

PLANNING AND ZONING COMMISSION
Workshop Meeting Minutes
Mayfield Village
Oct 21, 2021

The Planning and Zoning Commission met in workshop session on Thurs, Oct 21, 2021 at 6:00 p.m. at the Mayfield Village Civic Center, Main Conference Room. Chairman Syracuse presided.

Roll Call

Present: Mr. Vetus Syracuse Chairman
Dr. Sue McGrath Chairman Pro Tem
Mr. Allen Meyers Council Rep
Mr. Paul Fikaris
Mr. Jim Kless
Mr. Henry DeBaggis

Also Present: Ms. Kathryn Weber Law Department
Mr. Daniel Russell Building Commissioner
Ms. Deborah Garbo Commission Secretary

Absent: Mayor Bodnar
Mr. John Marquart Economic Development Manager
Mr. Tom Cappello Village Engineer
Ms. Jennifer Jurcisek Council Alternate

PROPOSALS

1. **Chapter 1187 Solar Energy Systems**
(Law Department)
2. **Revised Section 1149.02 Conditional Uses**
(Law Department)

OPEN PORTION

Chairman Syracuse states, this is a workshop meeting of the Mayfield Village Planning & Zoning Commission, Thurs, Oct 2, 2021. We will not be taking a vote tonight, that'll be at our next regular meeting, Mon, Nov 1st at 6:00 pm. We have two proposals before us tonight, one is a proposed Chapter 1187 for Solar Energy Systems, the other is revised Section 1149.02 Conditional Uses. The Law Dept is here, so I'll turn it over to you Katie.

**Presentation of proposed Chapter 1187; Solar Energy Systems
by Ms. Kathryn Weber, Law Dept**

Ms. Weber states, we'll start with solar energy systems. Anytime we make any revisions to the zoning code, it's got to come to Planning & Zoning Commission for your report and recommendation up to Council. We've been working on actually both of these that are in front of you for a while now, starting with John Marrelli and when Dan came in, he also picked up and took a look at these as well.

With solar energy systems, if you recall there hasn't been a lot of solar panels that have come through in the Village. When Progressive came in wanting to put the solar panel field on their campus on 271, we realized that it would probably be good to have a chapter that specifically dealt with and provided regulations for solar energy systems. In the future whether or not it's a commercial or a resident looking to put solar panels for their home, that there would be some guidelines that came through.

We did some research and pulled different regulations from different municipalities who had something on the books regarding solar energy and took bits and pieces from a handful of different communities to put something together that would make the most sense.

The Village has a chapter on the books that regulates wind energy, so we thought it would be best to give it its own chapter.

The way this is structured is that solar energy systems which is solar panels with the associated parts that go with it to create the power, would be permitted as an accessory use in all districts. What this doesn't allow anybody to do is just have a solar farm just for the purpose of creating energy and selling it. It has to be attached to the property and providing energy to either the commercial building or the residential building.

Chairman Syracuse asked, is that what Section 1187.04 states?

Ms. Weber replied, correct. We want to make sure that somebody can't just buy a piece of land and just put solar panels on it.

Ms. Weber continued. This provides regulations for both roof mounted solar arrays as well as ground, or free-standing solar arrays. Those are the two ways you'd be able to install solar panels.

In the event that someone would want to put solar panels that would be visible from the street, it would have to go to the A.R.B. to take a look at it and you would have to comply with the requirements in 1187.08 (b) on whether or not that's going to be able to be permitted. If there's a feasible way to put solar panels so they're not visible from the street, that's the preference. You would only be able to be permitted to put solar panels that would be visible if there's no other feasible place to put them.

In addition to the site regulations, we also have regulations in here that are in compliance with the Ohio Building Code to make sure everything is installed correctly that wouldn't threaten any life or safety issues.

Mr. Fikaris said, there's no mention of square footage or number of panels. Is there any limit to filling up your back yard with solar panels? There are things here that I think will be questioned on frequently. One will be, my house faces this way, so it's going to be an automatic A.R.B. The placement, footprint in the back of the house is another.

