

Economic Development Minutes

Honorable Council
City of Newark, Ohio
March 13, 2013

The Economic Development Committee met in Council Chambers on Monday March 11, 2013 following the Service Committee meeting. These members were present:

Rhonda Loomis, Chair
Jeff Rath
Bill Cost Jr

Doug Marmie
Carol Floyd for Marc Guthrie

We wish to report:

1. Ordinance 13-05 amending Article 4: Definitions and Article 16: RS Suburban-RL Low Density-RM Medium Density-RH High Density Single Family Residence Districts of the Zoning Code of the City of Newark, Ohio was considered.

Mr. Cost- stated this was an amendment that he had been involved with alongside of Steve Layman on the Board of Zoning Appeals and the Law Director, Doug Sassen. He explained it had come to their attention some single family homes are being used in ways which weren't originally intended for a single family residence. For example, if someone has a lower level of their home that was designed with the intent of being a mother-in-law suite, allowing extended family to reside in their home, but instead the lower level is used to rent out to another family entirely. He explained that they are trying to stop this from going on and keep a single family residence used as a single family residence. The approach to doing this is by defining family more clearly and by the utilities, meaning if there are separate bathrooms and/or kitchens. The definition of Boarding House is being more clearly defined.

Mr. Rath- asked Mr. Cost to explain the changes that are proposed specifically.

Mr. Cost- read out of the Zoning Code the original definition of family and read the proposed language change in comparison. He also explained they removed a boarding house as a permitted use and made it a conditional use where by the applicants will have to go in front of the Board of Zoning Appeals to use the residence as a boarding house. A home occupation is listed as a conditional use as well.

Lesia Best- asked if there was a difference between a rooming house and a boarding house.

Mr. Cost- supplied yes there is a difference. A boarding house is owner occupied and a rooming house is not.

Ms. Best- asked how it was going to be enforced and who was going to enforce it.

Mr. Cost- said what he was proposing was that if someone wants to use their home in that way they will need to go in front of the Board of Zoning Appeals that will be the proactive approach. The reactive approach would come from a neighbor complaint regarding a home being used other than a single family dwelling. The Board of Zoning Appeals would be monitoring this.

Ms. Best- stated her main question was regarding the relationship of the other family living in the home.

Mr. Cost- stated if it was someone other than a relative such as a grandparent, in law or child it wouldn't be permitted unless approved by the Board of Zoning Appeals.

Mr. Marmie- stated that the Zoning Code defines family as by blood or law.

Mr. Rath- asked for clarification on the definition of family where it states "or a group of not more than 4 unrelated persons living together in a dwelling unit." He asked if he was the owner of a home and he asked two or three of his friends to move in and share the house payment that isn't considered a boarding house but if he asked four of his friends it would be.

Mr. Marmie- stated there was confusion of the definition of family and boarding house. He explained that the "family" definition is going to be applied in the zoning classification of single family residence district. He further explained that boarding house has its' own definition.

Mr. Rath- stated his concern to be where the definition for family stops and boarding house begins. According to the definition of family if not related stops at 4, more than that it is considered a boarding house.

Director Sassen- stated the definition of family includes 4 individuals who are not related, if you have 5 not related individuals you have then exceeded the definition of family that is permitted for that area. He stated they spent a lot of time trying to come up with a definition to close the gap up, does it, probably not however one of their principle purposes was to come up with a definition which wouldn't have an adverse effect on other types of housing arrangements that they don't want to prohibit. For example the Department of Developmental Disabilities has a number of homes around the City of Newark; many are in single family zoned areas where they have 4 disabled unrelated adults living together in a family like setting. That is not something they wish to prohibit. They could have eliminated the situation that Mr. Cost brought up by changing the definition of family to eliminate the 4 or more individuals not related. He stated they would have cast their net far from broad and would have caused more harm than good. What they are now trying to do is tweak the language so the gap gets a little narrower to address the specific issue Mr. Cost brought up initially which was someone taking what was designed in the construction of the home of what is referred to as a "mother-in-law suite" and renting it out to a guy and his brother or a guy and his wife. He clarified the burden is on the state to prove whether the individuals are related or not, they don't have to come in to the City offices.

Mr. Rath- said he talked to Mr. Cost about this and he doesn't have a problem with people living together to share the expenses, especially during these economic times today, but to take a house that was originally designed for a single family dwelling, sub divide it and have separate entrances, separate kitchens, separate bathrooms, basically turning a house into a duplex in a single family residence he doesn't have a problem with restricting.

Law Director- said he didn't know whether the gap was tightened enough or not and that we would find out if someone challenged this at the Board of Zoning Appeals. He also stated that his biggest concern was casting the net too broad and catching people

we didn't intend to, therefore he doesn't think he drafted the legislation as tight as Mr. Cost wanted. He wasn't sure if the Board of Zoning Appeals would interpret the definition the same way he did.

Mr. Cost- advised everyone that when he spoke to Steve Layman, on the Board of Zoning Appeals, wanted to do was make the phrase boarding house was made as a conditional use. He stated Mr. Layman was more comfortable with boarding house being a conditional use.

Law Director- clarified that what this does is not prohibit it you just have to get permission. He then further clarified that this change only applies to areas in the city which are zoned single family residence.

Mr. Cost- also clarified that the same was true for in home businesses.

Lesa Best- asked if the new Zoning Code Official would be responsible for enforcing this.

Law Director- responded yes

Lesa Best- what happens if someone is found to be in violation of the code.

Law Director- explained the Zoning Code prohibits certain uses and if someone is using their property in violation of the Zoning Code then what the enforcement mechanism was designed to do was to stop it from happening not to sanction having it happen. If the City had evidence showing that was happening he said he would take a non-confrontational approach of notifying the property owner that whether they knew it or not they were in violation of the Zoning Code and must stop. If they did not comply then it would take a court order.

Lesa Best- is the property owner responsible or the tenants.

Law Director- said the property owner was responsible to bring his property into compliance.

Lesa Best- stated she felt that the change was vague.

Mr. Cost- said again the intent was not to harm those that had a need like Departments of Developmental Disabilities or those who have extended family members living with them but to keep someone from blatantly disregarding the code.

Lesa Best- asked what the intention was to do since she knew what the intention not to do was.

Mrs. Loomis- stated the intent is to keep a single family residence from becoming a duplex.

Mr. Cost- said that if he bought a single family home and he bought it for that use the way he looks at it, is would I want that next door to me. His answer was no. He said that he is trying to keep the property values and the condition of the housing in Newark as good as we can keep them. If this change helps even a little bit than it is one step towards trying to improve the conditions of the city and property maintenance.

Motion by Mr. Marmie to send to full to Council, second by Mr. Rath
Motion passed by a vote of 5-0.

Rhonda Loomis, Chair

