

## **PLANNING COMMISSION MINUTES OF April 5, 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, April 5, 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, Mr. Wenstrup, and Mr. Price.

**Staff:** Ms. Celsor, Planning and Community Development Coordinator and Mr. Pacheco, Law Director.

**Visitors:** Tim and Annette Moots, 302 Liberty Avenue, Wapakoneta, Ohio, 45895; Andy, Rachelle, and Virginia Dickerson, 5440 South Milford Road; Bruce and Julie Bishop, 313 Main Street.

### **Minutes Approval:**

Mr. Brumleve made a motion to approve the March 8, 2023 minutes, seconded by Mr. Price. Motion carried 4-0.

### **SITE 23-02 313 Main Street, Minor Building Improvement**

Ms. Celsor read the staff report into the record:

**Project:** 313 Main Street, Minor Building Improvements

**Location:** 313 Main Street

**Applicant and  
Property Owner:** Bruce Bishop  
5769 Mildred Lane  
Milford, OH 45150

**Acreage:** .168 Acres

**Tax Parcel Id:** 210710A044B

**Zoning:** MRD Milford River District

**Existing Use:** Bicycle shop

### **ADJACENT LAND USE AND ZONING**

*All adjacent property is zoned MRD, Milford River District.*

### **Minor Building Improvements**

Planning Commission will review a request submitted by Bruce Bishop to replace the existing cedar shingles on the façade with a metal standing seam facade. Modifications visible from the public right-of-way require approval by the Planning Commission.

The proposed brown metal standing seam facade appears to be in keeping with the character of the Milford River District.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Minor Building Improvement.

**Mr. Bishop:** I'm the landlord for 313 Main Street, the bicycle shop. The shingles out in front of the bike shop have really deteriorated. They look badly and I wouldn't call it a roof, I'd call it a facade because it really doesn't cover anything. While we're here, we'd also like to get permission to change the

color of the building. It's kind of a I would describe a dark beige with a tint of yellow to it. We'd like to change it to more of a chocolate brown.

Mr. Wenstrup: The front facade has brick and you would keep that, correct?

Mr. Bishop: Yeah.

Ms. Evans: Okay. And so the metal would just go over where the shingles are now, not that top part?

Mr. Bishop: The old ones have to be removed, there's plywood underneath that.

Ms. McKnight: And then to Mr. Brumleve's question, can you clarify if it's the performance panel, the R panel or the series 2000 standing seam panel?

Mr. Bishop: They're going to have seams about 24 inches apart.

Mr. Brumleve: Okay. That's the standing seam. Excellent. Thank you.

Mr. Wenstrup: Is the material going to be, it's metal obviously, is going to be steel or it's going to be aluminum?

Mr. Bishop: Steel.

Ms. McKnight: So your request is to replace the cedar with the standing seam and then also to paint the other three sides of the building?

Mr. Bishop: Right.

Mr. Brumleve: If we take the color description as recorded and has been recorded, I would say that should be a worthwhile amendment to an approval for the painting of the building.

Mr. Bishop: I wanted to mention that my tenant is responsible for the signage, and he wants to paint bishop's bicycles on the side of it. He seems to have very good taste. I think it'll look nice. But he also was intending on doing some graphics like maybe large bicycle sprockets on the side.

Mr. Brumleve: Then in that case we should defer that until we get that proposal.

Ms. Celsor: There's actually two pieces of that. The signage part actually requires a sign permit. The mural part would require approval by planning commission here.

Mr. Brumleve: And that probably becomes attendant to the change of color of the building as well. So that should probably go as a package in that case. So not that amendment as of tonight, I would say.

Ms. McKnight: So we would just stick with original application and let you come back with all your painting plans, at a future meeting.

**The Planning Commission voted 5-0 to approve the application Minor Building Improvement for 313 Main Street.**

#### **Discussion: Accessory Dwelling Units**

Ms. Celsor read the staff memo into the record:

Accessory Dwelling Units (ADUs) are not addressed in Milford's Zoning Code. Staff has received a number of requests from property owners who would like to add an ADU. Staff recommends a zoning code text amendment adding ADUs as a conditional use in the zoning districts outlined below.