Mr. Kless said, A.R.B recently approved roof panels for a house on Thornapple but they weren't facing the street. Could that person put just a free-standing one in his backyard? Would that need to be approved by the A.R.B.?

Ms. Weber replied, anything is going to have to get a permit from the Building Dept. in order to make sure it's according to the Building Code and be in place in accordance with this chapter. We do have setback limitations, height limitations to make sure that nothing's too close to the street or the property line, things like that. In terms of area regulations, I don't believe I put anything in here that specifically limits the square footage of them. In the research I had done into this, it really is going to depend on how many solar panels you need in order to create the energy you need depending on the size of your house. Obviously, Progressive has the amount of solar panels that they need in order to power there. For a house, you're only going to need so many solar panels. That's a hard kind of thing to regulate because you're really looking at what the manufacturer's recommending. Someone is not going to buy more solar panels than they need in order to power their house. Why would you buy double the amount that you would need in order to power your house?

Mr. Kless replied, they'd be able to sell the overage to the power company which is the standard practice.

Ms. Weber said, through the Ohio Revised Code, solar energy is also regulated by the State and the electric companies have a certain amount of lobbying. I believe the way it works is that if you have a certain amount of overage, it has to go back to the power company. The way we have it is, it's not like someone can put up solar panels and are going to be able to be making money off of the energy. It's just going to be whatever it is that you didn't use over the course of the month for your house.

Mr. Fikaris said, I'm just anticipating, thinking about that for the future, what problems may arise. People might say I love the world, so I'm going to put up a bunch of these things. The free-standing ones could be 15' and that's very tall and that's the height, that's not including the panel.

Ms. Weber said, I think the way we have this is it's 15' measured to the highest projection of any solar panel. So typically it would be from the top of the panel, that's not necessarily 15'.

Mr. Fikaris said, we're just trying to get on top of this, I'm just kind of thinking out loud.

Ms. Weber replied, absolutely, that's the whole point of coming here and workshopping it. We want as many heads as you can when you're enacting new legislation because everybody is going to think of things from a different perspective. I can look into it a little bit more closely how the State regulates in terms of selling it back and whether or not someone would have an incentive to put more solar panels on than they need, whether or not we need to regulate that locally. I can tell you that most communities don't regulate that locally. My assumption is that it's just not feasible.

Chairman Syracuse stated, it would be more expensive, but down the road they may not be. They could become a lot more affordable as that becomes one of the main power sources, there could be a lot of incentives for people to produce their own. As far as use, it needs to be an accessory to a principal use, you'll be able to store it for your own use, but not for anyone else's, that's what 1187.04 provides. But as Paul raised, the free-standing or ground solar arrays, yes, someone might just be able to put it in their whole backyard. As they become more affordable, that could become an issue. Perhaps you could see if other municipalities have adopted similar code regulations or what the State recommends preventing them from doing that. For example driveways, there're limitations that you can't just have a parking lot in your front yard. You might not see it, it's a fenced in yard and the solar panels, the whole back yard could be just that.

Mr. Russell said, maybe it could just be regulated that you have enough solar panels just to do the job for that specific house.

Ms. Weber said, absolutely. And I think that's a good point to put some type of language in there that would limit the area.

Mr. Fikaris said, I think 1187.07, the placement is going to be a challenge with trees and Cleveland.

Ms. Weber said, that's really what the goal of 1187.08 was, was to be able to regulate placement but also to be able to provide some flexibility that in the event that you have a property where it's not feasible to be able to put it on the back of the house, or the backyard because of trees or whatever, that they have flexibility that they have to come in and demonstrate that there's no other feasible place to put the solar panels and they're not deciding that they'd like to put them in their front yard or in the front of the house.

Mr. Fikaris said, it's a good thing we have the tree ordinance or people would say I'm going to level all my trees and put up solar panels.

Mr. Meyers said, there's a house I think on Woodlane that has them in their front yard. But the way they're situated, it's like 200' from the road, it's a winding driveway. I guess that was the only place they could put them. They went through A.R.B. and they approved it. There's going to be certain instances where they're going to have to be allowed in the front.

