

City of Bay Village
PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE
March 21, 2022
6:00 p.m.

Members Present: Councilman Peter J. Winzig, Chair
Councilwoman Lydia DeGeorge
Councilman Michael Greco

Also Present: Building Director Eric Tuck-Macalla
Director of Public Service and Properties Liskovec
Law Director Barbour

Audience Nick Dios, Chairman of Tree Commission, Debra Jesionowski and Dave Patzwahl, (Tree Commission Members), Tara Wendell, Sean and Bev Crowley.

TREE ORDINANCE

Chairman Peter J. Winzig called the meeting to order at 6:00 p.m. He introduced the members of the Committee and acknowledged the presence of public officials as well as members of the Tree Commission and residents.

Mr. Winzig stated that at the last meeting of the Planning and Zoning Committee meeting held Thursday, March 10, 2022, some of the final details of the proposed document were reviewed. When the March 10 meeting adjourned the committee had reached the section relative to permitting and had a brief discussion about including permitting which was part of the recommendations that came from the Tree Commission.

Mr. Winzig stated that he had the Clerk of Council send out a notice to all of the Clerks of Council in Northeast Ohio asking if they currently have a permitting process on their books, and if it involves a fee and what becomes of those fees. A copy of that inquiry along with the links provided by the clerks for access to their tree ordinances is attached to these minutes. Mr. Winzig noted that in general most cities that responded do have a permit. All of them do not charge the residents for removing trees on personal property.

Mr. Winzig stated that there are two different types of permits. One is protecting an area that might be clear cut. Using the Red Oak area as an example, Mr. Winzig noted that the developer had property and went in and clear cut trees to make room before he built. Many of the communities that provided information have a provision that says there must be a survey, it must be detailed, they must identify any trees that will be removed. Many communities add on a fee for removal with requirement that the trees are to be replaced on the property. If the trees cannot be replaced on the property the money is put into a fund and that fund is then used by the City to replant somewhere else. This was the same idea that was put forth by the Tree Commission of Bay Village.

Mr. Nick Dios, Chairman of the Tree Commission, sent Mr. Winzig a document from the City of Delaware, Ohio, which was the guideline they had referenced when they put together the draft recommendation for the Tree Ordinance. The idea behind it is that as a City, for a development, a piece of property that is going to be developed, there would be a procedure to survey the land, have it reviewed by either the Building Department or Service Department, and it is most likely part of the Building Permit process. It is very clear that under those circumstances construction cannot take place without this being approved, stamped and paid for. This serves as a good guide for the City of Bay Village.

Mr. Winzig stated that the question is if a residential property wants to put on an addition, do we want to recommend in the revised ordinance that they, as well, would have to be involved in paying for trees coming down and being replaced. In some of the cities around the country, there is a recommendation or guideline that says if a tree is taken down there is an opportunity to replant on the property if there is space. This may apply in areas where there is more land available, but may not apply in Bay Village. In the event that replanting is not possible, could then be a cost for replanting a tree that goes into a fund that the City would then use.

Mr. Winzig asked the members of the Planning and Zoning Committee for their comments, which he noted are important before starting to write content for the revised Tree Ordinance to share with the rest of City Council.

Ms. DeGeorge stated that if we are discussing a plan that needs to be presented for private property and the recommendation for tree replacement, either on the property or by contribution to a tree fund, stated that she does not want to penalize the residents for having the right to remove trees as they see fit.

Mr. Winzig stated that a simple example would be when a homeowner wants to put on a patio and there are a number of large trees in the way and they decide to remove those trees to put in the patio. They would probably require a permitting process from the Building Department for construction of the patio. It could be attached to a tree identification type of permit. Will they pay a fee for doing that? Mr. Winzig stated that some communities charge a flat fee, and some communities charge a fee plus a per tree fee based on breast height diameter.

Ms. DeGeorge stated that is what our City is trying to do which has been determined after many conversations that it is probably not the way to proceed on the residential side.

Mr. Winzig noted that it would be envisioned on the commercial side where larger property is involved.

Mr. Greco stated that being new to this, and while going out and campaigning, this issue was 50% of the topic brought forward by residents. Mr. Greco likes the option of the permit and even if it is only \$5.00 it gives the City an opportunity to survey what trees are coming down. That money would be put into a fund for a tree bank for replacement of trees.

Mr. Winzig asked for thoughts from the audience, noting that what the committee would need to do is create the language necessary in the ordinance for permitting. For the benefit of those in

the audience, he stated that the one section is referred to as Commercial Property, Undeveloped Residential Property, and Properties formed by Division, Sub-Division or Demolition of Existing Dwelling. This category would have a more formal contractor permit. The section for Removal of Protected Trees on Residential Property would not be included.