1. Proposed definition: (to add to Chapter 1123) Accessory Dwelling Unit shall mean a self-contained dwelling unit designed for occupancy by one family for living and sleeping purposes that provides complete independent living facilities including its own entrance, kitchen or kitchenette, bathroom, and sleeping area; that is located on the same lot as a larger single-family dwelling that serves as the principal use of the lot; and whose use is subordinate and incidental to the larger single-family dwelling.
2. Proposed zoning districts to add ADUs as a conditional use:
  - a. R-1, Large Lot Residential District.
  - b. R-2, Single Family Residential District.
  - c. R-3, Single Family Residential District.

- d. MRD, Milford River District – also add ADUs as a “Major Building Improvement” under 1167.07(C) so that a neighborhood meeting would be required as part of the approval process in the Milford River District.
3. Proposed standards for ADU conditional use: (to add to Chapter 1195)
- a. An accessory dwelling unit may be located within a principal single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.
  - b. The accessory dwelling unit shall share all public utilities (water/ sewer/electric) with the principal dwelling unit. Accessory dwelling units will not be separately metered.
  - c. A minimum of one off-street parking space shall be provided on the lot for the accessory dwelling unit.
  - d. The accessory dwelling unit shall be limited in size to a maximum of 66% of the total living area of the principal dwelling or 800 square feet, whichever is less.
  - e. The accessory dwelling shall contain a living area, one bath, and a kitchen or kitchenette (including a refrigerator, microwave oven and/or stove, and sink) and may contain not more than one bedroom.
  - f. No new access points or driveways shall be created or installed for access to the accessory dwelling unit.
  - g. The accessory dwelling unit shall be in harmony and compatible with other buildings or structures located in the neighborhood.

And the Law Director is here to answer any questions.

- Mr. Brumleve: I notice you forwarded to us a copy of the, I don't know if it's newly enacted or about to be enacted, for Cincinnati. Using that as a benchmark, I noticed a differentiation in how you defined the area of the accessory dwelling unit as it relates to the size of the principal structure as opposed to the size of the lot area. Can you illuminate that briefly, please?
- Ms. Celsor: Yeah. So our thinking for how we put this together was we used the definition mostly from the City of Cincinnati's proposal, but then the standards for the conditional use were borrowed from the Yellow Springs ordinance, which we discussed at our last meeting, which everyone liked the Yellow Springs ordinance. So the standards for conditional use mostly came from the Yellow Springs ordinance. So it's kind of a combination of the two.
- Mr. Pacheco: Yeah, it's a hybrid.
- Mr. Brumleve: Yeah. And also another thing having to do with the off street parking is that was again one of those features from the Yellow Springs proposal.
- Ms. Celsor: That's correct. And it's worth noting that a new residence does not require any off-street parking. So certainly you could change any of these conditions that you feel don't fit right for Milford.
- Mr. Brumleve: When we took a review on the AARP guidelines in one of the main benchmarks they put in those guidelines had to do with whether or not something had been enacted at the state level. And we were in a state of uncertainty as to whether something like that had already happened at the state level.
- Mr. Pacheco: Great question. So it hasn't that I've seen yet. And even if it had, as a home rule municipality, Milford would have the ability to kind of, in so many words, do whatever it wanted short of other constitutional limitations. But in terms of defining it and adding parameters or taking away parameters, if you don't like some of these in here as a home rule municipality, you have the ability to recommend that to Council and Council can adopt it or not in so many words.
- Mr. Brumleve: And will we be workshopping this any further than this evening in any respect? I mean, are we to get to some sort of resolve about this this evening?
- Ms. Celsor: So the timeline, if tonight there was a motion to direct staff and law director to move forward with this, then the next step would be a public hearing at Planning Commission, which we have to have at least a 30 day notice. And then the next step is to go to City Council and there's a 30 day public notice required for that as well.
- Mr. Pacheco: Yeah, the trigger being we need to know what planning commission recommends and we don't yet know what you guys recommend yet. There would be two public hearings. One, obviously in front of this body that's a recommendation and then one in front of City Council. And then Council would with it would whatever the legislation was recommended.

Mr. Brumleve: Actually as far as the benchmarks are concerned with regards to side and rear yard setbacks and such, I understand how it relates to reusing, say, for an existing garage or I understand how that works. You'll have to refresh me, Christine, as far as accessory structures generally don't have the same side yard and rear yard setbacks as principal dwellings do. So how does this square with that?