Ms. Weber replied absolutely, which is why we had considered, do we put a straight no on having solar panels be visible from the street. But that's difficult to do just because every property is a little bit different. And as the technology changes and progresses, we don't know where we're going to be in the future. Who knows in a few years down the road, technology could be at a place where you don't necessarily have to have the direct sunlight all the time.

Chairman Syracuse said, just to review 1187.08 (b) The Architectural Board of Review standards would be;

1. The location is necessary to optimize system functionality;
2. The proposed solar panel(s) and their location(s) are designed to minimize any adverse impacts to the neighborhood; and/or,
3. The size and location of any structure is the minimum necessary to serve the needs of the building(s) on the property.

Chairman Syracuse said, I think those are really good guidance for them to use. My house faces north and most of the sun is in our backyard. There are houses in our neighborhood that are facing the opposite direction. But they're becoming more aesthetically pleasing and definitely more efficient as they keep developing these solar panels.

Ms. Weber said, the goal is really to provide ARB with some guidance on what it is that they're considering. Right now we don't really have anything on the books, we don't have anything to say you can't have them. Any recommendations this Commission would have on additional regulations they think should be in here or not or additional considerations, it's something we can take a look at.

Chairman Syracuse said, I like these guidelines that are in here now. If it were so restrictive that there were none, just to say across the board you can't have it in the front yard or facing the street would really eliminate the ability for some people to use these panels. I think these guidelines are good.

Mr. Fikaris said, I like the appropriate structural support and wind load.

Ms. Weber states, Dan dove into the Ohio Building Code to pull out the standards that they had in there to make sure we had the right technical language in there. So if any other questions come up, please feel free to pass them along.

Mr. DeBaggis asked, are there currently tax credits for the solar panels?

Ms. Weber replied, I think there's Federal Tax Credits, I know that there was. I don't know off the top of my head whether or not that was a temporary tax credit.

Chairman Syracuse asked, any other questions or comments?

There were none.

**Presentation of proposed Revised Section 1149.02; Conditional Uses
by Ms. Kathryn Weber, Law Dept**

Ms. Weber states, next up is a brand new section 1149.02; conditional uses. Typically when we're making changes to code sections, we typically give you a red line that shows you what we had, what the deletions are and what the changes are. The reason this is not structured that way is we're pretty much throwing out 1149.02 and replacing it with this new draft.

This has been a little bit of a work in progress as well. As you all know, the current 1149.02 that we have on the books 'Use District Exceptions' can be a little confusing. I think what we've shown over time is that currently the way it works is that we allow for conditional use permits as well as special use permits. Over time, those two things have kind of conflated with each other in that there wasn't really a distinction between a SUP and a CUP. As well as conditional use permits have a two-year limitation on them, which means typically it's commercial users that receive a CUP, they're having to come in every two years and typically what would happen is that the Building Commissioner would go out, give you all a report on whether or not everything is in compliance or if any businesses have stopped. Medical uses for example is something that is allowed on a CUP. Someone would come in and put in a medical office knowing what could happen in two years if we decide to take that away, that could negatively impact the commercial operations as well.

In order to kind of streamline and clarify and I think make a more workable chapter here, what we've done is we've taken away Special Use Permits all together because we hadn't really been making a distinction between the two. We changed this so you would just be coming in to seek a Conditional Use Permit.

Another big change that we made is that there's no longer the two-year limitation on it. The Board in their discretion can place a time limitation on it if they want to, but it's not just automatic that there's a two-year on it. So that CUP would continue on unless the Building Commissioner finds that the conditions placed on it had been violated and he has the authority to revoke that permit without having to come back to a Board or anything. There's an appeal right for the person who has that permit revoked. It's a more workable system of doing it in order to make sure that everybody's staying in compliance.

We added in here to kind of codify the considerations that should be taken into account when issuing a CUP. These conditions are based off of the informal guidelines that had been being used but are now codified in order to provide some more clarity on what factors should be taken into account in granting a CUP.

Chairman Syracuse said, we've had these guidelines, 10 guidelines that we currently use. The proposed are different, some of them are sort of the same stuff, just restated. The last one we use now, number 10 reads;

- (10) Has the potential to create a positive economic impact by creating or expanding employment opportunities and increasing tax revenue within the Village.

