Code.

Mr. Pavicic discussed wanting to build the house within the Code and how things were approved previously.

Ms. Dudek said that he is not planning on building it within the Code.

Noelle Sayles asked if the Mater Plan shows this lot being split into three separate lots. People are concerned with him taking one single property and turning it into three.

Mr. Pavicic explained the existing house will stay on its own.

Audience member at 2570 Red Oak discussed Mr. Pavicic's comments about adding to the value of Bay Village, neighborhood and homes. She explained that a lot of people do not feel that way based on the fact that the people that purchase the homes have problems with the homes. It does not add value because of that. She was not one of the original builders in the cul-de-sac but when it was originally built they had certain standards that the design of houses had to meet and the builders all met that. Then his home came in and it is like an eye sore because it does not blend in at all. Now he is proposing to put in even more homes. On Forestview there are two one story homes and his plan is to put another big home in and will be another eye sore as well. That is not adding value to the neighborhood, it is devaluing the neighborhood. If people move into the home and things go south, that also is not adding value to the neighborhood.

Mr. Pavicic discussed previous homes that he has sold. One was sold three times and each time it was sold for more than what it was previously sold for. Within in two years it increased almost \$200,000.

Audience member asked why they keep selling to fast. She said the reputation of the homes are that the homeowners are not happy.

Mr. Pavicic asked who is not happy and that it is all hearsay.

Mr. Foster stated that they were not here to debate the reputation of anybody and asked that it be brought back to the application. The comments have been heard and he asked that everybody be respectful.

Dave Tadych, Ward 1 Councilman, reiterated Mr. Remein's comments and concerns about Tuttle Creek and water problems. He also has concerns about what is going into the water and coming out on other homes in his ward, especially on Conover. The developer is adding more and more water in the backyards and even on the side of the church. It is important that is also considered when adding more homes to it. The 25' setback is not good enough. It pushes too much water into the creek and other people in the community are suffering.

Mr. Pavicic agreed and explained that that is why they spend thousands of dollars for studies to make sure that does not happen. The City Engineer will also make sure that does not happen. In regard to the riparian setback, the City can apply and with the right piping the creek could be filled and there would not be erosion anymore.

Councilman Tadych said it is being caused because of the new homes being built and the flood plains being higher so more water can flow into the creek.

Mr. Pavicic said that is why there are the studies done so they do not cause that adversity.

Ms. Byrnes Maier spoke to Councilman Tadych's comments. The 25' riparian setback is extremely minimal. One thing that can be done as a community is to make that riparian setback broader so the flood plain has the room to do what it is supposed to do, flood. So it does not rise up into the streets and flood people's homes. It is an issue that must be dealt with as a community. They also have to deal with the facts of the Law and what the development is and see if they are meeting the zoning requirements. They did the hydraulic study but the City Engineer has not had a chance to review it. There needs to be a lot of scrutiny and make sure that it is accurate and vetted. The other piece is the variance request for the turnaround which is not consistent with the Code. There is information that they still need to get back before a decision can be made. We need to make sure the inputs are correct so that we can better understand. She also discussed the previous comments made about putting two houses on the lot instead of three. The second lot, existing lot would be out of compliance with the zoning code because the whole frontage has to be on a public right-of-way. There is no way to make that one complaint.

Jules Rewald discussed basement flooding because of the house that was built and the grade that was set down. It was not an issue pertaining to this. He is looking at what he has done as a developer. The neighbors may not want his kind of development to come into their neighborhood because this is not the only house that Mr. Pavicic has built that has had problems. He discussed a home that was built on Eaton Way which had problems in an upstairs bathroom because the pipes were not soldered. The house was sold and Mr. Pavicic is no longer liable or responsible.

Mr. Pavicic said this is the first he is hearing of this. He recently had coffee with the owner. What he said is a false statement.

Mr. Foster asked that the comments be kept to the application that is currently being discussed.

