

PLANNING, ZONING & BUILDING COMMISSION

CITY HALL

September 9,

24

**The City of Cortland Planning, Zoning & Building Commission met on Monday, September 9, 2024 at 6:50 P.M. at the City Administration Building, 400 N. High Street, Cortland, Ohio. In attendance were the following board members: Chairman Donald Fatobene, Curt Moll, Frank Daugherty and Robert Wilson. Also present were Mayor Deidre Petrosky, Service Director Kim Blasco and the following individuals:**

**Christopher Johnson**

**267 Fowler St.**

**Cortland**

**Mayor Petrosky swore in new Commission Member Robert Wilson before the start of the Public Hearing.**

**Don Fatobene:** I'd like to call to order the Cortland Planning, Zoning & Building Commission for a Public Hearing. **31-24 Public Hearing** – The purpose of the hearing is to consider the proposed Occupancy Permit program in the City of Cortland. Public Hearing at 6:50 p.m. I want to state that this was sent out to the appropriate newspapers, and this was sent out to notify that there was a public hearing set at 6:50. It looks like there is no one here for this. If there is no one here to speak at our public hearing, can I get a motion to close it.

A motion was made by **Curt Moll** and seconded by **Frank Daugherty** to adjourn the **31-24 Public Hearing**.

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<b>Christopher Johnson</b>	<b>267 Fowler St.</b>	<b>Cortland</b>
<b>Jason McCollum</b>	<b>400 N High</b>	<b>Cortland</b>
<b>Beverly Bearich</b>	<b>4330 N Bend Rd</b>	<b>Ashtabula</b>

**Don Fatobene:** Welcome to the Planning, Zoning and Building Commission regular meeting. Can I get a roll call please.

**Roll Call:** Brian Hodor, absent; Robert Wilson, here; Curt Moll, here; Frank Daugherty, here; and Don Fatobene, here.

**Don Fatobene:** Let's welcome our new Commission Member Robert Wilson. I'd like to ask for the **Approval of Commission Minutes for the August 12, 2024 meeting.**

A motion was made by **Curt Moll** and seconded by **Fank Daugherty.**

**Roll Call:** Robert Wilson, abstain; Don Fatobene, yes; Curt Moll, yes; and Frank Daugherty, yes. **MOTION APPROVED.**

**Don Fatobene:** **32-24 – Discussion and Approval -** Occupancy Permit program in the City of Cortland. We did have a public hearing at 6:50 and there was no one that showed up to discuss. Can I have a motion please.

A motion was made for **32-24** by **Curt Moll** and seconded by **Fank Daugherty.**

**Don Fatobene:** First let's go out to the crowd before the commission discusses this further. Is there anyone here that would like to discuss this? No.

**Curt Moll:** We are going to discuss it this evening and the idea is that we are going to approve it. What if we introduce some ideas that need to be researched or changed?

**Don Fatobene:** Then I would think that we would table it to the next meeting. If it's something that we'd like to research further.

**Curt Moll:** I'm concerned that we really haven't had the opportunity to edit 2:23. I would ask for the opportunity to that unless everybody says it's just fine.

**Don Fatobene:** Part of the discussion was, would it be required when somebody has a property being sold as way of land contract. Is that considered an investment property? Just my thoughts, if I sell a property to you by way of a land contract, the property is still in my name. The way that this is written is; it is not my primary residence so it is a non-owner occupied property. To me, I would think that this applies. I know that there are different opinions on that.

**Curt Moll:** Another example that I can bring up is that I own some property that I let my daughter live in. She wasn't my tenant; she's just living there. It wasn't owner occupied. How would this be treated?

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**Don Fatobene:** I know that in other municipalities, that is still considered a nonowner occupied property, not a rental.

**Robert Wilson:** If I can interject, if you look at the intent of the language, the way that it is written, the title of it is 'Rental Occupancy Permit'. That's our litmus test. Is it really a rental? If we start getting into the weeds about what constitutes a rental, we could go down 18 million different scenarios. What I do like about it, this reflects what I think the city of Warren uses, is non-owner-occupied. What's nice about that language is... My mortgage is through 717, they own my house but there is nobody in this room that would say that I'm renting from 717. The litmus test is, is it really a rental property? There will be a gray area, I don't think that anybody in this room will be able to come up with a solution tonight. The non-owner-occupied is like a get out of jail free card.