Chairman Syracuse said, I don't see that included in there.

Ms. Weber replied no, that one is not included in there because that's not always applicable to every single CUP that's coming in. What we tried to do is take the 10 guidelines that were in here, streamline them a little bit because they're a little duplicated. There was one that referenced our outdated 2020 Master Plan. We wanted to make sure that if we're going to codify them there's a little bit of flexibility here.

Chairman Syracuse replied, I kind of like having that one in there just because sometimes there were projects that would come up, a huge manufacturing building and you only have one or two employees and it really doesn't make the best use of that property. Also, I don't know if there's any case law on this as far as what guidelines should be used.

Ms. Weber replied, typically municipalities can provide anything that you can justify that it's for the health, safety & welfare of the community. That's really the basis behind all of the factors and guidelines in here. Anything that comes through the door, even if you didn't have factors that weren't put on here, you're considering whether or not this is going to be something that's good for the health, safety & welfare of the community. That's the basis for the factors that are considered.

2-Year Renewal Requirement

Chairman Syracuse asked, as far as the 2-year limitation, that was just something that was within our code, it had nothing to do with case law?

Ms. Weber replied, it was something in the code and I wasn't here when it was put in. I think at the time, the Commission wanted a little bit more control on making sure conditions were abided by in that there weren't any negative impacts that these uses would reveal.

Chairman Syracuse asked, what's the standard for revoking one?

Ms. Weber replied, if we look at the last paragraph;

- (o) Revocation of Conditional Use Permit. A conditional use permit may be revoked by the Building Commissioner if the established conditions for approval are violated.

Mr. Kless said, he has to expand the responsibility because it's not going to be an automatic 2-year thing anymore.

Mr. Russell said, the Fire Dept does the inspections on the commercial units every year. They're in these units and they can tell if something's been changed and they would come to us with that information.

Chairman Syracuse said, I just want to make sure that we're not making it too easy for anyone to come in and have this approved, something to give the Village a little more control over who comes in. If we try to deny something that's not a nuisance per say and isn't going to have necessarily a negative impact, but it's something we don't think would be good for the Village,

Council would not think would be good for the Village, it might be too easy to have these granted. As far as 2-years, I'm okay with lifting the time limit on it. There was talk a few years ago when we were looking at these statutes, we were contemplating 4-years. I'm thinking we should have some kind of re-review after a certain number of years. Two seems short, 3 or 4 I think might be good. I like having something in there that they have to come back and have it renewed, otherwise they're operating out of there and who knows what they're doing. If there are no issues with Police or Fire calls, Dan might not know that there's some kind of issue there. I'm just thinking out loud here. It might be something worth considering, having some kind of a limit, but greater than 2-years.

Chairman Syracuse said, two other things that we always included were;

1. Hours of Operation
2. Retail Space

We had them specify their hours of operation, they needed to be approved. We could still do that just by asking during their application. If they wanted to expand outside those hours, they'd have to come back in front of us to seek approval. The other one is retail sales not to exceed 10% of the space unless it's a retail only store. If there's a daycare and they're selling lunches and have a bunch of merchandise that they're selling to the public, they could have only 10% of retail space. That's just something we've always done. I'm not sure if that's something that should be codified.

Ms. Weber said, we could definitely add that, this is a working document. We could add in the factor that it has to have a positive economic impact. We can add in something that discusses operating hours to make that clearer.

Mr. Fikaris said, the economic impact thing. I was thinking about this when we approved the last CUP, the Event Center. I questioned it because it really had no economic value. Taking into account those factors that I've learned over the years and you mentioned too about trying to discourage uses in large spaces with only a couple employees that doesn't bring in economic revenue, we've considered that in the past. The Event Center didn't meet that criteria, but it met enough of them. I like the idea of not having the required 2-year renewals on these things. But, as Katie mentioned, anything can be put into the language, we can add that. It might be a difference between operation A and operation B how we feel about it and say, okay these guys can do their CUP without a renewal but these guys we may want to keep an eye on, but I don't know how we would know. Usually our CUP's are approved and there's never a problem. I don't see the time limit as a problem, that's what I'm trying to say. The economic thing, that Event Center, we could look at it that way.