Mr. Rewald said they want to make sure the quality of the house is good and discussed other homes in town that were built by this developer.

Mr. Foster asked that he keep his comments focused.

Mr. Rewald explained that he likes the trees in the area and said that other cities are spending money to plant new trees. He stated that Mr. Pavicic wants to squeeze in a house on every square foot that he can. He is going to have to live with it because of the developer.

Mr. Foster explained that they are not here to discuss the specific house Mr. Pavicic plans to build but looking at the property and the land use. The Board is not here to approve the house. They are talking about the lot split and road extension and is what the conversation should be focused on. If this application were to move ahead, there will be a time for residents to view the plans at the Building Department when they are submitted because it is public record.

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Mr. Rewald mentioned that he has surveyed on his property and they put down stakes where his property was. Either the previous home owner removed them or Mr. Pavicic removed them. He does not feel there is enough room for the addition of the garage and still be the required distance from his property line.

Mr. Foster asked if there was one last comment.

Resident asked that the Board consider the 40' easement. It is listed for the other property to the south. He was not sure that it was ever recorded with the City but clearly there was an intent at some point to say the City needs to have some access and management of that land in order to manage the storm sewer system.

Mr. Foster asked that the City Engineer look at why that is there and if it ever has been exercised and is it appropriate.

Mr. Rewald asked why Mr. Pavicic should be given a variance for something if it is not to Code.

Mr. Foster thanked him for his comment.

Mr. Foster asked what is meant by preliminary approval.

Mr. Barbour suggested that there was ample opportunity for people to comment in the current meeting but because there is a request for a variance and because it involves a riparian setback, a change to the flood plain map and hydrological study that may effect residents upstream and downstream that there needs to be a Public Hearing. Notice need to be posted so all members of the public are able to attend. He suggested that there be a Public Hearing before the Board grants a preliminary approval.

Mr. Foster asked if anyone from the Board had any other comments or questions.

Mr. Kirk asked that the Board have the engineering comments in advance to the Public Hearing.

Mr. Foster agreed and stated that the Board would like to hear what the City engineering team has to say about all this because they are speculating on a lot of things as well.

Ms. Byrnes Maier said it would be helpful to have the City Engineer available for that meeting as well.

Mr. Foster agreed and said it would be helpful for him to be able to answer questions from the audience.

Mr. Foster asked if there was a motion.

Mr. Barbour said that we want to make sure there is enough time for the City Engineer to respond.

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Mr. Pavicic stated that if it comes up to the deadline and they have not received a response from Chagrin Valley, they can push the meeting back. He explained that he wants to be clear in that he does not want to push these things on and this is why there are these hearings and discussion so the facts can be set straight.

Mr. Tuck-Macalla said there will be some constraints due to advertising and they would have to have a response prior to the ten days.

Mr. Pavicic said that it was fine and acceptable.

Councilman Tadych said that Council could extend the application deadline to allow for more time.

Mr. Barbour explained that that was on the agenda for the next Council meeting to extend the date by 90 days.

Mr. Foster said that all information will go through the Building Department and they will get the Public Hearing on the calendar.

Mr. Barbour said that the Board, if they feel so inclined, could move the Public Hearing to a date to be determined by the Building Department.

Motion by Ms. Byrnes Maier, **second** by Mr. Kirk to defer this preliminary approval of the application to a Public Hearing on a date to be determined, possibly July 15, 2020.

Roll Call Vote:

Yeas – Foster, Remein, Kirk, Maddux, Byrnes Maier, Davitt

Nays-

Motion Passed-6-0

Council Update:

Ms. Byrnes Maier stated that there was not anything new since the last meeting. City Council is starting to meet again in person and are starting to get up to speed. They are hopefully going to start to have some committee meetings over the summer as well.

Mr. Foster asked if there were any other comments.

There being no further discussion, the meeting adjourned at 8:55 p.m.

Jeff Foster, Chairman

Kateri Vincent, Secretary