



# **KC&MP&ZC MINUTES**

---

## **KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION**

### **REGULAR MEETING**

**June 2, 2005**

**6:15 P.M.**

**NKAPC Meeting Room**

**2332 Royal Drive**

**Fort Mitchell, Kentucky**

### **MINUTES**

#### **COMMISSION MEMBERS PRESENT:**

Ms. Barbara Carlin – Kenton County

Mr. Barry Coates – Covington

Mr. Paul Darpel – Edgewood

Mr. Chuck Eilerman - Covington

Mr. Tom France - Ludlow

Mr. Al Hadley – Elsmere

Mr. David Hilgefard - Villa Hills

Mr. Mark Hushebeck – Lakeside Park

Mr. Phil Ryan – Park Hills Mr.

\*Ms. Maura Snyder – Independence

\*Mr. John Wells – Ft. Mitchell

Mr. Paul Swanson, Secretary/Treasurer – Erlanger

Ms. Alex Weldon, Chairperson - Covington

\*arrived after roll call

**COMMISSION MEMBERS NOT PRESENT :**

Mr. James Bertram - Taylor Mill

Mr. James Cook - Kenton County

Mr. Mike Denham – Bromley

Greg Scheper – Crescent Springs

Mr. Bernie Wessels – Ft. Wright

Mr. Joseph Price, Vice Chairman - Crestview Hills

**LEGAL COUNSEL PRESENT:**

Mr. Matthew Smith, Esq.

Mrs. Weldon, Chair, called the meeting to order at 6:15 p.m. The meeting was opened with the Pledge of Allegiance and an invocation by Mr. Eilerman.

**AGENDA:**

There were no changes noted to the agenda.

## **APPROVAL OF THE MINUTES:**

A motion was made by Mr. Hadley to approve the minutes from May. Mr. Hushebeck seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Hushebeck, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Ryan and Mr. Swanson in favor. Ms. Carlin and Ms. Weldon abstained. The motion carried.

## **FINANCIAL REPORT:**

There were no questions or comments.

## **ACTIONS SINCE LAST MEETING:**

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. No action taken.

Mr. Schwartz introduced the members of Staff, both new and current, and gave a brief background on each as to their individual duties with the NKAPC.

## **PUBLIC HEARINGS:**

### **1738R**

**APPLICANT:** City of Villa Hills, per Sue Kramer.

**LOCATION:** N. A.

**REQUEST:** Proposed text amendments to the Villa Hills Zoning Ordinance, modifying the regulations pertaining to the location of storage buildings and private garages/carports.

Staff recommendations and Staff presentation by Mr. Andy Videkovich.

## **NKAPC STAFF RECOMMENDATION:**

To disapprove the proposed text amendments.

## **Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

## **Supporting Information/Bases For Recommendations:**

1. The proposed text amendment modifying the regulations pertaining to the location of storage buildings is unreasonable and unnecessary. To restrict the location of accessory buildings to a specific area of the rear yard and require storage buildings to be located directly behind the primary structure would overly restrict an individual from using their property in the most economic and efficient manner.

Currently, the Villa Hills Zoning Ordinance permits storage buildings within the rear yard only, and must be set back from the rear lot line a minimum of twenty (20) feet and required side yard clearances must be maintained. These current setbacks for storage buildings are sufficient to provide a reasonable separation.

2. The proposed text amendment modifying the regulations pertaining to the location of private garages/ carports, is not consistent with the definition of an accessory building or use. The Villa Hills Zoning Ordinance defines an accessory building or use as one which:

a. Is subordinate to and serves the principle building or principle use;

b. Is subordinate in area, extent, or purpose to the principle building or principle use served;

c. Contributes to the comfort, convenience, or necessity of occupants of the principle building or principle use served; and

d. Is located on the same lot as the principle building or principle use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

Attached garages would be considered a part of the principle structure and therefore, would not meet the definition of an accessory building or use.