Ms. Celsor: That's a good question. Accessory structures typically have a five foot setback unless it's on a corner lot and I think it's 15 on the street side. So I don't know. Do you think that would be considered an accessory structure?

Mr. Pacheco: So you raise a really good question there. Two ways to adopt it. You could treat it as an accessory structure. My problem, which is not a legal problem, it's a planning or suggestion for you all to consider is since that would be typically attached to the house, that would seem to be a little more onerous or it would be a little more obtrusive to the neighbor to allow that to be, if that's part of the main building it would seem to want to fit the setback of the building. That's not a legal opinion, that's kind of how I would feel that whole plan in perspective.

Ms. Celsor: Could we have something like if it's attached to the house, it needs to meet the principal structure and if it's detached it's considered...

Mr. Brumleve: Yeah, or existing. If it's already an existing accessory structure, it shall not further enlarge or further encroach.

Mr. Pacheco: Yeah, I like both of those.

Ms. McKnight: To your comment, Christine, on the parking spaces. I guess I'm a little concerned about requiring an off-street parking space for an accessory dwelling unit if we don't require it for the principal, especially when we don't allow them to have any new access points or driveways.

Ms. Celsor: Yeah, that would be pretty restrictive. I guess, would they be able to get a variance on something like that?

Mr. Pacheco: So where I was going to go was that could be... I'm trying to look at the conditional use provisions now while I talk. That might be because these have to come in front of you anyway. That might be a condition imposed by the Planning Commission in each particular instance and that may be a better way to do it anyway because you're looking at that particular site as opposed to legislating right now. Legislating something when you don't have it in front of you as opposed to you now have something in front of you, how does it look on the ground? It might be better, but let me keep the discussion, let me pull the conditional use provisions to take a look at that.

Well, and again, it's certainly Planning Commission if you don't feel like you've had enough time, it's certainly obviously within your prerogative to take as much time as you want and recommendations to us. Because one of the things I get a little concerned about is you guys come up with good ideas and I don't want to put together legislation on the fly. I want to also, A, put it together in the right way and B, bring it back to you to make sure we've accurately memorialized your thoughts and ideas about that.

Mr. Wenstrup: I think if we can look at each site on its own merit and if it's a small house on a small, small lot and or a big house on a small, small lot and they want to put something that's 66% up to 800 feet. Well, 800 feet kind of limits it.

Mr. Pacheco: So these are good points. Maybe what I would suggest, and Planning Commission can do what it will, but chapter 1195 has all the conditional uses. It might be helpful for you guys to look at 1195 and say it doesn't matter what we legislate here, if you make them ADUs and a conditional use, all of these are going to apply because they're conditional use. So there may be things in here that you feel like you don't need in this specific legislation related to ADUs. For instance, 1195.04 talks about all the standards for conditional uses that apply to all of them. But then you start going into 1195.05 and there's specific standards for each conditional use. And that goes, for instance, automotive service station, at animal veterinary hospitals. I mean, We're going to add ADUs to this specific, but my point is you may want to look at the conditional use general provisions to say, oh, okay, we can handle it this way as opposed to having to actually specifically legislate in the ADUs, you can legislate that or not depending on what you think the conditionally, the general conditional use provision provides.

