

VILLAGE OF CUYAHOGA HEIGHTS  
PLANNING AND ZONING MEETING  
MINUTES  
JULY 18, 2018  
6:00 p.m.

Mayor Bacci called the meeting to order, Clerk Unger called the roll. Those present were Board Members Shireen Mitchell, Matt Sokolich, and Dave Volek, and Todd Bloam. Also present: Law Director Bill Mason, Assistant Law Director Ben Chojnacki, Engineer Todd Sciano, and Building Commissioner Norm Casini, and Assistant Building Commissioner Ken LaBella.

ROLL CALL: BLOAM, SOKOLICH, MITCHELL, VOLEK , BACCI

**MINUTES:**

June 20, 2018

Ms. Mitchell moved, seconded by Mr. Volek to approve the Minutes of May 16, 2018.

Sokolich Aye, Mitchell Aye, Volek Aye, Bloam Abstained. Motion carried.

Before moving any further, the Mayor asked to swear in the testimony that will come before you, so Mr. Mason, Mr. Chojnacki, Mr. Sciano, and Mr. Maholick would you please stand. Mr. Ciuni is representing Mr. Mihelich, and he will be testifying, so the Mayor asked him to stand and get sworn in, Mr. Mihelich did not stand to get sworn in.

Mayor Bacci: "The testimony that you are going to give to this board today, you swear that it will be the truth and nothing but the truth so help you God." Everyone answered "We do."

**NEW BUSINESS:**

**From Building Commissioner Norm Casini: Lot Splits**

Attached please find the following information for the proposed lot splits at two locations in the Village of Cuyahoga Heights.

- 1) Lot split at 4617 E. 71<sup>st</sup> Street.
- 2) Lot split and consolidation for RAM Supply, LLC for JJM Investments at 4615 East 49<sup>th</sup> Street.

3) Lot split and consolidation of 4523 & 4511 E. 49<sup>th</sup> Street.

Clerk Unger: From Building Commissioner Norm Casini, we have three lot splits on the Agenda, we are going to pull the lot split at 4617 E. 71<sup>st</sup> Street from the Agenda.

Second lot split that we have is a lot split approval for 4615 E. 49<sup>th</sup> Street.

Mayor Bacci turned the floor over to Mr. Mason. Mr. Mason thanked the Mayor.

Mason: First I would like to just enter into the record the Cuyahoga Heights Master Plan which was updated in 2013 and he would like to read a couple of excerpts from the Master Plan. First and foremost in its introduction the Village has set out a comprehensive planning it is an important process to which a community defines a collective vision of how it might be involved in the immediate and longer term future. Through a thorough analysis of demographic trends, land use, data, economic conditions, and community feedback, the comprehensive plan, or Master Plan serves as a practical or useable guide by which to base decisions on economic development, housing, land use, and infrastructure.

In Chapter 5 Economic Development, the economic development goal is “A” to be as strategic about new development and redevelopment. Cuyahoga heights is nearly completely built out with little vacant land remaining. It is important for the Village to clearly articulate the types of commercial and industrial development that is desirable and appropriate for specific areas of the Village. “B”, to assist in land assembly and land clearing to create more attractive land development parcels. The Village has acted in this capacity in the past when it has served as an intermediary in the facilitating of the redevelopment property of the Firefighters Credit Union.

Two, use the vacant useable undesirable use of land inventory created during this Master Plan process to turn aware and how the Village might prepare land for the new development for expansion of nearby businesses where communities for land assembly exist. “A”, follow through with plans for the capping, stabilization, and redevelopment of the Nicky Boulevard landfill site. All activities should provide significant residential buffering during and after construction for those homes on E. 49<sup>th</sup> Street.

Housing Goal: to be a community known for high quality, desirable, yet affordable homes that attract long-term homeowners who are invested in the community. Paragraph D states in the plan, address the problem of hillside slippage on residential properties. Investigate ways to prevent further damage to or loss of residential properties due to hillside slippage on E.71<sup>st</sup> Street, and E. 49<sup>th</sup> Street.