## **Additional Information:**

The proposed text amendment, in Section 9.10, C., 1., a., uses the term 'back yard'. While it is the recommendation of the NKAPC staff that the proposed text amendments be disapproved, if the KCPC or the legislative body take action to approve the proposed text amendment, this term should be changed to 'rear yard'. The term 'rear yard' is consistently used throughout the zoning ordinance and is defined in Article VII.

Ms. Julie Schuler registered to speak on the issue.

Ms. Schuler addressed the Commission and stated she would like to see the sheds behind the homes and

not on the sides. She stated the current text amendment allows for the sheds to be on the side of the properties. She also noted it decreases the property values for those who spend thousands on a sun room and their neighbor has a shed directly across to look at. Ms. Schuler also noted some have storage garages on cinder blocks and she feels this takes away from property values. She further stated she is on city council and numerous people are coming to council complaining about the sheds. She then submitted pictures depicting the types of sheds and detached garages on cinder blocks. Mr. Hilgefurd stated he was under the impression that the sheds were part of the zoning ordinance as to accessory structures. Following the discussion on the matter, Mr. Hilgefurd made the motion to approve the wording relating to accessory buildings with a recommendation that the word "adjacent" be removed from that particular sentence. Mr. Wells seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. Hadley, Mr. Wells and Mr. Swanson voted in favor. Mr. Darpel, Mr. France, Mr. Hushebeck, Mr. Ryan, Ms. Snyder and Ms. Weldon voted against. The motion passed with a vote of 7-6 in favor. Mr. Hilgefurd then made the motion regarding the second portion of the application to disapprove based on the fact that it is more appropriate for the wording to be under conditional uses. Mr. France seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. France, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells, Ms. Swanson and Ms. Weldon in favor. The motion carried unanimously.

## **PF-96**

**APPLICANT:** Kenton County Public Library.

**LOCATION:** An approximate 5.6-acre site located on the north side of Walton Nicholson Road between Madison Pike and Cadillac Drive, approximately 250 feet west of Madison Pike in unincorporated Kenton County.

**REQUEST:** Public facility per KRS 100.324—proposed site plan review for a future branch library.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

### **NKAPC STAFF RECOMMENDATION:**

To approve the proposed Site Plan, but only subject to compliance with the following conditions:

1. That landscaping, consistent with the requirements of Section 9.17 of the Kenton County Zoning Ordinance, be provided along the north and east property lines of the site in question, abutting the R-1B Zone.
2. That a minimum of ten (10) percent of the front yard, along Walton Nicholson Pike, be landscaped.
3. That the proposed building not exceed forty (40) feet in height.

4. That access to the site in question be provided with a left turn storage lane.

5. That the site in question be allowed to install one (1) Class 7 sign.

### **Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

### **Supporting Information/Bases For Recommendations:**

1. The submitted Site Plan meets the minimum requirements of the Kenton County Zoning Ordinance, except for the following:

a. Section 9.17, E. requires landscaping to be provided between developments within the RC Zone and uses within residential zones. The site in question adjoins the R-1B Zone along the north and east properties lines. The submitted site plan does not indicate any landscaping within these areas. It is recommended that landscaping, consistent with the requirements of Section 9.17 of the Kenton County Zoning Ordinance, be provided along the north and east property lines of the site in question, abutting the R-1B Zone.

b. Section 9.17, E. requires a minimum of ten (10) percent of each yard that abuts a public right-of-way to be landscaped. The submitted site plan does not indicate any landscaping between the proposed building and the right-of-way of Walton Nicholson Pike. It is recommended that a minimum of ten (10) percent of the front yard, along Walton Nicholson Pike, be landscaped.

c. Section 10.21, C., 6. prohibits structures from exceeding forty (40) feet in height. Insufficient information has been submitted to determine compliance with this requirement. It is recommended that the proposed building not exceed forty (40) feet in height.