Mr. Sean Crowley, 26508 Bruce Road, asked Mr. Winzig if the committee is still looking for someone to put in money to a tree fund if taking down a tree on their property. Or has that been dropped and just a permit is required?

Mr. Winzig stated that there would be a permit for the tree removal. Normally in construction there is a building permit process. As part of the process there would be tree identification so the resident and the City is aware of what takes place. But, the committee is not recommending a fee per tree approach.

Mr. Crowley repeated his question, asking if it is not required any more for a resident to replant or put money into a fund in any case.

Mr. Winzig stated that this is what the committee has discussed.

Mr. Crowley confirmed with Mr. Winzig that a permit would only be required if taking down a tree in conjunction with a building project such as a deck, patio or addition. If you just have trees that are getting too big and you don't want them anymore, you can just do what you do today?

Mr. Winzig stated that the committee would still like to have a permit process to alert the City that a contractor is coming on the property, that there is going to be traffic and potential traffic management, and safety issues, an alert to the neighbors, and a record that the tree was taken down, whether you are building or not. It would be a large tree removal process where a contractor is involved. With that, there would be a recommendation to the Tree Commission that they would post on the website guidelines for selecting the proper contractor, the importance of safety within the project, and clean removal of the material on the property. Oftentimes, you have seen property where a tree would come down and the material stays on the property for an extended period of time.

Mr. Crowley asked if the requirements will be based on a certain height or diameter of a tree.

Mr. Winzig stated that most of the guidelines are in the ordinance, referring to a breast height of diameter of tree measured four and one-half feet above the base of the tree. Most of what the committee has looked at was the six inches or greater. This is what has been found in documents provided by other communities.

Mr. Crowley asked if a permit will be required.

Mr. Winzig stated that he would think so, and asked Ms. DeGeorge and Mr. Greco for their comments. Ms. DeGeorge stated that this would follow the same procedure as when you do certain things in your home that require permitting. It would be specific based on size, but the

committee may have to redo that section to take out, for example, something that just showed up based on something that was there.

Mr. Winzig stated that the example from the City of Delaware reads:

“This Chapter shall apply to trees that have a minimum of six inch diameter breast height, also known as major trees.”

Mr. Winzig called upon Director of Public Service and Properties Liskovec for his thoughts. Mr. Liskovec stated he had nothing substantial to comment on at this time.

Building Director Tuck-Macalla asked if there will be a penalty for not getting a permit. Mr. Winzig stated that they would have to work that out specifically. Some cities on the contractor/developer side have a per tree penalty and others have a bond that is held.

Mr. Tuck-Macalla stated that he is thinking more of a resident. For a contractor to be required to have a survey and depositing money for trees is easy to do. The difficult part is having a resident required to get a permit to take down a tree. For every one that comes in there will be four or five that will not.

Mr. Winzig stated that one site he looked at and thought very helpful from a resident standpoint was the City of Strongsville. On the Tree Ordinance section on their website they have four blocks at the top of the page that say Residential, Contractor, Dead or Diseased, Storm Damaged with little graphics with each. When you click on the block of interest it takes the person to the specific category and explains the purpose, what it was trying to do, and in the event there was storm damage a procedure for the process. The way they handle the communication for the residents is very good. That would just have to be backed up with whatever we put in an ordinance. The method was very easy to understand.

Mr. Nick Dios, Chairman of the Tree Commission, commented that he does not want to go into the direction of trying to regulate what homeowners can do and not do with their property. The main focus is to preserve the City's canopy. This isn't about controlling what is done, it is more for the greater good. If someone gets a permit, it starts conversation. If it is a six inch tree, or even a two inch tree, at least you have the permit process going and it starts the conversation with a professional in the City. It is not to say that you can't do this. Knowing from experience, sometimes that conversation can lead to shining a light on something that maybe the homeowner didn't know.

Mr. Winzig stated that in the event there is a replacement tree, there are trees that are recommended in the City of Bay Village. Are their trees cleared by the Arborist or Tree Commission? In many communities it is a lengthy list of trees recommended for planting and trees that are invasive.

Mr. Liskovec stated that tree species recommendations sometimes change yearly or even more frequently. That would be a reference to the State of Ohio provided documentation.