Under Environmental and Natural Areas Goals, “A”, investigate various solutions to the hillside slippage problem that exists on E. 71<sup>st</sup> Street and E. 49<sup>th</sup> Street. Continue with plans to remediate and stabilize hillside on Nicky Boulevard Landfill once final approval is granted from the Ohio EPA. Encourage linkages between new and existing natural areas and encourage sound environmental practices. Encourage the connection between multi-purpose trails on E.49<sup>th</sup> Street

to the Trailhead on Harvard Road. Consider suggestions made in the Mill Creek Watershed Initiative, including continuing bike trail north from Bacci Park to eventually connect to Mill Creek Falls.

That's all I have to add, these are excerpts from the Master Plan, and I would like to have it entered into the record. That's all I have.

Mayor Bacci thanked Mr. Mason, and turned the floor over to Mr. Chojnacki.

Mr. Chojnacki: Good afternoon members of the Commission, I am Ben Chojnacki, Assistant Law Director of the Village. Before you, you have a request for a lot split. Within your materials you should have a plat map indicating the request of the property owners RAM Supply Chain LLC, and JJM Investments. My role today is to ask you to deny that lot split for specific reasons, but most notably that lot split is contrary to and contradicts the lot split that was approved by the County Engineer on March 10, 2017.

On March 10, 2017, you have before you materials that reflect two petitions for appropriation filed on behalf of the Village against the owners of these properties who are requesting a lot split. Those lawsuits are to take those properties, or the rear portions of those properties for the Nicky Boulevard Storm Sewer Extension Slope Stabilization Project.

If the board looks at the paper it was given showing Petition for Appropriation, on page 7 it will show Exhibit A, which is an engineering drawing that was submitted and approved by the County that reflects lot splits that are different from what you are being asked to approve today. This was submitted to the County and approved in March 2017 as part of the project. The Village made an effort to secure appraisals for them.

Within that split you will see two bowling alley lots in the middle, it is split parcel A, split parcel B, split parcel A1, and split parcel A2. Those four lots are the bowling alley lots were being asked to consider today. So you have two competing lot splits before you. You have the original lot splits that were approved, and necessary for the public project that is the Nicky Boulevard Slope Stabilization Project, and you have a competing lot split that was submitted earlier this month after the defendants or property owners were served in the appropriation lawsuit from the Village to acquire ownership of those rear parcels. So the Village is attempting to acquire for the project, parcels A1 & B1 on the rear portion of Exhibit A you're looking at now.

To summarize briefly, the Nicky Boulevard project that this relates to, aims to further four goals. First is to remedy the longstanding environmental issues for the Nicky Boulevard landfill, second, it aims to extend the storm sewers within the Village, it aims to create a retention pond on which access too will be what the Village needs those rear parcels for, and also to stabilize the slopes for the residential properties on the east side of East 49<sup>th</sup> Street.

So to summarize, were asking you to deny this lot split for four reasons. First, the County has already approved the lot split that the Village Council already determined is necessary for the Nicky Boulevard Slope Stabilization and Storm Sewer Extension Project. This lot split conflicts with directly the lot split you're being asked to approve by the property owners RAM Supply

Chain LLC & JJM Investments. They cannot exist independent of one another and the proposed lot split you have before you today from them must be denied.

Village Council has determined that the lot split was approved by the County in March 2017 is necessary. It furtherance the health, safety, and welfare of the residents of the Village of Cuyahoga Heights and is necessary, in a lawful exercise of Home Rule Authority pursuant to Article 18, Section 3 in the Ohio Constitution. Finally, were asking you to deny the lot split for the fourth reason that the County approved the lot split in March 2017 is consistent with the Villages Master Plan. And for the record, we would ask that the Appropriation lawsuits which are captioned as JJM Investments, LLC and RAM Supply Chain, LLC vs. Village of Cuyahoga Heights be admitted into evidence.

Mr. Sciano: The lot splits that have been prepared on the building are consistent with the grant application I have prepared in order to get approval from the EPA for the Nicky Boulevard Slope Stabilization Project.