**Don Fatobene:** I can tell you how banks and mortgage companies look at this. If I was buying a house for my son to live in, that would be considered a non-owner-occupied property. I would get the same interest rate and the same parameters on that loan as if I was financing an investment property. They don't classify rental/nonrental, it's owner occupied/ non-owner-occupied.

**Mayor Petrosky:** Got it, thank you.

**Frank Daugherty:** (regarding land contracts) I think that if you have a contract in place, that I have no legal right to enter their property. I am not a landlord. I cannot go in and do an inspection on them, they have a purchase agreement with me not a rental agreement with me. The purchase agreement is different, it has different legal ramifications than a rental agreement. For me to tell them that they are going to give me \$200 a year more, and you are going to allow me to inspect your property. The only thing that has to happen is that they have 5 more years before they have completed their last payment. Their payment includes the taxes, the insurance, and all of that as if I were 717. Now those people have to subject themselves to background checks and inspections and they are owners of the property? I can't take that away, I can't enter that building. I have no right to tell them that I'm giving you 24 hours' notice and I'm coming in to inspect. So how do you apply these rules on a property that are no longer under these parameters? It doesn't exist here. I think that has to be addressed. You are telling me that I have to do this and this but by law I can't do those things. This is in conflict.

**Mayor Petrosky:** Okay. Do we do exclusions for land contracts? I can't imagine that there are a ton.

**Don Fatobene:** I wouldn't think that there are a ton, but you are going to run into some.

**Curt Moll:** Particularly as the interest rates go up.

**Frank Daugherty:** Another thing, on the page under maintenance responsibilities, a lot of rental properties have their own appliances. They bring their own refrigerator, washer, dryer. This paragraph says that we are responsible as a landlord. Does that include lawnmowers? That is letter g.

**Robert Wilson:** It does say appliances that are owned by the proprietor.

**Frank Daugherty:** And equipment.

**Robert Wilson:** Right, so if it's not owned by you, then you wouldn't be responsible. I hate to gloss over what you brought up about land contracts. There is nothing about that property that is rental.

**Frank Daugherty:** No, nothing.

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**Robert Wilson:** So, making an exemption specifically for land contracts; I'm not sure that's necessary because it is not a rental.

**Don Fatobene:** It's not a rental property but it's a house in his name; non-owner-occupied.

**Curt Moll:** You get to a point where the owner of the non-owner-occupied dwelling is responsible for the maintenance.

**Don Fatobene:** I can live with that point and if we wanted to exclude properties of land contracts.

**Curt Moll:** If you define a rental property in the beginning and have exclusions and inclusions, and it's clear, then you can refer to it all the way through the document as a rental property. Then you wouldn't have to worry about what else you say in here.

**Robert Wilson:** That's a great point. That can be right after "A", rental property definition.

**Frank Daugherty:** It's not the 200 bucks. I just think that these people are doing everything right and all of a sudden, I have demoted them to having their home inspected.

**Don Fatobene:** I would still use the term non-owner-occupancy; then put the provisions in there that may exclude them.

**Curt Moll:** You can define a rental property as something that is not owner occupied and not one of the things that we come up with here. Then you can refer to it as owner occupied all the way through.

**Don Fatobene:** I don't know. Again, let's say you bought a property and you have a family member living there. Just because they are not paying you rent, is that excluding them from everything that is a part of this?

**Curt Moll:** That depends on how you do it. If I'm going to let my daughter live in the house, I'm probably going to do all of the maintenance.

**Mayor Petrosky:** You are but it's not always like that.

**Curt Moll:** That's true. We've had situations where houses have been destroyed by grandchildren.

**Don Fatobene:** As of right now, I understand the land contract exclusion.

**Curt Moll:** I think that we need to make sure that we understand all of the ramifications. The other thing is that I don't think it is clear how much the owner is responsible for to update to code. As the code changes over years and years of occupancy, and all of a sudden, I need to go in and redo all the wiring in the house.

**Don Fatobene:** That is a safety issue, I would think. I wouldn't think that you would be able to buy that house.

**Curt Moll:** If you look at the electrical code now, it requires you to have breakers at every location of the house that isn't ground faulted.

**Robert Wilson:** That's for new construction.

**Curt Moll:** Right, it's code now. This thing says code so...

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**Frank Daugherty:** It's not clear.

