

PLANNING COMMISSION MINUTES OF March 8, 2023
6:00 PM Council Chambers
745 Center Street, Milford, OH 45150

The Planning Commission of the City of Milford met in regular session on the evening of Wednesday, March 8, 2023, at Council Chambers, 745 Center Street, Milford, OH 45150.

Roll Call: Ms. McKnight called the Planning Commission meeting to order at 6:00 PM. Other members present were Mr. Brumleve, Ms. Evans, and Mr. Price. The Commission made a motion to excuse Mr. Wenstrup. The motion carried 4-0.

Staff: Ms. Celsor, Planning and Community Development Coordinator.

Visitors: Andy Dickerson, 5440 South Milford Road; Rachele Rapp, 5440 South Milford Road.

Minutes Approval:

Mr. Brumleve made a motion to approve the December 14, 2022 minutes, seconded by Mr. Price. Motion carried 4-0.

Mr. Brumleve made a motion to approve the February 8, 2023 minutes, seconded by Mr. Price. Motion carried 3-0. Ms. McKnight abstained.

Discussion: Accessory Dwelling Units

Ms. Celsor read the staff memo into the record:

Accessory Dwelling Units (ADUs) are not addressed in Milford's zoning ordinance. Staff has received a number of requests from property owners who would like to add an accessory dwelling unit. An accessory dwelling unit could be added to an existing detached garage, constructed as a new garage with an accessory dwelling unit, added as a basement conversion, constructed as addition to a single-family dwelling, or constructed as a detached accessory structure.

The American Planning Association provides a guide on ADUs created by AARP Government Affairs. The model local ordinance includes:

- Three alternative definitions of ADUs.
- Discussion of residential zoning districts and their suitability for ADUs. Consideration should be given as to which of Milford's zoning districts should permit ADUs. The guide recommends that ADUs be permitted in all zoning districts that allow a residential use, subject to the requirements outlined in the guide.
- Discussion of number of ADUs allowed per lot in single-family zones. The Model State ADU Act allows two ADU ADUs per lot.
- Discussion of ADU setbacks.
 - The guide recommends a setback of no more than 4 feet from the side and rear lot lines for an ADU that is not converted from an existing structure or a new structure constructed in the same location and with the same dimensions as an existing structure.
 - The guide recommends that no setback be required for an existing garage living area or an accessory structure or a structure constructed in the same location and with the same dimensions as an existing structure and converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
 - The guide recommends that a detached accessory dwelling not be permitted on the front half of a lot, except when located a minimum of 30 feet from the front line of if it falls within the provision listed above.
- Discussion of ADU height limit. The recommended maximum height of an ADU is 25 feet or the highest height of the primary residence.

Staff would like to get feedback from the Planning Commission as to whether a text amendment should be initiated to address ADUs, and if so, what key points should be included.

Ms. McKnight: It's my understanding that you've had some inquiries from folks that would like to have an accessory dwelling unit on their property.

Ms. Celsor: Yes.

Ms. McKnight: And we don't currently have anything in our code that addresses it.

Ms. Celsor: Right. Two-family dwellings are permitted in the R3 District but I interpret a two-family dwelling to be one building versus making living space out of a detached garage. That doesn't really seem like a two-family dwelling. I guess it could maybe be interpreted as an accessory use. The zoning code's kind of vague. It doesn't say. Yeah, I've had some applications and inquiries, and I kind of struggle to really see clear guidance in the zoning code as to how I should act on those. I thought I'd bring up the issue and see if you feel it's something that we should try to make more clear in the zoning code. It is something that came up in the zoning code update that we're just kicking off now, but since we've had so many inquiries, I don't want to tell people, well, you've got to wait a year until that gets implemented. I think we might have someone here who ... One of the people who's inquiring who could explain his particular situation.

Mr. Dickerson: Hello. Andy Dickerson. 5440 South Milford Road. We were one of the ones that inquired because we have a rather large lot. It's about two and a quarter acres. We've lived in Milford our whole lives. My mother-in-law lives up off of Wallace on Hogan. She lost her husband a couple years ago. The house is a little too large to take care of. We would like to entertain the idea of putting a kind of a carriage house, a place that she can call home base while she travels around and enjoys her retirement, but a place where she can be nearby and we can help take care of her as she ages. So, that's our particular circumstance. In specifics, we have a detached garage that's probably 24 by 80 maybe. We'd like to add on 20 feet in length to it, or 24.

Ms. McKnight: Okay. Any questions of Mr. Dickerson right now?

Mr. Brumleve: I want to thank you because that does help to bring this somewhat into focus. Christine, in deference to your initiative on this in trying to get something, shall we say, that has some traction sooner, I understand that. I think we've heard the distant whistle on this for years and now it's here. This wouldn't be the first time we've seen this type of construction done in the city.