Mr. Ciuni for the defendant JJM Investments:

Mayor Bacci asked Mr. Ciuni to spell his name for the record. Mr. Joe Ciuni, said he will give us his card to be used for reference. I work with the GPD Group, we do Civil Engineering, and Surveying. I'm going to give these Petitions back to you. We are here asking for a simple lot split for the two properties that we own. I am here representing Joanie Mihelich of JJM Investments. It is a simple lot split, and I'm assuming everyone got the paperwork. Mayor Bacci said we had. I can walk you through it, I am a simple surveyor, I don't know anything about these cases, or the other lot split from the County. We researched the records, New York Central owns the property behind us, I guess the Village owns the property to the north. This property is JJM Investments, it's a long bowling alley lot and the house on it that exists. We would like to split that off and give the back of our property to consolidate that with the RAM property next door. Our lot would be a 50 foot lot by 186 feet, and that would take us behind the garage, the current garage that is there, so it meets your zoning laws that every site has to have a garage, so that's what we have, and that's what we are asking for today. Just split off that piece and give the back part to RAM Supply.

Mayor Bacci asked Mr. Ciuni in his documentation if it shows the reason for the split. Mr. Ciuni said for whatever the owner wants to do. Mayor Bacci asked if he had anything further. Mr. Ciuni said he was here to answer any questions the board might have. The only other thing further is that the County has preapproved this plat, we have given it to them, and as soon as this board approves it we can give it to them to record.

Mayor Bacci: To the board members, do you have any questions or concerns relevant to the testimony from either those on the Villages behalf or Mr. Ciuni.

Ms. Mitchell has one question. So that property which she has known it her whole life as Mrs. O'Malley's. So is she to understand that two different companies own that parcel now? Mr. Ciuni said that there are two different owners that is correct. It will be split from JJM then the

back will be consolidated with the RAM Supply. Ms. Mitchell asked if they want to have the front half, and RAM has the rest. Mr. Ciuni said that is correct.

Mr. Ciuni said his understanding is that they will build a single family home on there. It's a nice piece of property in a nice quiet area. Ms. Mitchell said she has lived there her whole life so she is quite aware of how nice it is there. Mr. Ciuni said there are no hillside problems in the back. Ms. Mitchell said if the Village wouldn't take care of the problems now, eventually it would get there. Ms. Mitchell has no further questions.

Mayor Bacci asked Mr. Ciuni if there was any kind of contract or agreement in place as well between the two entities for the exchange of this property. Mr. Ciuni said yes, he imagines there is by State law. Mr. Sciano asked if there was a written contract, Mr. Ciuni replied that he did not know. Mr. Ciuni said he assumes there is an agreement in place.

Ms. Mitchell said that as being a 49th Street resident my whole life, I would like to make a motion that we deny the lot split as is requested, seconded by Mr. Sokolich. Bloam-Aye, Sokolich-Aye, Mitchell-Aye, Volek-Aye.

Mr. Ciuni asked the board if they could explain their reasoning for denying the split. Mayor Bacci asked Ms. Mitchell to explain her reasons for denying the lot split. Ms. Mitchell said she is not satisfied with what is going to go on this property, she doesn't know what your intensions are for the future, as a Village resident, I'm sure this erosion will get down to this property, and if not we have to stop it before it gets to this property, she is afraid that this will not allow us to get our erosion problems solved as I do live on 49<sup>th</sup> Street on the same side of the street. I would prefer to wait until that project is completed and see how the erosion problem is handled. After the Village has their retention and pipes and everything in place, then we can look at a lot split in the future, after we see where our futures are going, maybe then we can consider it at that time, but right now I'm not happy with the idea of trying to mess up a plan that the Village has to solve our problem that we have put up with for years and years and years. Our future plans are to get the erosion under control, and it will entail part of this property. So after that is all legally done, if at that time you still want to split the property, I think we address it then. Until the Village gets its erosion problems under control, I'm not ready to start splitting and giving up something else until we see where we are at.

Mr. Ciuni said it looks like the Village wants to take that property and not allow a split. Ms. Mitchell said she only knows that this is part of the erosion control. Mayor Bacci asked Mr. Ciuni if he was aware of our efforts prior to our ask for this property. Mr. Ciuni said he is not an attorney, I'm just the surveyor. Mayor Bacci said he apologized for Mr. Ciuni not knowing all the efforts and hard work of the Village that are more than genuine and more than lawful. Not necessarily the individual you're working for, but the couple that is involved in this have proposed things to the Village about ideas that they want to do to the property, that is what Ms. Mitchell might be alluding to. Although the properties are in business names, the folks involved are good people and are trying to do stuff for the property as you are aware.