**Curt Moll:** It isn't clear, that's all I'm saying.

**Mayor Petrosky:** Tell me what specific area you are speaking of please.

**Curt Moll:** It was in the inspection part.

**Robert Wilson:** The part about life and limb, that comes later on (I-#7), about "the authority to approve the disconnection of utilities". (inaudible) that would be an immediate concern. I am not trying to go over you but, the nature of the inspections, has that been worked out? Who is going to be doing that and what they will be looking at?

**Curt Moll:** It talks about, refer to chapter 310 of the current Building Code regarding Residential group – R.

**Mayor Petrosky:** That was changed in March and it has to do with the fire code. (Mayor leaves to retrieve her notes.)

**Frank Daugherty:** I don't just think that this document is ready.

**Don Fatobene:** No, that is why we need to discuss this and table it until the next meeting at least. My guess is that we would review it after changes are made. This is a few months away.

**Frank Daugherty:** We need this to be right. I think that it's too generic, boilerplate.

**Curt Moll:** If there is a code violation, a safety issue, then it would be something that you'd have to get upgraded before you could rent the property. If you go into a house that is 150 years old, your going to find lots of things.

**Mayor Petrosky:** (returns) We are looking at physical standing, number 4. It should read, refer to 2024 Ohio Building Code Chapter 10 means of egress, and it gives the section number, emergency escape and rescue for appropriate egress requirements.

**Curt Moll:** That's for below grade.

**Mayor Petrosky:** Correct. We use the same building codes as Trumbull County, which uses the same building codes as the State of Ohio, which uses the same building codes as the international building standards so it's not that we are doing something totally odd.

**Curt Moll:** No, the concern is, a house built in the 70s does not meet the current code. It's not that old and it's probably not unsafe. To say that I can't rent that property because it isn't up to this current code, I think could be a problem.

**Mayor Petrosky:** Yes, but in a situation like this, where they are making modifications where you need... This is a safety issue.

**Curt Moll:** Yes, if it's a safety issue, I would say so. Obviously, they wouldn't have changed the code unless there was a safety reason for it.

**Don Fatobene:** My concern is, we don't address this and then we have a fire. I'm just using the electrical code as an example.

**Mayor Petrosky:** Right, that's where I got this, the Fire Chief and I were working on this and that was one of his safety issues.

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**Robert Wilson:** There is an indemnity clause at the end of this that basically says at no point are we responsible for what happens inside. The question I do have is who does the inspecting?

**Mayor Petrosky:** Our Associate Service Directors Jason McCollum and Michael Smith. Now they are out doing exterior property maintenance code violations. Once we get that buttoned up, along with the lead pipe issue for the EPA, then we can move on to working on this.

**Robert Wilson:** There is a difference between building up to code and making an existing electrical installation safe. I don't think that there is anything in here that says when you go to do an inspection on a rental property, that it needs to be brought up to the 2024 code. Maybe we need language to say, with the intent to make it a safe dwelling or something.

**Curt Moll:** Yes. What are you going to do if you go into a property with knob and tube wiring?

**Robert Wilson:** Well, there is no way to make that safe. That ship has sailed.

**Curt Moll:** That means that you cannot rent the property.

**Frank Daugherty:** (inaudible) had knob and tube and the insurance company made them replace it or they were going to drop them. You would think that the insurance company would have checked on the wiring and said that you can't be insured.

**Curt Moll:** I think that we need to spend some more time on this.

**Don Fatobene:** Yes, maybe have a separate session just to go over this.

**Curt Moll:** I would invite Council to come and discuss it. Otherwise, we are going to go through the same thing when it gets to Council.

**Don Fatobene:** I'd like to look at another city's program.

**Kim Blasco:** A lot of this is based on other communities that works.

**Curt Moll:** I would make a motion to table this and have a work session.

**Don Fatobene:** Can I have a second.

**Robert Wilson:** I can second that.

A motion was made to **table 32-24** by **Curt Moll** and seconded by **Robert Wilson**.

**Don Fatobene:** Can I have a role call please.

**Roll Call:** **Curt Moll, yes; Frank Daugherty, yes; Robert Wilson, yes; Don Fatobene, yes. Tabled.**

**Don Fatobene:** Let's move on to **33-24 – New Sign** - Pole-mounted sign, 55 sq. ft., 17ft. in height, existing internal lighting - 650 S High St. Refacing only, height and size approved by a variance in 2017. Is there someone here that would like to speak on this topic? Come up to the podium and state your name and address.

A motion was made for **33-24** by **Curt Moll** and seconded by **Robert Wilson**.

