Planning & Zoning Commission
Tuesday, February 9, 2021 - 6:30 PM
MINUTES

1. Call to Order

   Committee Chair Ryan Green called to order the Planning and Zoning Commission meeting for February 9, 2021 at 6:32 p.m.

2. Roll Call

   Present - Chairman Ryan Green, Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman
   Absent - None

   Staff present - Bailey Klimchak - Village Planner, Jim Blair - Zoning Inspector, Marvin Block - Council member, Mayor Chip Dutcher, Yazan Ashrawi - Law Director, Teresa Monroe - Clerk of Council

   Public present - John Luke, Jerry Pulley, Jason Smith, Maria DiPaolo Jones - Court Reporter with Integrity Reporting Group, Inc.

3. Pledge of Allegiance

4. Public Comment on items not on agenda

   No public comments.

5. Approval of Minutes

   a. January 26, 2021

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| **ACTION:** | Ryan Green moved to Approve; Jon Merriman seconded and the vote was as follows: |
| **AYES:** | Ryan Green, Ron Danne, Jesse Coppel, Jon Merriman, Benjamin Lee |
| **NOES:** | None |
| **ABSTAIN:** | None |

**Passed 5 - 0**

6. Zoning Inspector

   Jim Blair's report was submitted with the packet materials; it was noted that the village is already at twenty five percent of the number of homes permitted last year.

7. Zoning Appeal Hearing

   Village Law Director Yazan Ashrawi stated that this was an appeal filed by Mr. Pulley and this matter is governed by Section 1125.06 of the Johnstown Codified Ordinances which is the process laid out by the village for an appeal of the Zoning Inspector determination. In this case a determination was made by the Zoning Inspector regarding the construction of

what has been referred to as a "tiny house" on property in a residential neighborhood. The determination was made that there was no permitting process or any other requirement to conduct this activity; that determination was then timely appealed to the Planning and Zoning Commission. Mr. Ashrawi said this is a quasi-judicial evidentiary hearing, meaning the Planning and Zoning Commission will act as a decision making body; this requires that the Commission act in an unbiased manner and make decisions only based on any evidence or testimony presented to the Commission here today and that based on the code section, the Commission has forty five days to issue its determination.

There was further procedural instruction by the Law Director and it was noted that a stenographer and court reporter was present to make a complete record and transcript of the proceeding.

Law Director Ashrawi asked anyone who intended to testify to stand, raise their right hand and be sworn in; Mr. Ashrawi administered the oath.

Statement testimony summarized as follows:

1. Jim Blair - Johnstown Zoning Inspector and property code official.

- Provided background on an email request by resident (John Luke) at 6 Westview Drive to build a tiny home in his driveway and actions taken to date. Mr. Blair said the resident referenced Johnstown Village Ordinance 1175.11 in his request which governs parking of trailers and recreational vehicles on residential property. Mr. Blair said he then reviewed village codes for what might apply to the request and found there was not anything that said he could or could not do it. Mr. Blair said he discussed with the Village Planner and decision was made that the request would be allowed with certain conditions on the project being built in his driveway; he said he listed conditions he thought would be appropriate and the resident agreed to work within the parameters given. Mr. Blair added again that he could not find anything that this would be violating in the village ordinances.
- Chairman Green asked what the parameters agreed to were. Mr. Blair read his email response to Mr. Luke; conditions were 1) project completion within one year of start date and relocated from the property 2) when not working on it, the project would be covered with a tarp 3) working hours allowed are 7 am to 6 pm 4) keep area neat and clean, rid scrap weekly and do not block the public sidewalk.

2. Jerry Pulley; Appellant - 11 Lewis Drive

- Said the Zoning Inspector seems to take the approach that if something isn't prohibited, then it's allowed; his contention is that if it isn't allowed, it is not permitted. Stated this was all being done with a handshake as far as he could see and is unsure what zoning this is being approved under because (Jim Blair) said

there is no zoning that applies to it. Mr. Pulley said if nothing applies to it how can you apply anything to it; how will this be enforced, when is the beginning of the year and what happens if it is not finished in the year.