Chairman Syracuse states, it's one of the factors that we use to consider, that's not the sole factor. Another one that I'm not seeing on here is;

- (8) Will provide benefits to the community i.e. medical, educational, technical, retail because, at least to some degree, the proposed use is not currently available in the Village or that the community is underserved by the type/use being proposed.

I feel like most of our decisions come down to, is this something that's not readily available somewhere else in the Village, if we're going to let someone use the property for a purpose that

it's not zoned for. We look at, is this something that we need in the Village that we don't already have and is it going to be a positive economic advantage for the Village to incentivize us to approve it. I almost feel like it's too easy with the factors that are included in this proposed language. We might have a lot more lawsuits on our hands if we say no to someone and don't have good reason. Those two factors I think were enough to keep out a lot of things that we might have been opposed to. A lot of our decisions came down to those two factors and I don't see either of those two in there.

Ms. Weber replied, and I agree with what you're saying. I will say that (i) "Application of Standards for Conditional Use Permit". The reason for that section is it has the language that says "the Planning and Zoning Commission is not required to approve any temporary and CUP solely based upon meeting the guidelines. Same shall remain in the sole and exclusive discretion of the Planning and Zoning Commission, and approval of Council." But I understand what you're saying, we were trying to streamline the factors but they could have been cut too much. We could go back and take a look and add those additional factors based on these guidelines.

Chairman Syracuse stated, guidelines 8 & 10, I feel were beneficial to us in making determinations. Even though we have a lot of discretion, if we denied someone a permit based on these 9 factors, when really our consideration would be these two factors that aren't included in there, that they would have the right to appeal. I would think a court hearing might say you provided these 9 factors and you're basing it on something that's not even listed in here. That concerns me a little bit. Otherwise, we obviously needed a lot of updating with this section, it's been talked about on and off for years. I like some of the stuff that's going into this. Also, the two factors that I'd like to see included, and maybe some reference to the hours of operation to be determined by the Planning & Zoning Commission and something about the amount of use for retail if it's not solely a retail shop. And I'm not opposed to eliminating the 2-year renewal, maybe having a 3 or 4 year limit like Paul said.

Dr. McGrath said, I understand why a limit would be difficult for someone who is applying for this permit. If they're putting a lot of money in and there's no guarantee that after 2 years, if it's going to be renewed, that's scary. You only approved me for 2 years and I just put all this money into my business and how do I know that in 2 years somebody could say hmm, we changed our mind.

Chairman Syracuse stated, there is another mechanism. Our Commission doesn't handle it, but I'm also the Chair for the Board of Zoning Appeals and they could ask for a USE variance. The USE variance actually runs with the land. They could say, I want to buy or rent this building and we'd like a permanent change in the zoning. Prior to the Charter Review Commission that Paul Chaired and I was on, we didn't have that mechanism at all in the Village. Our Charter Review Commission proposed that amendment and it was codified, now you could seek a USE variance on a non-residential property. If it's something that's going to be long term, these hotels, yes, should be on a USE variance. Even if the same owner's not going to be there, it should run with the land. Technically, I think all of them would be better off seeking a USE variance from the BZA knowing that they'll never have that taken away from them, the use that they're using it for. So, they do have that other mechanism. It's just something to think about.

Mr. Fikaris states, we discussed for years too about how to open up our zoning. We'll never know what we shunned if they said, we don't want to hassle with these guys with a CUP, and we said no you don't, you can do this.

Chairman Syracuse said, as an attorney, when I've applied for different uses for clients of mine in other municipalities, they ask you what conditional use you want, you have that option. Mayfield Village doesn't have that option, everything's a conditional use. Having the option, if I want to buy a building and want to turn it into medical office and there's no zoning for medical office, I would seek a variance, not a CUP, so you have another option. If we made this so that there's no limitation whatsoever and it just kind of runs with it, it's almost the same as a USE variance at that point. We're almost creating a USE variance by this statute which means they don't ever have to renew or come before this Board ever again, which almost defeats the purpose of a CUP.