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**Beverly Bearich:** My name is Beverly Bearich(?), 4330 N Bend Rd in Ashtabula for Sesco Imaging sign approval.

**Don Fatobene:** Just give us a brief explanation of what you are looking to do here.

**Beverly Bearich:** We are just replacing panels on the pole sign. The cabinet and the pole are going to be staying the same; it fits into the old cabinet. The cabinet and pole will be painted the appropriate green and white for BP. Looking at the building today, they have already started the outside renovations that the owner wanted. The gas pumps are going up, so that's a sign.

**Curt Moll:** The sign company is Blair?

**Beverly Bearich:** No, Blair is True Energy North's company that sends it to us at Sesco. We are contracted with them.

**Frank Daugherty:** We had dealt with the sign on the side of the building. Has ownership changed?

**Beverly Bearich:** I'm not sure about that. We don't always know the ownership. We are dealing with True North Company.

**Kim Blasco:** Ownership did change. Everything was shut down and they moved out for a while. It was only vacant for a few months and then the new owners came in. It is BP and when this went through previously it was for BP signs as well.

**Frank Daugherty:** Thank you.

**Don Fatobene:** Any more discussion, questions or concerns? No. Can I get a roll call please.

**Roll Call:** Curt Moll, yes; Don Fatobene, yes; Robert Wilson, yes; and Frank Daugherty, yes. **MOTION APPROVED.**

**Don Fatobene:** Next, moving on to **34-24 - Consolidation** – Lands of Angelina Louise Gualandi & Christopher Johnson. Part of outlots 109 & 110 – Cortland Village Map, Plat Volume 5, Pg 24, Cortland City, Trumbull Co, Ohio for the purpose of installing a shed at 267 Fowler.

A motion was made by **Frank Daugherty** and seconded by **Curt Moll.**

**Christopher Johnson:** My name is Christopher Johnson, 267 Fowler Street. I'm going to put in a shed. I need extra space, a place to put some stuff. I know that it has to be 10 feet off the property line. It will be that off the back and way more than that off the sides.

**Kim Blasco:** A shed can't be on a vacant property so combining them allows him to put it where he'd like.

**Christopher Johnson:** The center line was right where I wanted to put the shed.

**Don Fatobene:** Any questions from anyone?

**Roll Call:** Robert Wilson, yes; Frank Daugherty, yes; Don Fatobene, yes; Curt Moll, yes. **MOTION APPROVED.**

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**Don Fatobene:** Next Kim is going to give us an update on Rock Springs Reserve Development.

**Kim Blasco:** The engineer submitted final drawings and I looked at the water, sanitary and storm, and roads. I replied to them with a few minor comments regarding the water and sanitary. They will submit to the EPA for the PTIs for both water and sanitary. I still have the road and storm to finish going through. I wanted to make sure that they got a head start on water and sanitary because it is a 4-to-6-week process to get through the EPA. They addressed all of my previous comments, which were about 2 pages from their original set of drawings. They have complied with all of my requests. I am very happy about that. Everything is in compliance; minimum slopes, maximum slopes, depths, drop manholes, and so on and so forth. I don't know when they plan on getting started with this. My best guess is probably spring. We are progressing and I think that once it gets started, it will move pretty quick.

**Don Fatobene:** That's fantastic. Kim and I had a conversation this week, thought it best to give an update. It's been a while since we had a full development put in here in Cortland. I think that the last full development was the development across the street.

**Robert Wilson:** Kim, how many lots are going to be there?

**Kim Blasco:** About 35 in Phase 1. There will be 2 phases according to the preliminary plat that they sent in. Right now they are doing the first 35 and then maybe they will see how that goes before they develop the rest of it.

**Curt Moll:** Will they bring in a preliminary plat sometime?

**Kim Blasco:** A preliminary plat of Phase 2 once Phase 1 is complete. It will be another review process, start from the beginning again. We are working towards construction right now.

**Don Fatobene:** Thank you for the update. Does anyone else have anything to bring before the Commission today? Can I get a motion to adjourn?

A motion to adjourn was made by **Curt Moll** and seconded by **Frank Daugherty**.

**Roll Call:** Robert Wilson, yes; Curt Moll, yes; Frank Daugherty, yes; and Don Fatobene, yes. **MOTION APPROVED.**

**Meeting Adjourned: 7:28 pm**

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Chairman

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Date

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Secretary