Mayor Bacci thanked Ms. Mitchell, and asked if she had anything further. Ms. Mitchell said down the road further we might not incur any problems, but right now we need to address the

main problem in this Village she does not want to go forward with any lot splits until we have one problem that occurs year after year that has to entail that property in order to solve our problems. She doesn't see where that far back property from the line it shows on the paper where that would hurt you as far as the County going ahead and approving that for that purpose for the erosion. Like she said, until we have the erosion problem taken care of and stuff stabilized there on E. 49<sup>th</sup> Street, right now I would wait until we see what transpires. Down the road there might not be any more problems.

Mayor Bacci asked Mr. Sokolich if he had anything to add, being a resident of E. 49<sup>th</sup> Street. Mr. Sokolich said he doesn't live on that side of the street, but his brother in law does, and there used to be 15 feet there, and now there might be five, and it is a big drop. It needs to be filled from one end to the other.

Mayor Bacci said to the point Mr. Ciuni the big picture here or the higher elevation is to solve a problem for everybody on E. 49<sup>th</sup> Street. We went through the process as Mr. Chojnacki testified before this board, that we have been in touch with your client, and the RAM individuals as well in trying to come up with a solution that takes care of our problem locally as well as any concerns they may have, and we are at an impasse right now, and I believe Mr. Chojnacki has said that we are in litigation. Mr. Chojnacki said we are in litigation, the Village remains willing to engage in good faith efforts to negotiate with RAM and JJM. Mayor Bacci said, super.

Mayor Bacci asked Mr. Volek if he had anything else to add. Mr. Volek said he would just like to add that I think we have heard sufficient evidence here before us that this motion conflicts with the County approval made in 2017, this motion conflicts with the health and safety of the Village residents as stated by Ms. Mitchell and Mr. Sokolich. He believes this motion also conflicts with the Master Plan which for us is a useable guide to make these types of decisions. Furthermore, I haven't heard any evidence of why this split is being proposed, or what hardship by denying it would be proposed. Therefore I believe we go ahead with the motion as discussed and deny it.

The Mayor asked if there was anything further from the board. There was nothing further, and the motion was denied.

**Clerk Unger: Lot split and consolidation of 4523 & 4511 E. 49<sup>th</sup> Street.**

The Mayor welcomed Ms. Marilyn Hornsby to the board.

Ms. Hornsby explained that she is the daughter of Mrs. Helen Kosicki who recently passed away, and she is the Executor of her mother's estate. She showed the board a rendering of the lots from her mom's property, and explained that she would like to sell the property she owns behind the neighbor's house, Mr. & Mrs. Combs, back to them.

Mayor Bacci addressed the board and asked them if they understand that Mrs. Kosicki had an L shaped lot, and the family wants to do right by some great neighbors and split the parcel behind them to make their lot one.

Mr. Volek said that we are creating two rectangular lots. Mayor Bacci said that is correct. Mayor Bacci said this is a good thing. Mr. Volek asked Ms. Hornsby if she was selling the property, she said yes. He then asked Mr. & Mrs. Combs if they were buying the property, they said yes. He stated that both parties are here.

Mayor Bacci asked for a motion on this lot split. Mr. Volek said he will make the motion to approve the lot split, Mr. Bloam agreed to second.

Clerk Unger called the roll. Mr. Bloam-Aye, Mr. Sokolich-Aye, Mitchell-Aye, Volek-Aye. Motion carried.

Mr. Volek asked as a matter of record, can we list it as one vote, because in the Agenda it is listed as two votes. Mr. Sciano explained that it is a lot split and consolidation all in one vote.

**Other Business:**

None at this time.

**Motion for adjournment**

Ms. Mitchell made a motion to adjourn, seconded by Mr. Volek. All in favor, none opposed. Motion carried. Meeting ended at 6:40pm.