d. Section 11.3, A. of the Kenton County Zoning Ordinance states that reserved turn lanes shall be constructed by the developer at those access points where vehicles turning to and from an arterial street will affect the roadway capacity. The submitted site plan indicates the construction of an approximate 40,000 square foot library facility. It is anticipated and desired that this facility will be widely used, and as such, will have an impact on the capacity of Walton Nicholson Pike. Therefore, it is recommended that access to the site in question be provided with a left turn storage lane.

e. Section 14.7 allows developments within the RC Zone to be provided with a Class 7 sign. Insufficient information has been submitted to determine compliance with this requirement. It is recommended that the site in question be allowed to install one (1) Class 7 sign.

2. Section 10.21, C., 3. requires a minimum front yard setback of fifty (50) feet. The submitted site plan indicates a front yard setback of forty (40) feet. Due to topographic conditions along the northern boundary of the site, along with the proposal that no activity (i.e., off-street parking) will take place between the proposed building and Walton Nicholson Pike, the proposed forty (40) foot setback is reasonable. Additionally, given the location of a building on the corner property, located to the east of the site in question, the proposed forty (40) foot setback will provide greater visibility for the proposed library.

3. Section 11.3, F. states that unsignalized access points onto an arterial street shall be spaced a minimum distance of six hundred (600) feet apart. The submitted site plan indicates the construction of two curb cuts onto Walton Nicholson Pike, approximately 260 feet apart. Additionally, these two curb cuts are located approximately eighty (80) feet and two hundred eighty (280) feet from existing curb cuts onto Walton Nicholson Pike. As proposed, the eastern curb cut will be a one way in only movement, and the western curb cut will be a one way out only movement. This one way paired design will provide for a better and safer internal circulation pattern. Additionally, this one way paired design will accommodate for a drive – up book return window as part of the proposed building design.

Mr. Onkst and Ms. Anita Carroll registered to speak in favor of the issue.

Mr. Onkst addressed the Commission and stated the Erlanger branch will check out one million items this year and noted that no other library in the state will do so. He noted their goal is to give southern and central Kenton County a facility such as the Erlanger branch. He stated a landscaping plan was submitted with the plan and they will comply with the regulations. He stated they also agree that a left turn storage lane is necessary and they have worked with the city in securing the left turn lane. He noted they have not designed the sign yet but they will comply with all regulations. He then stated they appreciate the Commission's input on the matter.

Ms. Carroll addressed the Commission and stated she represents the Kenton County Public Library. She then noted the lower level will basically be used for storage and mechanical rooms and will not be open to the public. She also noted the success of the Erlanger branch prompted them to design the plan with two driveways and also the popular drop box accessible by car so patrons do not have to get out of their car to return items. She also stated they will have a drive-thru service window like the Erlanger branch since it is so popular with patrons there. She additionally noted the class 7 sign is a little like Erlanger's sign but it does not permit a sign like the Erlanger branch. She then noted they will comply with all regulations.

Following the discussion, Mr. Hadley made the motion to approve based on Staff's recommendations and conditions. Mr. Darpel seconded the motion. A roll call vote Mr. Hadley, Mr. Darpel, Mr. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgefard, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

**1739R**

**APPLICANT:** City of Independence, per Patricia H. Taney.

**LOCATION:** N. A.

**REQUEST:** Proposed text amendments to the Independence Zoning Ordinance: (1) modifying the minimum yard requirements within the NSC (Neighborhood Shopping Center) Zone and (2) adding regulations for landscape screening within NSC zones.

Staff presentation and Staff recommendations by Mrs. Melissa Jort-Conway.

### **NKAPC STAFF RECOMMENDATION**

To disapprove the proposed text amendments.