- Referenced zoning code 1141.02 land uses and said he did not think it was the intent of any residential zoning to let someone build another home on that land to take somewhere else and not consider that a construction site and not a residential use. Said when looking at other zoning code laws such as non-conforming use and home occupancy rules, you are not allowed to do something detrimental to the general environment of the area as he considers this to be.
- Concern for noise and litter blowing around and for vehicles having to be parked on the street to free up the driveway.
- Stated his biggest concern was what was going to happen when it is done and if it is not moved. Knows this is something new but how is something approved that's not allowed in the ordinance; it's like if it's not prohibited you can do anything you want to do. What are the penalties if agreements made are not fulfilled?
- Stated that the land use doesn't fit the residential environment.
- Asked Mr. Blair what the penalties would be. Mr. Blair said he could take Mr. Luke to Mayors Court for violating the written agreement. Mr. Pulley asked if there is nothing in the zoning code that prohibits this, how can you take him to court; what regulation lets you take him to court for something not covered by zoning? Mr. Blair said he would have to review; it's an option but there might be other options, he has never faced this situation before but said he trusts Mr. Luke with his word.
- Said again his biggest concern is this will never get finished or Mr. Luke will not adhere to the rules.
- The current issue is nothing allows this and nothing prohibits it so Mr. Blair takes the approach that he is allowed to do it; nothing's been issued, he has never paid anything to get it done. Mr. Blair said he (Mr. Luke) did not even have to ask or make us aware; he could have just started on it. Mr. Blair provided some examples of other things that would be allowed or prohibited in a driveway.
- To him constructing a home would come under some zoning and using a driveway for a use that is not a normal residential activity. If this doesn't come to fruition as believed what happens then? How do you take him to court for not adhering to something that is not covered? What gives Mr. Blair authority to put conditions on something that doesn't even need a permit? Mr. Blair said he put those conditions on as a "gentleman's agreement", he did not have to do that and could not have told him it could not be built. Mr. Blair said Mr. Luke tried to do the right thing by asking and since we could not tell him he could not do it, this was his way of letting him know we had interest in what he was doing.
- Just doesn't see how this is allowed, absurd that because something is not prohibited it's allowed. Building a house in your driveway is not a normal residential activity.

Commission member Jesse Coppell confirmed the zoning code Mr. Pulley referenced. Mr. Coppell asked if Mr. Pulley had noted a history of commercial activity on the property. Mr. Luke objected to the question as irrelevant. Mr. Pulley said last year Mr. Luke started

making planters, had part-time help doing it and allowed people to pick them up there. Law Director noted for the record this was irrelevant and should not be considered for this matter.