Mr. Dickerson: We know there's a few, but we didn't ask what they did or what process they followed because it's not covered in the code.

Ms. Evans: Because a couple of the Airbnbs would be considered this, right? That we have operating?

Ms. Celsor: I think so, yeah.

Mr. Brumleve: 50-some pages of the recommendations from the AARP. It does illuminate the fact that an ADU can manifest itself in any number of different ways. For that, I thank you. I think this is actually a very helpful document to, if nothing else, stacked as a scaffold for understanding what the issues are going to be. How well we can get something in place to provide the traction that you need is something I kind of have been scratching my head about. I guess what I'm wondering is I can clearly recall at least one thing like this that exists. I'm kind of like, there's an example. I'm just wondering how did that get navigated into place and does that provide a model for working with this situation?

Ms. Celsor: I looked back through Pam's emails trying to find some history on Dino and Becky's.

Ms. Evans: Yes. That's who I was thinking about with his Airbnb.

Ms. Celsor: I think the way theirs worked is they had a home occupation in the garage. Perhaps permits were approved under that and didn't necessarily go through the whole process of actually applying as a living area.

Mr. Brumleve: A residence.

Ms. Celsor: A residence. Right.

Ms. Evans: Is this something where is it better to have I guess more or less regulations where we have a few things listed but then we just still do a case-by-case basis.

Ms. McKnight: Like as a conditional use?

Ms. Celsor: That's something we were talking about in our kickoff meeting with the consultants for the zoning code update. We were bouncing around the idea of presenting it as a conditional accessory use. It would be an accessory use that would be a conditional permit, so it would have specific conditional use standards that it would need to meet, come before planning commission to get approval. That is one way we could do it.

Ms. Evans: Their situation sounds like they have the land. It sounds perfect for it, but every situation might not fit that moment.

Mr. Dickerson: Correct.

Mr. Price: There's somebody that put up a two-story structure on Laurel, but the structure I think is taller than the house. Literally. It might even be larger square footage than the house. I mean, could you do those sorts of ... You can limit this and you can limit this. I mean, I live on Cleveland, so I look at that and think some of those lots, including mine, are small. I can't imagine adding an 800 square foot second thing.

Ms. McKnight: At the end of my street there's the last two houses built garages that literally take the entire backyard. There's no yard left.

Mr. Price: Well, could I put a retrofitted storage container in my property, even though I don't feel like it's in keeping with the neighborhood? But could I have a little very contemporary steel structure with glass windows that I just plopped down?

Mr. Brumleve: It's illuminated in the AARP document, the kind of bounds that can be put on these kinds of things. Actually, there's one particular point that I want to ask right away if you're familiar with this, Christine, and that has the state said anything yet a la this ordinance?

Ms. Celsor: I did check with our law director. Unfortunately, he has a different meeting the same night as our normal planning commission meeting, so he couldn't be here tonight. But, if we do move forward with an amendment, we will figure out how we can get him in the meeting. Anyway, there's nothing at the state level that we really need to be aware of. He mentioned it's probably not a good idea to restrict that it be owner occupied.

Mr. Brumleve: Yeah. They illuminated that here in this document as well.

Mr. Price: What about then short-term rentals? Because I know you guys are still in the thick of the Airbnb thing. So, I want to put a pod in my backyard and I'm going to rent it on Airbnb.

Ms. Celsor: So, short-term rentals, the city has an ordinance, a short-term rental ordinance, that we're currently not enforcing because of a pending lawsuit, but short-term rentals are handled and permitted separately from getting a building permit. So, I'm looking just for guidance on the accessory dwelling unit part. I mean, of course that is something someone could do.

Ms. Evans: We don't need to reinvent the wheel. The AARP guidelines are thorough and good, but maybe we need to copy from someone else who has something small and simple that we think is palatable in the short term that we could enact, get council to approve, or we could recommend approval, council could enact.

Ms. Celsor: Well, one way we could handle it, if you're thinking you'd like accessory dwelling units to come before planning commission, at least until we get everything worked out in the zoning code update, we could add it as a conditional use in whatever residential districts you feel would be appropriate.

Ms. McKnight: I think it'd be nice to come before planning just because I think every situation is different and unique.

Ms. McKnight: I kind of like the Yellow Springs model. This basically says it can be in the single-family house or in a detached building on the same lot. It has to share utilities, so it can't be separately metered. A minimum one off-street parking space provided, in addition to the off-street parking required for the principal's dwelling unit, should be limited in size to 66% of the total living area of the

principal dwelling, or 800 square feet, whichever's less. Gives you some scale then between the principal structure and the accessory. Has to have a living area, a bath, and a kitchenette, and it defines what the kitchenette has to include. No more than one bedroom. No more than two adults should occupy the accessory dwelling unit. That one could be hard to enforce, and no new access points or driveways shall be created.