Dr. McGrath stated, I wish I could remember the exact situation, but there were times we had to hang that over people's heads and say look, you're going to lose your permit if you don't abide by the conditions that were put on it.

Mr. Meyers stated, the Hilton Garden, I think the first two years they were in there, they got into a tiff with the Police Dept because according to their CUP, they were supposed to use Mayfield Village Police Officers for any events with liquor involved and they started hiring from the outside. I was at the meeting, my permit was up that year, they had their attorneys and pled their case. The Police Chief got up and said here's the permit, this is what it says, you were violating it by not hiring our Police Officers to do the events and the Law Director told them that by 8:00 tomorrow morning we will shut you down. They said, well I guess we could use the Village Police Officers. Sue is right, I think they need some type of policing. Let's say you get a CUP for automotive and then they start customizing, that was not what the permit was issued for. I know there's been instances on Beta Dr. where they had a boat builder over there that was violating every single ordinance that we had. Finally, the Fire Dept along with the Building Dept made them leave. I think the 2, 3 or 4 year renewal is a good thing to keep track of what's going on.

Chairman Syracuse said, I'm thinking now as we're talking about it, as far as transferring these CUP's to a subsequent owner or tenant. If a new tenant comes in, would they need to apply as well, or does the building owner, if they're going to use the same use that was there, who does this apply to?

Ms. Weber replied, it's who the permit is granted to, there's a big difference between a USE variance and a use permit if you will. Most of the buildings on Beta are owned by the person who owns the land and then there's somebody coming in there and renting. The tenant is really the one who comes in seeking that CUP because the tenant is the one whose operating, so they're seeking that CUP. If that tenant leaves, that CUP was issued to them. If another tenant comes in, they'd have to re-apply for that again. If the property owner is the one who came in to get that CUP, it goes with that property owner. If they sell that building, we don't know if the next person's going to be doing the same thing or not. It's going to be particular to those operations. I

think another important thing to consider here too is conditional uses work in tandem with the other zoning regulations that we have. Section 1153.02 is what we have the classifications of uses that are listed out in. In there, there's certain uses listed that you could come in and that could be done on a Special Use Permit which will be revised to say Conditional Use Permit, but there's a whole list of uses. Another way that a lot of communities and zoning codes will regulate conditional uses is per each district, they'll have a list of what conditional uses that you could seek in that district. You could also from there regulate certain types of uses. Let's say we want to add different factors for an automotive shop, that if you're going to come in and get a CUP for an automotive shop in addition to these factors, you're going to have to comply with x, y & z factors. That could be something that we have different depending on the zoning district that that's in. If you look at different kind of zoning codes, a lot of communities will have each zoning district within that chapter list out the conditional uses you could seek in that chapter and then have a catch all of anything that's substantially similar to those uses because there's no way that you could ever list out every single property use. That could also be a next step to putting a new process in for conditional uses to streamline that, then maybe taking a look at how we're regulating uses in different districts or whether or not there're certain uses that you want to make sure have certain restrictions on them. Or there's certain uses that we want to say yes you could come in for a CUP if you're in this district but it wouldn't be available in a different district.

Chairman Syracuse said, it's hard to know unless they come in.

Ms. Weber agreed. That's also important and I realized I left that out. I gave you a brief memo because there's only so much that you can explain. I thought it would be better to have a conversation about it and answer questions about it. Another good thing to take a look at is review how we have our uses listed out. I've gone through the whole codified ordinances at this point to make sure that every reference that we have to Special Use Permits would be changed to Conditional Use Permits. There's a handful of different places in the code you guys brought up. I didn't want to overwhelm you with a whole bunch of things in front of you. But I do have all of the references to make those changes, I figured we'd get through this first. I don't know if this is going to be one workshop or if we want to continue this conversation and hold on recommending this to Council until we have some time to look at it a little bit closer.

Chairman Syracuse states, I think it should state that it's non-transferable to anyone but the applicant. Personally, I think this is something we should hold off on until we address these other concerns that were raised tonight. Perhaps Katie it would be easy if you could e-mail us the current section and we could compare the two and then maybe come back.