Mr. Winzig stated that the thought on the permit form itself may have language that states the purpose, the idea of preservation and restoration of the canopy. Recommended trees could be a document that rides with the permit so that a resident who has to come to the department or download a form on line it would be linked to that document and possibly the documents that the Tree Commission puts together. We have talked about the Cleveland Tree Plan, and the information concerning pruning. We are trying not to put that necessarily into the ordinance but to have it as an information document for the resident.

Mr. Crowley asked if it matters if the tree is dead.

Mr. Winzig stated that in the ordinance there is language we found that the City, for a dead or diseased tree, could contact a resident and come on to the property and identify that the tree needs to come down. It would still require a permit.

Mr. Winzig noted that there was correspondence from the Commission concerning Oak Wilt and the appropriate time to prune and to not let that material stay in the yard because it has the opportunity to spread disease.

Mr. Winzig stated that the Planning and Zoning Committee is at the point now to reassemble the Tree Ordinance and submit it to the Law Director to format. The Planning and Zoning Committee will review it, and give a copy to the Tree Commission to make sure it does not deviate from their mission of what they are trying to accomplish, and then bring it before the Council of the Whole.

Mr. Greco asked if the permitting process gives the Tree Commission the statistics about what type of tree that came down. Will we know how many went down, and how many were taken down from the year?

Mr. Winzig stated that on the contractor side, that will be part of the survey. There would have to be further thought and discussion about the resident side.

Mr. Greco stated that it seems like there would be an opportunity to create a survey of what came down for a particular year.

Mr. Barbour stated that he cannot remember what the permit says about the time allowed, whether it is the same day, 24 hours, etc. For example, if a building permit is issued it has to be posted for a number of days and work cannot start work until a certain period of time passes. He suggested this is something the Planning and Zoning Committee should think about because if the idea is to educate the consumer it might be another step to talk about in more detail in connection with the permitting process. Also, who is going to issue the permit, the Service Department, or the Building Department.

Mr. Winzig stated that on the contractor's side, in the event that the permit was denied, will there be an appeal process?

Mr. Barbour stated that he was thinking more of the permit required of the residential

homeowner to remove a tree, outside of the construction process. Just the basic tree removal. The way it typically works is you call a tree company for removal and they tell you they will be out sometime in the next two weeks. They call sometime during that waiting period and tell you they will be there the next day. You would want to fulfill your goal of educating the resident, and in so doing you would want that permit process to take place in advance of the contracting coming in to remove the tree. The contractor does not care about being educated.

Mr. Crowley stated that if you need a quick turnaround and a contractor is in the area for someone else and is able to do your tree you would want to go to city hall and get a permit rather than wait two weeks. You are not going to want to require someone to post a permit for two weeks to take down a tree; it should be a quick turnaround.

Mr. Barbour stated that this might be something to discuss. Perhaps there would be no posting requirement. But, that is something that will have to be put in the ordinance so a situation is not created of uncertainty and there is an enforcement issue.

Mr. Nick Dios stated that ordinances in Strongsville, Parma and Lakewood there is the ability to get a permit immediately and the city personnel will review on site within 24 hours.

Ms. DeGeorge noted that the issue we are struggling with is the availability of the inspector to be available to visit the site. She noted that if the ordinance says the Director or his designee so if we designate Building Director he can designate the Service Director who can designate someone in his department, as long as there is a starting point for the resident of who to contact first.

Mr. Winzig advised that he will take the notes from what we have covered in the last couple of meetings as well as the conversation this evening and generate a redraft to review.

Mr. Greco asked if there will be options regarding the time frame and the designation of the grantor of the permit.

Mr. Winzig suggested that the committee members visit the sites listed on the document distributed this evening and if there is anything they might see that this committee could capture and share for the next meeting.

Mr. Barbour stated that it would be permissible for the committee to share anything they find with each other, but refrain from recommendations outside of a public meeting.

Mr. Crowley asked for an opportunity to review the draft of the ordinance created before it is submitted to Council.

Mr. Winzig stated that it would normally be posted as part of the Council packet. The draft will be a working draft to share with the rest of Council for their feedback before it goes back to the Law Director for final construction of the ordinance.

Ms. DeGeorge stated that the intent is to also put the ordinance back in front of the Tree

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Commission so there would be an opportunity to attend the Tree Commission meeting. The Tree Commission meets on the second Tuesday of the month at 7 p.m. at the City Hall.

Mr. Winzig stated that there has been discussion about the Cleveland Tree Plan and the standards mentioned therein. Those will be used as a resource reference but necessarily as a requirement for both the residential side and the contractor side.

Mr. Winzig thanked everyone for their comments and attendance and the meeting adjourned at 6:32 p.m.

Peter J. Winzig, Chair

Joan T. Kemper, Clerk of Council