3. John Luke - 6 Westview Drive

- Clarified the project as being a twenty four foot gooseneck trailer, the project will be completed and then moved to an RV park while their home is listed and sold; this will never be lived in while at 6 Westview Drive. There is enough space in the driveway for the trailer, plenty of build room and all three of their vehicles and has no plan to take up any additional street parking unless he is raising a wall or something that takes up a large portion of it at that exact time; not something he is looking to have affect a lot of street parking. Mr. Luke provided some background on their decision to build a tiny house. Said he uses the word trailer instead of tiny house because the complete project from beginning to end has a legal definition of a trailer. Referenced Johnstown Ordinance 301.48 and definition of a trailer and said all of the requirements for the project on the trailer will be within the definition of a trailer no matter what is affixed to the top therefore the regulation that applies to the situation is Ordinance 1175.11 which governs the parking of trailers and recreational vehicles on residential property. Mr. Luke reviewed the ordinance and how his project complies as a simple trailer improvement.
- Addressed the appellant's statement that this is not an intended use of a residential zoned area and is not permitted by 1141.01 of the zoning code. Said after consultation with an attorney he was informed that the term land use in this context means the use of the land as further defined by zoning ordinances, which as stated previously, the land use defined by the zoning ordinance provides a clear picture that this is not prohibited in a residential area. Provided examples of projects that would be and are regularly accepted in a residential area.
- Stated his whole goal was to be reasonable for the entire process by reaching out to zoning to make sure he was working within the rules and that agreeing to the limitations even though not required were just the decent thing to do, he has no issue with those. Stated his project hours would be more like 9:00 am to 6:00 pm; plans to keep the property clean by using his garage for storage of materials and is looking at use of a large tarp designed to keep projects dried in.
- Addressed the appellants claim that this project would reduce the property values and the area in general. Mr. Luke said he reached out to the Licking County Appraisers Office and was told by an appraiser that he had never heard of a temporary project impacting a property value when returned to its original state and for this to even be an aspect, the appellant would need to be selling their property within one year and if that were the case he would be open to holding off on the project.
- Addressed the claim that the action is unique to the appellant as it is directly across the street; Mr. Luke said that is untrue, the view would be shared by about three other properties and referenced a statement by Doug Cook at 25 Westview Drive

who said his only objection would be that this would be an ongoing manufacturing site. Mr. Luke said it was never his intention and will not build more than one. Mr. Luke said another resident stated they had no issue as long no-one would be living in the tiny house on the property. Also told by a neighboring renter that they had no issue with it as long as their parking was not taken.

- Ended by stating he is not trying to be unreasonable, just trying to stay within the rights and obtain their dream; he has followed all legal paths and will be as courteous as possible. He assured the commission that he planned to continue to be a reasonable neighbor and welcomed anyone to stop by in a personal setting and check out the tiny home as the build goes on.

Law Director said Mr. Pulley has the opportunity to ask further questions.

4. Jerry Pulley; Appellant - 11 Lewis Drive

- Asked if it was allowed to take a tiny home down the road. Mr. Luke said yes as long as the trailer maintains 8 1/2 foot of width or under and 13 foot 6 or under it is a legal trailer.

Chairman Green asked if there was anyone online with statements or other documentation; there was not.

Commissioner Ron Danne asked questions as follows:

- Asked Mr. Blair if there was a permit issued; Mr. Blair answered no.
- Asked if there could have been a permit issued; Mr. Blair answered no.
- Asked Mr. Luke to confirm this was a one-time build; Mr. Luke answered absolutely.
- Asked what the finished dimensions would be; Mr. Luke answered that the trailer is eight foot wide and the final dimensions would just be a hare under eight foot six and right about thirteen foot tall; overall length will not go beyond the trailer, the tongue is seven foot, the trailer is twenty four and no expectation to go beyond that.

Village Law Director stated the Commission will now ask to enter into a Deliberative Executive Session because this public body is acting in a quasi-judicial decision making matter and are entitled to deliberate the decision in private.

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| **ACTION:** | Chairman Green moved to enter into Deliberative Session; Jon Merriman seconded and the vote was as follows: |
| **AYES:** | Ron Danne, Jesse Coppel, Jon Merriman, Ben Lee, Chairman Green |
| **NOES:** | None |
| **ABSTAIN:** | None |

**Passed 5 - 0**

Chairman Green said they will be rendering a written decision on this, they will not come to a decision tonight, and they have up to forty five days to do so. It was clarified for the record that for purposes of this matter there would be no other discussion or decision making after the Commission comes out of Deliberative Session.

The Commission returned to regular session at 8:12 p.m.

There were no further comments or discussion on the matter.

8. Other Business

   None

9. Adjourn

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| **ACTION:** | Ryan Green moved to Adjourn; Ron Danne seconded and all were in favor. |
| **AYES:** | Ryan Green, Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman |
| **NOES:** | None |
| **ABSTAIN:** | None |

**Passed 5 - 0**

Meeting adjourned at 8:13 p.m.