- Mr. Brumleve: In the Cincinnati code the language, for lack of a better term, module that I was referring to is in that PDF that you sent us on page four. It's the items two and three. And I'll just read them out loud just so they kind of get into the record just so we know what they are. Item two in the Cincinnati. Detached accessory dwelling units are subject to the side and rear yard setback requirements for accessory residential structures in the applicable zoning district. That's one piece. Exception. The alteration of a legally existing accessory structure for the purpose of establishing accessory dwelling unit is not subject to setback restrictions provided that the establishment of the accessory dwelling unit does not expand the existing structure's footprint. There's the module. Following that is another thing that seems equally as important. An accessory dwelling unit established as an addition to a legally existing single-family dwelling, in other words if we're going to add wing to our house, must comply with all setback requirements for single family dwellings within the applicable zoning district. I think those two modules are about right.
- Mr. Pacheco: So I found what I was looking for, which is 1195.05 says, in any conditional use, the planning commission may prescribe appropriate conditions and safeguards in conformity with this code. So that would give you onsite specific issues. Maybe a parking issue or even a setback issue. Though frankly, I like defining it more than not and then doing it site specifically at least for that issue, the setback issue, I think that makes more sense to me.
- Mr. Wenstrup: So if I have a house on a lot and I build a little place with a kitchen and all the things that's required for my mom or my sister and they live there and then they kick the bucket and go on to a better place. And now I'm thinking, man, I could run a B&B with this because everything's there I need, is there a problem with that becoming a thing where... How's that? I know you guys probably talked about it.
- Mr. Pacheco: Well, the Airbnb is currently the short-term rental issue still is currently in litigation. So you might or might not be able to do it depending on what Judge Barrett does with it.
- Ms. McKnight: To John Wenstrup's point, there would be separate regulations. And you can have the structure, but what you do with it is subject to whatever regulations we have on the books at that time.
- Ms. McKnight: We are having a discussion and certainly open to hearing from anyone in the audience that might like to comment. Please state your name and address for the record.
- Mr. Dickerson: Hello. Andy Dickerson. 5440 South Milford Road. A couple comments. I think what you're proposing is interesting and neat. I think we're different than Yellow Springs. The 800 square foot restriction would be a problem for us just because talking to builders... In our circumstance we're looking for our mother. So then it's okay what happens when it's wheelchair time and then it's like the floor plan expands because you want a lot of room.
- So 20 feet by 20 feet and we were looking at two stories, but it would largely be storage or guest upstairs that 800 feet goes up, ticks away pretty quick. So I think if you could have improved that or increase that, that would probably help.
- We don't have a problem with that regulation. I know the American Planning Association was not limiting that in their guidance.
- But we would also be fine with the conditional use type of thing because we're unique. Like you say, we have a two and a quarter acre lot. So to be pigeonholed with 800 square feet when we have so much room would just be weird for us. So we'd probably be in front of you anyway if you pass the current legislation.
- Mr. Brumleve: To your point, I will say that using the Cincinnati benchmark, I'm seeing language which ends in whichever is greater. And in the Yellow Springs I'm seeing if this is the version of the Yellow Springs, I'm seeing whichever is less. Like I said, that kind goes to my first question, do we have a plan to workshop this in the short term?
- Mr. Pacheco: I mean, again, your discretion. We just need to know. I was just whispering to Christine that whatever it is that you guys tell us to do, give us items so we make sure we get back to you what you guys want.
- Mr. Dickerson: I think what we're looking to do is to indeed keep in character with the neighborhood and build something, but we're just trying to do it by the book. But there's no book. And just to wait for a

book to be written. We do want to start. So that's what we want to know how to do so we don't have to wait until winter to build. Thank you.

Mr. Wenstrup: How many square feet is your primary dwelling?

Mr. Dickerson: 4,500.

Mr. Pacheco: And Mr. Brumleve has brought the point yet. We have which ever's less. Now you change that with greater, than now you've got a whole different equation.

Mr. Brumleve: I do also notice in the Cincinnati model something about existing accessory structure, e.g. a garage permitted. In your particular case, if I recall, you're working with an existing structure.

Mr. Dickerson: That's one of our options is to add onto our garage.

Mr. Wenstrup: So I'm just curious. You got a 4,500 square foot primary building and 66% of that is just south of 3000 square feet.

Mr. Dickerson: We can't afford to build that. It's 120 bucks a square foot. We're not doing that. It could be a ranch with a basement that you drive into. And for us, quite frankly, Rachelle and I would look to move in there when we retire, something like that. But even making it 15 or 1600.

Mr. Moots: Tim Moots. And I actually live from Wapakoneta, Ohio. You're saying why am I here, right? But I actually own a property in Milford that I rent out. So very similar situation. Actually, my wife and me both retired and both our kids both live down this way. So we want to build an accessory dwelling. We own this property. We don't want to live into the property. Because I want to build also a barn for my RV. So I've read some of the code and so forth. I can build a pretty nice sized building for a garage. That's where I'm a little confused on this building size unless I didn't read something right. Because I can build a pretty big garage based on the code. But my garage is going to be way bigger than 800 square foot.