Ms. Evans: Those requirements are reasonable.

Mr. Brumleve: Yeah, they are reasonable. I mean, they present a right-sized scaffolding on which to start talking about this.

Mr. Dickerson: I understand your issue with the zoning code and trying to address everyone, but I do like the conditional use and bringing it to you guys so you can see the drawings that we create and what it looks like.

Ms. Evans: Christine, What do you think about a timeline?

Ms. Celsor: We could maybe have a planning commission meeting in a couple of weeks and have the law director present and take your comments into account. He could hopefully make a recommendation on how we could amend the code in a kind of simple way for now to allow accessory dwelling units as a conditional use.

Discussion: Density Limit in Planned Development District

Ms. Celsor read the staff memo into the record:

The Planned Development District allows for flexibility in the zoning requirements where the result will be a higher quality development. However, the zoning code states that "in no case shall the density in the planned development be increased by more than ten dwelling units per acre."

City Council approved a TIF for a multi-family development to be located at River's Edge on the vacant parcel between Target and the cinema. If the project moves forward as proposed, a density variance would be required to be authorized by the Board of Zoning Appeals, in addition to the project being reviewed as a Planned Development by Planning Commission and City Council. Staff believes that review by Planning Commission and City Council would be sufficient, and that it is not typical to have a density cap in a Planned Development District.

Staff would like to get feedback from the Planning Commission as to whether a text amendment should be initiated to remove the density limit in the Planned Development District.

Ms. Evans: I think it's going to be a great development.

Ms. McKnight: I definitely can see where 10 units the acre doesn't fly for most.

Ms. Celsor: The way the code reads is kind of confusing. There's a certain density allowed in the multifamily district, so that's eight dwelling units per acre. Then my interpretation is the planned development district can increase that by up to 10 dwelling units per acre. I think if you maxed both of those out that would get you to 18 dwelling units per acre.

Ms. McKnight: And what did they ask?

Ms. Evans: It's going to be about 300 maybe.

Ms. Celsor: Yeah. They're looking at 30 dwelling units per acre. 346 units.

Ms. Evans: It's about a 50 to 60 million dollar project.

Ms. Celsor: So, if we leave it as it is, they would need to go to Board of Zoning appeals to get a density variance.

Ms. Evans: It'd add an extra step that I would think wouldn't be necessary if they have to come to us anyway.

Ms. McKnight: If we changed the regulation to make it work for this district, are we opening up a situation that we don't anticipate on another piece of property in another location? Sometimes the density can be written that you can get additional units per acre for doing additional things.

Ms. Celsor: There's a section that's in the planned development district that I think was written after Riverwalk where you can increase up to 10 additional units. It is based on certain criteria. There's the density increase for different criteria. So, location, you can get a maximum increase of three dwelling units per acre. Environmentally sensitive, you can get maximum increase of five dwelling units. It is trying to encourage certain design features, but I see what you're saying because this was done for Riverwalk and now this doesn't work for River's Edge.

Mr. Brumleve: I'm in hazard by bringing this up but I'm going to try to navigate this carefully. I think I recall that when Milford Main property was being approached for the senior tower almost, I remember bridling at the almost voodoo mathematics that the developer had managed to apply to that. It was an astonishing density that could have happened. That's why when I just hear no limit, I'm kind of like...

Mr. Price: Would there be particular places that are zoned in a particular way where it might be more problematic than not? Could you distinguish it by somehow zoning?

Ms. Celsor: I guess another approach would be to change the minimum density in the base zone. I mean, you could do that in the R-5.

Ms. McKnight: Just having something in the code that allows us to say no - if we were to want to say no someday. You can't anticipate what you might want to say no to, but it's not hard to imagine that you might want to say no to something then.

Mr. Brumleve: But it seems like your request goes to whether or not there's an intermediate step with the BZA.

Ms. Evans: What's the zoning on the Parkway?

Ms. Celsor: It's B-3 PD with a planned district overlay, but it's a very old planned district from the nineties. They would be doing a new planned district. They'd be doing a zone change to R-5 with a new PD overlay. In the planned district, the section where it allows you to have whatever setbacks and so forth says minimum lot areas, frontage, and yard requirements may be waived by a planning commission provided that the overall density standards required in this chapter are maintained, and that the planning commission determines that the proposed development complies with the intent of this chapter. You could still have that, the proposed development complies with the intent of this chapter. I think you could probably still deny something if the density was inappropriate by saying it doesn't comply with the chapter.

Ms. McKnight: I'd like to hear the law director weigh in on his ability to defend that.

Ms. Evans: I'd hate for them to have to do an extra step here, but at the same time, I don't want to open it up to some future problem.

