

MINUTES OF SPECIAL MEETING
January 29, 2015
VILLAGE OF TERRACE PARK COUNCIL
HAMILTON COUNTY, OHIO

Council held a Special Meeting on Thursday, January 29, 2015 at 8:00 p.m. in the Terrace Park Community Building. Mayor Gohman led Council in the Pledge of Allegiance. Members of Council present were Mr. Lee Cole, Mr. Jeff LeMay, Ms. Judith Lehman, Mr. Tom Tepe, and Mrs. Holly Purcell. In addition, Mayor Jay Gohman, Clerk of Council Melanie Stutenroth, Police Chief Jerry Hayhow and BZA Chair David Moyer were in attendance. Council member Rick Tripp was absent.

MAYOR'S REPORT: Mayor Gohman began his report by stating that this meeting is being held to discuss four topics that have recently been discussed by residents on social media about new businesses in Terrace Park. The topics include: 1) Terrace Park Zoning Code including Terrace Park Zoning Map; 2) Ohio Meeting Notice Requirements; 3) Ohio Sunshine Laws; and 4) Terrace Park Sign Laws. Mayor Gohman stated that this meeting is an educational program and following the Mayor's report and Council comments, residents will be invited to address Council.

Mayor Gohman reported that the Terrace Park Zoning Code was created in 1963 to regulate how buildings are constructed, both residential and commercial. The Code has been amended many times and is available on www.terracepark.org.

The business district of Terrace Park is zoned A & B. The Village also has Planned Business designations. The Planned Business districts are the Wooster Strip, UDF and Proctor Insurance locations. The Clark gas station, the former gas station, the former Yankee Dollar location and the Kramer building are designated Business A district. Business B district are the buildings around the US Post office and Harvard Avenue. In 1973, Ordinance No. 7-1973 was passed by Council to amend the 1963 Zoning Code and Zoning Map to allow for eight districts. These districts include Residence A, Residence AA, Residence B, Business A, Business B, Business C, Business D, Office A and Planned Business AA. The Ordinance set guidelines for business uses to include Business A as gas stations, horticulture businesses, financial institutions, mercantile retail stores, restaurants and offices. Fast food operations, laundromats, dry cleaners, record stores and repair service companies were excluded in Planned Business Districts. In 2005, the Zoning Code was amended again to allow for the property at 614 Wooster and to change Ordinance No. 7-1973. Ordinance No. 12-1, 2005 allowed for "Tattie's Delicatessen" and was deemed to not be a fast food restaurant. Requirements of Business A district are listed on the Zoning Code. Mayor Gohman also stated that the Board of Health and EPA review of the septic systems can be an obstacle for businesses and held up progress on the proposed Subway restaurant.

Regarding Ohio Meeting notice requirements, Mayor Gohman explained that all Council or Council committee meetings must be posted 24 hours prior to the meeting at the five bulletin boards within Terrace Park. Notice is also posted on the Terrace Park government website.

BZA variance hearings are required to be advertised in additional ways. Clerk of Council Melanie Stutenroth explained that notice of a variance hearing is advertised 15 days prior to the hearing. In addition, a sign is posted in the front yard of the property scheduled for a variance hearing. Letters of notification are then sent to all residents living within 100 feet of the property scheduled for a hearing. Notices are also placed on the Village bulletin boards at least 15 days prior to the hearing. Mayor Gohman also stated that the plans are available for public viewing in the Village office.

Mayor Gohman then explained the regulations behind the Ohio Sunshine Laws. If three or more members of Council meet for coffee, this constitutes a meeting. If this meeting is not posted properly, Council is in direct violation of the Sunshine Laws. Electronic communication, “reply All” and tplist responses can be considered a meeting. Mayor Gohman stated that Council will not engage in any conversations on tplist to prevent Sunshine law violations.

The Terrace Park Sign Ordinance was updated in 2004 following lawsuits filed against neighboring communities for not allowing individuals to post any signs on private property. At that point, Council, under legal guidance, deemed that no non-governmental signs can be placed on Village property or the bulletin boards which are placed on Village property. The details of the ordinance can be found in Section 1137 of the Terrace Park Zoning Code. Mayor Gohman advised residents that the best way to advertise an event is tplist serv and small signs on residential property. Police officers have been instructed to take down any signs on Village property. This protects the Village from expensive litigation fees. End of Mayor’s report.

Referencing a ground-breaking property rights case in Norwood, Tom Tepe stated that the Supreme Court deemed property rights are fundamental rights and the most important rights of citizens. All residents are to be treated the same. Council must deal with Constitutional rights to conduct business. He added that some lawyers make a healthy income seeking breaches in sign ordinances. The Village works to avoid legal fees for breaches of the sign ordinance. He also added that Council will not respond to tplist as it may constitute a meeting. Tepe then stated that TP government is “open” and Council can be approached at any time. He invited residents to attend Council meetings and address Council about their concerns.

BZA Chair David Moyer stated that the Zoning Code went into effect in 1963 with revisions in 1987. In 2004, major revisions were made. He added that the Zoning Code is a living document and there is always room for clarification. When items come up, the Zoning Committee meets to review the request and residents are invited to add their ideas and comments. Most changes to this document are not controversial such a fence heights, building heights, etc. Yet, this Code preserves the character of Terrace Park. In Milford, there is no regulation for the size of political signs and yards are littered with large signs during election season. Terrace Park regulated elections signs to preserve the appearance and charm of the Village.