Dr. McGrath asked Dan, what does this do to your job? Does this make things worse or better? If there's a 2-year limit, is that easier or worse for you? I get that the Police and Fire pick up things on their annual inspections. We've had so many different conditions on things, that's a lot to have to keep checking all the time.

Mr. Russell replied, it is a lot. I'm not sure how many we have total.

Ms. Garbo stated, there are 31 businesses currently operating under a CUP.

Dr. McGrath asked, does it help if we get rid of the 2-year renewal?

Mr. Russell replied, I think anytime you're taking something away, it's going to make the job easier, but is it logical is the whole point. I've never been through the 2-year period, I haven't done the inspections, I haven't done anything of that sort. If it's 3 years, so be it. Two years is really not a whole lot, 3 or 4 years in my mind would probably be more logical.

Mr. Meyers states, the Fire Dept at my place, they inspect twice a year. If they see something, they contact you or they let me know.

Dr. McGrath said, I don't think that part's going to change, we just wouldn't have the "we're going to take this away from you, you're going to lose your permit in 2 years".

Mr. Fikaris said, as proposed, if there's a violation, it can be revoked.

Chairman Syracuse replied, that's already a part of it, that's always been. If the conditions for approval are violated, the Building Commissioner had the authority to bring that back in front of us to say they're violating this, should we renew it or not or should we terminate it immediately. You had that control and still would. The way this works is, anyone granted in a certain year, it would all be on the same end of 2-year cycle. Out first meeting of the year in January, after the 2 years of expiration, they come back in front of us. As long as there are no issues raised or any modifications to them, it's almost blanket they're all going to be granted again. I think without having that 2-year renewal, it kind of takes the checks and balances away from us and puts them all on Dan and I think that gives him more work to be honest if there are no issues. Two years seems too short a period, most leases would be I think at least 4 or 5 years. I would be good with either 3 or 4 years, but I do think there should be a limitation.

Mr. Russell states, the ones we have on the list right now, if this code changes to say 4 years, the ones that are going to be coming up due, would get into the 4-year cycle then. If we didn't have a time limit, they would cease having a 2-year cycle.

Ms. Weber replied, correct. There'll be a transition, people will be kind of grandfathered in and a SUP will transition into this. Once it comes up for renewal, we'd be in accordance with the rules that we have now.

Chairman Syracuse states, everything that I'm suggesting and I think everyone is suggesting are just to give us a little more control, and some guidelines to give us a little more guidance in how and whether or not we grant these. If we just went by this, I don't see how we could turn anybody down ever and then there's no renewal period. Basically, anyone can come in and it would be very difficult to deny someone, unless it was for some obnoxious use.

Ms. Weber states, I can take all of these and I'll provide you a redline to see the changes made from this draft. I'll make sure I pull the specific sections that we have on the books now so you can more easily compare them. I'll put together also the other changes that will happen within

the code of other things that come up on a CUP, so you could see what the other changes to the code will be.

Mr. Fikaris asked, off the top of our heads, how many SUP's do we have?

Dr. McGrath replied, I think a couple.

Ms. Weber replied, one of the problems is it kind of got to be used interchangeably, some people who were initially granted a SUP, then were added to the CUP because there really wasn't a distinction between the two. The only distinction that we had between the two was the time limit issue on it, but there was the ability to add it. I believe CUP always had the 2-year time limit and SUP you had the ability to not put that 2-year time limit on it. That was the only practical difference that we could tell between the two. For a community this size, there's really not a reason to have it be different. If you look at other zoning codes, there is a distinction between SUP's and CUP's and SUP's would typically be used for if you want to regulate specific uses. Auto repairs is a good example because that's often a use that has extra conditions on it. So SUP's would have their own little set of factors that you would consider for a specific use in a specific district. The way our zoning code's set up, it's just not completely necessary, they're basically the same thing.

Mr. Meyers said, one of the hot topics on the Beta Overlay Rezoning is drive-thrus. I asked Tony if we could stipulate a drive-thru in the Beta Campus area traffic time, and would it be an addendum to the new CUP. Would it be a special use under the conditional use?