Ms. Celsor: What I'm hearing is we probably don't want to do the text amendment.

Ms. Evans: I mean, I wouldn't mind it, but I do agree that what you said, that statement, that kind of gives us a little bit of teeth, but it's not very strong for future cases.

Mr. Brumleve: What are our options in this commission for escalation? I mean, when we say we don't have enough to say one way or the other, and we want this to escalate, our next level up is going to be city council.

Ms. Evans: City council can approve it anyway. And that's what happened with Milford South. That's why it came to council, or Milford Main.

Mr. Price: So over the next year while they're looking at different zoning issues, would this kind of thing be addressed in it as you would move forward?

Ms. Celsor: Yes.

Mr. Price: I mean, then it just does make sense, given that it won't add that much time, for us not to do anything and let it go to BZA?

Ms. Evans: She was saying BZA is going to have an issue, a reason to allow it.

Ms. Celsor: It might be difficult for them to make the decision because they're I think probably the first step. It's just kind of awkward that they're reviewing this huge development...

Ms. Evans: If it came to us and we allowed the density, like you said, since we're redoing the code update anyway, then could we put something in the new code update that would prevent it from the future?

Ms. Celsor: Yes. And this came up in the kickoff meeting with the consultants for the zoning code update. They were surprised that we had a cap in the planned development, We didn't have a big discussion on it. That's just where I learned that it sounds like it's not typical to have a cap on density in the planned development.

Ms. Evans: Yeah, because to me, planned development, it's a case-by-case basis.

Ms. Celsor: Yeah, but then Lois's point is good - make sure we've got the teeth if you want to deny something that you have grounds to deny it. So, that's kind of a separate question that I don't know the answer to.

Mr. Brumleve: But not only grounds, but also authority.

Ms. Celsor: Right. That's what I mean.

Ms. Evans: To me that would be a Bryan question, like they said that they typically don't have caps, but we do. But if we don't, how would we back that up?

Mr. Price: So in places that we might perceive it problematic, would there be other factors at play? Like [inaudible 00:59:06] sells the fountain store property and they want to put a mixed use in it. Well, it's a maximum 45 feet tall, right? So would there be other things in places where we could think it might be an issue that would squelch it anyways? Right? You can't build a 10-story building on Main Street.

Ms. Evans: What would happen if BZA would deny it?

Ms. Celsor: Then they wouldn't be permitted to do the development.

Mr. Price: Can they appeal it though to council, then? Do you know what that chain of command looks like?

Ms. Celsor: Any party adversely affected by the decision of the board may appeal to the applicable court of common pleas of Clermont or Hamilton County. It's quasi-judicial.

Mr. Brumleve: I know we broached this just a half an hour ago, but, I mean, what is going to be the timeline for getting the text amendment even through?

Ms. Celsor: It would be similar to the timeline that I outlined for the accessory dwelling unit. So, if we could have a meeting in a couple of weeks to iron out what we would want then there'd need to be the 30 day notice for the public hearing for planning commission, and then 30 day notice for public hearing for city council.

Mr. Brumleve: So that puts it at two and a half months.

Ms. Evans: Versus the potential though that it might have to go to court, which could be years. I mean, that SEM Villa case, I think they finally have dropped it I think because of all the court issues. I would hate for them to have to go to court.

Mr. Brumleve: Can we talk about taking the density limit off of consideration specifically as it relates to R-5? Help me out here. I need to know what the parameters might be.

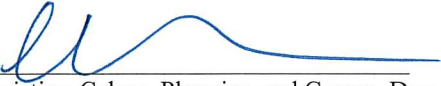
Ms. Evans: Yes. Can't we just change the density of R-5?

Mr. Brumleve: Yeah. We can unlimit it.

Ms. Evans: Unlimit R5, because like I said, I mean, obviously, like Brad said, you can't build 20 stories tall. Other things are going to limit the density.

Ms. Celsor: Right. That makes a lot of sense. Yes. I think that's a great idea. And let me just look at R-5 and see what the other restrictions are so you know what the other parameters are in that. R-5. - maximum height is 35 feet, so no matter how dense couldn't be more than 35 feet without a variance. We can see what the law director thinks, of course. And see if he sees any pitfalls.

There being no further business or comments to come before the Planning Commission, Mr. Price made a motion to adjourn the meeting at 7:10 PM, seconded by Ms. Evans. Following a unanimous decision, the ayes carried.


Christine Celsor, Planning and Comm. Dev. Coordinator


Lois McKnight, Chair

CITY OF MILFORD
PLANNING COMMISSION MEETING
March 8, 2023 6:00 p.m.

SIGN IN SHEET

NAME	ADDRESS
Andy Dickerson	5440 S. Milford Rd
Rachelle Rapp	5440 S. Milford Rd