In conclusion, Tom Tepe reminded residents that their ideas and suggestions are welcome. A meeting will be organized to discuss any new ideas and while Council may not always agree with residents, all ideas will be properly vetted and discussed to continue to improve the Zoning Code.

RESIDENTS TO ADDRESS COUNCIL:

Patti Normile of 609 Amherst addressed Council to discuss free speech and the discrepancy of free speech in Terrace Park. When she moved into the Village, she was told that Terrace Park has the largest number of attorney residents in Cincinnati. She then asked Council why we can't figure out a legal way around preventing non-Terrace Park organizations from posting notices on the bulletin boards? She believes it is a loss to the community to not allow Terrace Park organizations to post on the boards. She also recommended selling the boards and giving the money to the Tree Fund.

Tom Tepe responded that we live in a more litigious society and billboard companies will want to post in Terrace Park. If you allow one organization to post signs, you must allow all organizations to post signs. He believes that litigation expenses are not a good use of tax payer money. He also suggested removing the boards to prevent further problems in the community and amending the requirement that Council must post meetings notices on these boards. Holly Purcell suggested collecting illegal signs and posting a picture in the Village Views. This would remind residents of how many unwanted signs are posted and why Council is trying to prevent such signs in the Village.

Lanie Grever of 609 Miami addressed Council to state that her son, Cory, built the current bulletin boards that replaced boards originally created by former Council member, Jeff Krueger. At that time, according to Grever, the Village Council asked Cory to build the boards to help promote village government notices and organizations. She stated that Cory is very disappointed that the boards are not being utilized.

Diane Treftz of 317 Given then asked Council if a disclaimer can be placed on the bulletin board to protect the Village from lawsuit. Tepe responded that this will not protect the Village from a discrimination lawsuit. Tepe also stated that any sign could also be placed at the Village office if there is no sign ordinance.

Andy Mauk of 408 Stanton asked Council if the boards could be leased to organizations? The Village could then determine who is able to submit a lease. Tepe responded that then the bulletin boards become similar to a billboard and the Village could not prevent a leasee from selling a lease to a non-approved or undesirable organization.

Diane Treftz of 317 Given addressed Council again to state that the former Yankee Dollar building is for lease. How will Council prevent a Hooters from going into that location or a McDonalds? Can restrictions be put on that property? Tom Tepe responded that there are restrictions on this property according to the Zoning Code. A restaurant may go in to this space. Mayor Gohman responded that with the regulations by the Board of Health, EPA and size of the lot, he does not see this type of restaurant such as Hooters moving into that location. Treftz again asked "who is going to prevent this?". She stated that Council revised the Code to restrict signage. Can the Code be revised to prevent "topless waitresses"?

Lanie Grever of 609 Miami asked when will the Fire & EMS phone book be updated? Mayor Gohman responded that she will need to ask those organizations.

Terri Shaughnessy of 810 Myrtle reported that the Terrace Park Historical Society is interested in updating the directory. However, the EMS department is not willing to give up this project. Terri reported that she has offered her volunteer services to the EMS departments and she is waiting to hear from them.

Scott Marshall of 710 Miami asked Council about restrictions on running a small business from a residence in Terrace Park. Tepe responded that as long as the business does not look like a business, has no employees and no retail, there are no restrictions. He gave the example of an accountant working from home. Tepe reported that 1131.04 of the Zoning Code addresses home businesses.

Patti Normile of 609 Amherst asked why the Village Green is zoned Business B on the Zoning map. Council thanked Patti for noticing this error and David Moyer stated that he will review this part of the Zoning Map.

Tepe stated that the Village can regulate use of a property but not the user. If restaurants are allowed, then any type of restaurant must be allowed. All regulations must be constitutionally sound. The difference between a restaurant and a fast-food restaurant was defined in Ordinance 12-1, 2005 which allowed "Tattie's Restaurant" to open in the Planned Business Districts.

Diane Treftz addressed Council to ask why is Subway allowed to purchase in Terrace Park if it is a fast food restaurant? Hester clarified that a fast food restaurant is defined by a drive up or walk up window. The new Subway is going into a space that does not restrict this usage.

Jeff Lemay asked if Council can review the code to increase restrictions on what comes in to the Yankee Dollar location. Tepe responded that the Code can be reviewed and revised by the Planning and Zoning Committee at any time. Residents are encouraged to help with this process.

Terry Howe of 716 Park asked Council about Tatties restaurant that was allowed to located in Terrace Park in 2005. Mayor Gohman responded that this property was approved by Council in Ordinance 12-1, 2005. This ordinance resulted in a negotiation by Council and the restaurant owner and involves that property only and is separate from the Code.

Terri Shaughnessy asked if Council would advertise meetings on tplist in addition to the regular notification methods.

Lanie Grever asked if the sign notifications of meeting could be larger. She also reminded Council that not every resident is on tplist.

Andy Mauk then asked Council about septic regulation. Mayor Gohman responded that the Board of Health regulates septic in the Village and that there are more restrictions for businesses and septic.

Terry Howe asked if the Village can regulate sign use similar to solicitors who want to see their goods in Terrace Park. Chief Hayhow stated that solicitors must register with the Village Office

and be approved prior to approaching any residence. The difference is these solicitors are going on private property. The bulletin boards are on village property.

Tom Tepe moved to adjourn the Regular meeting. All vote aye. Meeting adjourned.

Respectfully submitted:

Melanie N. Stutenroth
Clerk of Council

Jay Gohman
Mayor