Ms. Weber replied, the way we drafted the Beta Overlay in terms of the drive-thrus is that drive-thrus are only going to be permitted within that Beta Overlay District. All the regulations for those drive-thrus will be put within that section because it makes more sense to put it in that section. Any restrictions that we want to put on drive-thru operations, we can add more restrictions to that in that section. In that Overlay District, we added restrictions that there had to be a certain amount of decibels that speakers could be, the car stacking, you needed to have extra lanes, you needed to have a bailout lane. They need to be a certain amount of distance away from the intersection at Wilson Mills and the intersection at SOM to make sure we wouldn't have a drive-thru too close to an intersection.

Mr. Meyers said, they were thinking it was going to turn into Mayfield Road. It's not, who is going to drive at lunch time from Mayfield Hts to Beta Dr. to get a hamburger? I'm being realistic, that's what they're worried about.

Dr. McGrath replied, depends how good that hamburger is.

Mr. Meyers stated, I think they're not looking at the whole picture, it's just for the Beta Campus area. I think John when he presented it to Council, he didn't present it the same as he presented it to this Board. Now everyone's got concerns about it.

Ms. Weber said, as I was saying, there's a way we could regulate uses within the other zoning chapters when you want to talk about specific uses, that works in tandem. This section is the big umbrella, there could be other restrictions on certain uses. This is to deal with all of Conditional Uses. But there are places in our code that we govern certain uses differently than other uses.

Chairman Syracuse said, an example would be if Pizzazz sold and Starbucks bought the building and wanted to put a drive-thru, it would be a CUP or a variance?

Ms. Weber replied, they would need a variance because that's not permitted in that district.

Chairman Syracuse asked, could they apply for a CUP?

Ms. Weber replied, no. You could only get a CUP for the uses that are set out in our zoning code. Drive-thru isn't one of those.

Chairman Syracuse states, so that does limit it just to Beta.

Ms. Weber replied, absolutely. That's the whole point of having an Overlay District. We're not rezoning anything, we're not going in and changing regulations in our individual zoning codes. We're saying you have the ability to overlay this on top of the already existing zoning regulations. We're just varying the zoning regulations in the property that we specify that would be re-zoned, that would be overlay, that would be that portion of Beta.

Mr. Kless asked, are we looking at a 4-year limitation?

Chairman Syracuse replied, I personally like a 3-year or 4-year renewal.

Mr. DeBaggis stated, 4-year sounds good to me with the two additional guidelines (8) & (10) are a good idea.

Mr. Fikaris agreed.

Dr. McGrath said, the standards are, is it good for the health, safety and welfare of the community. Those are really really big terms to try to make those into things that are measurable and it's very challenging, safety maybe not so much. I'd really like an Ice Cream Parlor here, but everybody's definition on what's good for themselves is different. What I consider a nuisance might not be the same as other people. That's the challenge, we are speaking for the entire community. I think limiting the criteria is not necessarily the goal.

NEXT STEP

Solar Energy Systems

Chairman Syracuse said, Solar Energy Systems, we talked about area coverage and solar use. If there's nothing that needs to be changed or added or if you think there is, I think that's something we could have ready for the vote meeting Nov 1st.

Ms. Weber replied, absolutely. I think I was probably a little bit more straight forward. I was anticipating this was going to be a greater conversation and that's the whole point of bringing it to you guys in a workshop. You're in charge of the policy that we put forth in the Village and you're the ones who are going to be administering it. It's a working document and we got it to a point where it was ready for input from you to make sure that we can put the best policies in place for the Village. I'll get the additional information on the solar use and look to see if we want to add that or not and I'll submit it over to you guys.

Conditional Uses

Ms. Weber stated, I'll also go through with what we talked about on the Conditional Uses and get it to you guys to take a look at your next meeting and that could be tabled to go through another workshop.

Chairman Syracuse said, thank you Katie, we really appreciate your time you put into this. It was great to have this conversation.

Chairman Syracuse asked, any other business to discuss? There was none.

There being no further business, the meeting adjourned at 7:00 p.m.

Respectfully Submitted,

Deborah Garbo

Executive Assistant, Building Department