So I'm a little confused by that. Other than I know that's the living area, which I understand because we were wanting to do about 1,250 square foot. And what we were going to do was build a two bedroom, two bath, 1,250 square foot apartment in this building so that we could retire there and move here. That's kind of our plan. It's one Choctaw at Garfield Lane is where I live or not live, that's where I own, I should say. So it's a corner lot. So it's a really unique lot also and have a really big backyard. So it face Garfield the building, which would be the accessory building.

But I did hear a few things I guess that were said that what you currently have written in just where the utilities couldn't be separated and stuff like that. I guess that doesn't make... Or is that a necessity or is that something that can be modified to or not?

Mr. Brumleve: I think what it comes down to there is, if I'm getting the sense of this, it's not that it's necessarily, physically coming through one meter necessarily but that it goes to billed to one party is my guess.

Ms. McKnight: This says not separately metered.

Right. And I have beg the question, I'm not exactly familiar with your lot, but you're heading down the road toward doing a lot split and just having two separate pieces of property. So then you have to look at, okay, if it's not big enough to be two separate lots for two separate structures and yet you're asking us to basically allow you to put two separate houses on a lot.

Mr. Moots: Well what I guess where it started was it's zoned for a duplex. So you're allowed to have two properties on it now. It's just wanted the properties to be separate instead of together. That's all I'm asking, I guess.

Ms. McKnight: Okay. All right. Thank you.

It looks like setbacks was something we would like to flesh out more and the maximum size whether it's a flexible size or a fixed size or relatable size to some other known, the lot size, the house size, something.

Parking. Is parking something we need to talk about or we be okay on keeping one, requiring one or eliminating any requirement.

Ms. Evans: It needs to be a case by case basis because sometimes there's not maybe enough street parking where they would need their own. But then sometimes you can't have that. I don't know. Is there any language we can put in and make it more case by case?

Ms. McKnight: I would be reluctant to initiate a text amendment or recommend a text amendment be initiated on this language tonight and then say we will figure it out at our public hearing or we'll see how it works and then figure it out in a couple months when we know there are things that we'd like to figure out it.

**The Planning Commission voted 5-0 to continue the discussion on accessory dwelling units to a meeting scheduled for April 19<sup>th</sup>.**

**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."

In anticipation of the multi-family development to be located at River's Edge, staff asked the Planning Commission to consider removing the density cap from the Planned Development District. After consulting with the Law Director, staff does not recommend removing the density cap from the Planned Development District because the density cap provides clear grounds for denial of a project. Instead of moving forward with a text amendment at this time, staff recommends that as part of the zoning code update process consideration be given to revising section 1169.03(H) to include additional criteria that would allow for density increases under specific circumstances.

Mr. Pacheco: And Madam Chair, if I would just add on that I thought actually the code does a great job of density requirements. They're clear. They could ask the BZA. But they're clear and they give the applicant the understanding coming in. They also give the Planning Commission very clear guidance. Obviously it's Planning Commission's discretion, but I think you've got a good provision already.

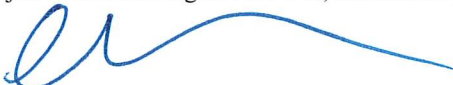
Ms. McKnight: Okay. So any project would have the option of seeking relief. But coming in, everyone knows what the expectation is and what the standards are that they've passed to work from. I like that. Discussion?

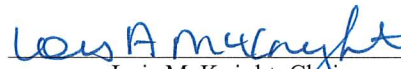
Ms. Evans: I mean, I agree. It's just that area is so different from the rest of Milford. But I agree. I mean, I understand.

Mr. Pacheco: So to the mayor's point, if that comes up where you have a site specific issue, BZA can address it on those and then also impose conditions on the variance.

Ms. McKnight: Okay. So no action needed on that item. If we're not doing anything, we're not doing anything.

There being no further business or comments to come before the Planning Commission, Mr. Price made a motion to adjourn the meeting at 7:13 PM, seconded by Mr. Wenstrup. Following a unanimous decision, the ayes carried.

  
Christine Celsor, Planning and Comm. Dev. Coordinator

  
Lois McKnight, Chair





CITY OF MILFORD  
PLANNING COMMISSION MEETING  
April 5, 2023 6:00 p.m.

# SIGN IN SHEET

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