### **Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

### **Supporting Information/Bases For Recommendations:**

1. The proposed text amendment (1) modifying the minimum yard requirements within the NSC (Neighborhood Shopping Center) Zone and (2) adding regulations for landscape screening within NSC zones, are not consistent with the purpose of zoning regulations within the Independence Zoning Ordinance. Section 2.1 of the Independence Zoning Ordinance states that “zoning regulations and districts, as herein set forth, have been prepared in accordance with the adopted comprehensive plan to promote the public health, safety, morals, and general welfare of the city, to facilitate orderly and harmonious development and the visual or historical character of the city.” The proposed text amendments do not advance the purpose of promoting general public welfare and facilitating orderly and harmonious development. The existing yard and landscape screening requirements are appropriate to protect adjacent land uses from the encroachment of adjoining land uses.

2. The proposed text amendments (1) modifying the minimum yard requirements within the NSC (Neighborhood Shopping Center) Zone and (2) adding regulations for landscape screening within NSC zones are an attempt to utilize zoning regulations to hinder commercial development in areas zoned for commercial uses which abut residential zones. Staff determined that the proposed regulations would apply to two (2) properties at the Cherokee Shopping Center location, and one property at the Independence Town Center location. The proposed increase in the minimum yard requirement from fifty (50) feet to one hundred and fifty (150) feet would prohibit development on one property at the Cherokee Shopping Center location and severely limit the developable area of the remaining two (2) properties. The following table compares the developable acreage area using the existing and proposed



setback requirements:

Site	Site area	Existing setback	Proposed setback
1 – Cherokee S.C.	2.1	1.8	0
2 – Cherokee S.C.	5.1	1.1	.03
3 – Independence T.C.	20.6	15.9	8.1

3. The proposed text amendments (1) modifying the minimum yard requirements within the NSC (Neighborhood Shopping Center) Zone and (2) adding regulations for landscape screening within NSC zones are arbitrary regulations created in response to a site-specific issue within the city.

Mr. Ken Lancaster and Mr. Deters registered to speak on the issue.

Mr. Lancaster addressed the Commission and stated he is a private citizen representing the city. He noted the text amendment was obviously worded in error. He stated their intent with the text amendment was to clear up any abnormalities within the text. He then pointed out the errors with regard to the minimum yard requirements and also the landscape requirements. Following additional discussion on the matter it was suggested that the matter be tabled to allow time for the proper language to be compiled and also so that the city attorney could be contacted or consulted on the matter. Mr. Lancaster then explained the purpose behind the request for the text amendment.

Mr. Deters addressed the Commission and stated if the matter was going to be tabled he really did not have anything to express. He did note that the property being affected has already been divided into lots and the streets have been graded. Mr. Darpel then made the motion to table the matter for no more than six (6) months to allow for further examination of the text. Mr. France seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. France, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

**PP-565**

Staff presentation and Staff recommendations by Mr. Scott Hiles.

**NKAPC STAFF RECOMMENDATION**

3. Sight Distance Left for vehicles exiting the proposed driveway location is approximately 421 feet. Highway Department data indicates that the Posted Speed Limit for the portion of Senour Road fronting the proposed driveway is 45 MPH requiring Sight Distance Left of 500 feet for vehicles exiting the proposed driveway . Approving an access point that does not comply with Sight Distance Regulations would create a safety hazard.

**Additional Information:**

It is important to note that the inability to comply with Sight Distance Regulations eliminates the ability to locate a driveway along this portion of Senour Road to provide access to Lots #27, #28 and #29. An alternative means of access means of access that complies with Sight Distance Regulations must be provided.

Mr. Hiles pointed out that these types of issues were normally handled by the Subdivision Committee but as that process has been changed and the Commission eliminated, the waiver issues are now being presented to the Commission and any decision would be final.

No one registered to speak for or against.

Mr. France concurred with Staff on the issue. Mr. France then made the motion to deny as outlined in Staff's report. Mr. Hushebeck seconded the motion. A roll call vote on the matter found Mr. France, Mr. Hushebeck, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

#### **W-654**

Staff presentation and Staff recommendations by Mr. Scott Hiles.

Mr. Patrick Merten and Mr. Dave Bengal registered to speak in favor of the issue. No registered to speak against.

Mr. Merten addressed the Commission and stated they believe there are findings to allow for the waiver. He stated their company purchased the property from the city to allow for lots fronting on Independence Station Road. He noted that after review of the subdivision regulations they realized that would not be possible. He then demonstrated via pictures the areas in question depicting existing sidewalks as well as the topography in the area that would preclude sidewalks from being built or at least make them very costly to be built. He stated they felt it was necessary to explain their issue as to the sidewalk requirements.

Mr. Bengal addressed the Commission and stated they would have to go to a 3-1 grade on Independence Station Road to get the sidewalks in and he questioned the practicality of doing so. Mr. France stated the one opportunity to have sidewalks on Cody and Independence Station Road exists now and just because sidewalks do not exist now does not mean they are not important for the connectivity of the area. Mr. Hushebeck stated he does not agree with the topography issues as a reason to not have the sidewalks. Mr. France then made a motion to grant the waiver for the elimination of the left hand turn lane based on the traffic study and Staff's report. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. France, Ms. Snyder, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. Hilgefurd, Mr. Hushebeck, Mr. Ryan, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Darpel, Mr. Hadley and Mr. Ryan voted against. The motion carried with a vote of 10-3.

## **OLD AND UNFINISHED BUSINESS:**

### **Reports from Committees:**

#### **By-Laws**

Nothing to report.

#### **Subdivision Regulations**

Ms. Weldon stated they met and reviewed numerous housekeeping items and gave Staff permission for Staff to place the items on the agenda. Mr. Hiles noted the items would be on the August agenda.

#### **Model Zoning**

Nothing to report.

### **Report from Legal Counsel:**

Nothing to report.

### **Reports/Announcements from Staff:**

Mr. Schwartz stated by statute the City of Taylor Mill had sixty (60) days to make an appointment to fill the vacant position. He stated the city's time had expired and the city had requested that the Commission make that appointment. He noted the city is asking for the support of the Commission in appointing Bob Logsdon (no relation to Mr. Keith Logsdon on the NKAPC was noted). Mr. Wells made the motion to appoint Mr. Logsdon to the Commission. Mr. Hushebeck seconded the motion. A roll call vote on the matter found all in favor. Mr. Schwartz then noted that Mr. Logsdon would be contacted.

Mr. Schwartz additionally noted that Staff is aware of a large area of land that falls within two legislative bodies – Covington and Taylor Mill. He stated as such, two files will be created, two cities will review it and they will ultimately be charged two fees. He noted he is requesting a waiver of the second fee which is \$1,250.00. Mr. Eilerman made the motion to waive the fee. Mr. France seconded the motion. All in favor. None opposed.

Mr. Schwartz noted a continuing education form from the APA conference was submitted with no name on it and he asked that whoever it belonged to to please see him after the meeting.

Mr. Schwartz also stated Staff received two cell tower applications. He stated Staff has to take action within sixty (60) days. He stated this will make the time frame fall a few days short of the August

meeting, which would put the item on the July agenda. He stated he is asking the Commission to grant an extension to allow the item to be heard at the August meeting. Mr. Darpel made the motion to extend the time frame. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Ryan, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

Mr. Schwartz noted they are looking into liability insurance for the NKAPC and the Commission. He stated the quote is significantly less than they are currently paying. He stated they are hoping to have another quote for next month's meeting. He stated this was for informational purposes only.

Correspondence:

None.

New Business: None.

There being no further business to come before the Commission, a motion was made by Ms. Snyder to adjourn the meeting. Mr. Hilgefurd seconded. The meeting was adjourned at 8:27 p.m.

APPROVED:

---

Ms. Alex Weldon, Chairperson

Date \_\_\_\_\_