

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON AUGUST 23, 2016 AT 5:00 P.M.

The August 23, 2016 meeting of the Ottawa Hills Zoning Commission was called to order at 5:00 pm. In attendance were Commission members Paul Bishop, Zac Isaac, Sam Zyndorf, Katherine O'Connell and Mayor Kevin Gilmore. Also in attendance representing the Village were Solicitor Sarah McHugh and Village Manager Marc Thompson.

In the audience were John and Karol Williamson, JoAnn McKelvey, Amanda Neuendorf, David Childers, Dr. Afser Shariff, Cheryl Freeman, James McGhee, John Keener, and Bobby Jorgensen.

Mayor Gilmore welcomed everyone to the meeting and asked if there was a motion to approve the minutes from the July 12, 2016 meeting. Mrs. O'Connell made a motion to approve the minutes. Mr. Bishop seconded motion and the motion passed unanimously.

Mayor Gilmore then administered the oath to John Williamson, JoAnn McKelvey, Amanda Neuendorf, David Childers, Dr. Afser Shariff, James McGhee, Bobby Jorgensen and Marc Thompson.

Mayor Gilmore asked Mr. Thompson to provide a report related to the variance request at 2928 Riva Ridge Rd.

Mr. Thompson described that the Shariff family hopes to remove the existing home at this location and rebuild build a new home. In order to build their new home they need variances related to the side yard, front setback and the garage location. Additional detail was provided with the understanding that the request for the side yard variance is to allow the side yard to be 15.3 feet. The front yard setback is proposed to be 40 feet whereas the average on Riva Ridge is 60 feet.

Mr. Thompson described that the existing side yard is identical to the proposed side yard and the existing front yard is 40 feet consistent with the front yard of the existing home which is to be removed.

The third variance is necessary because the applicants wish to have a portion of their three-car garage extend beyond the front of the home.

Dr. Shariff then addressed the Zoning Commission, confirming that the proposed home would be in the same location as the existing home, not any farther forward nor any closer to the house to the north. He said the footprint of the proposed home is actually smaller than the existing home and through a more efficient design they anticipate a very livable home with less square footage.

Mrs. O'Connell noted that the garage is a side load garage and therefore she had no problem with the garage extending forward somewhat.

After additional discussion Mr. Isaac made a motion to approve the side yard variance at 15.3 feet, the front line of the garage being in front of the main part of the structure, and the front yard setback of 40 feet. Mr. Zyndorf seconded the motion. Upon call of roll, the motion was adopted unanimously.

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The next item addressed by the Zoning Commission was a request for a fence material variance at 2274 Orchard Rd. Mr. Thompson described that the code stated that fences “shall be of a color and material which minimizes the visibility of the fence from surrounding properties”

The applicants wish to construct a 4 foot high white polyvinyl chloride fence along the rear of their property. The variance requested is related to the white plastic material proposed for the fence.

Mr. Williamson introduced his wife Karol and neighbor JoAnn McKelvey. He said that they are thirty-year residents of the Village and wish to replace a rusty chain-link fence along a portion of the rear and side of their property. They lost a lot of privacy because the deer have eaten much of the arborvitae that screened their property from the McKelvey property. Both neighbors agree that the proposed fencing would be acceptable as it will be an attractive, maintenance-free and durable fence no more than 4 feet above grade. Mr. Williamson provided the drawing of the proposed fence and reviewed exhibits. He stated that the fence would be 3 feet high solid material with a 1 foot lattice accent across the top for a total of 4 feet. He also indicated a willingness to take action to minimize visibility from Indian Road.

Mr. Zyndorf stated that he disliked chain-link fences but also does not like PVC fences. He has voted against every plastic fence brought before the Zoning Commission and is likely to vote against this fence, as well.

Mrs. O’Connell stated that she had just driven by and saw that a sample had been put in place. She expressed concern about plastic fencing but indicated that it is here to stay. She appreciated that the proposed fence was 4 feet in height and not 6 feet in height and that it complements the colors of the house. She said that she had no objection.

Mr. Bishop commented that consistency of enforcement was important and stated that this white fence or any other white fence of a different material would be a complement to the house and that he agreed with Mr. Zyndorf’s position

Mr. Isaac stated that he didn’t have a problem with this fence and said that it would not be particularly visible from the roadway

Mayor Gilmore stated that he didn’t like the white plastic fencing but that the Council has not precluded it yet through adoption of new zoning legislation. He also stated that only two people will be able to see the fence. Mayor Gilmore said that he wanted assurances that it would be hidden to some extent from Indian Road. Mr. Williamson replied that he would be happy to screen it from visibility from Indian Road.

Mrs. O’Connell made a motion to approve the variance request to permit the 4 foot high white fence which has a 1 foot lattice on top of a 3 foot solid fence. The fence would be 13 feet across the back and approximately 55 feet in length with a landscaping screen on the Indian Road side. Mr. Isaac seconded the motion. Upon call of role, Commission members

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O'Connell, Isaac and Gilmore voted in favor of the variance. Commission members Zyndorf and Bishop voted against the variance.

Mr. Williamson expressed his thanks to the Zoning Commission for their hard work and consideration.

The next item on the agenda was a request for a fence height variance at 3405 Darlington Rd.

The applicants wish to erect a solid fence along their southern property line which would be 6 feet in height. The zoning code prohibits any fence which is more than 4 feet in height from being constructed. The location and type of materials proposed are consistent with the zoning code.

The applicant, Amanda Neuendorf, provided photographs of their rear yard and described the situation involving the neighboring property which has a driveway immediately adjacent to their entire rear yard. She also said that the house next door overlooks their rear yard and they are hoping to improve their privacy. The existing fence between the properties is a rusty chain-link fence with many sharp edges. A review of the various letters received by the Zoning Commission followed. Some of the letters were in favor of the proposed variance and some opposed.

Mr. Zyndorf stated that he walks by the property virtually every night and understands their concerns but is not in favor of a 6 foot fence the length of their property. He said that when walking along the Darlington Road side of their property from the east there will be a large amount of tall fence visible. He said that he could not support this variance.

Mrs. O'Connell said that she had the same concern and asked if there was some other method to address their privacy concern.

Mrs. Neuendorf said that she would be open to any alternatives and that a 5 foot fence would be agreeable to her.

Mr. Bishop raised the issue of consistency with administration of the zoning code commenting that the Zoning Commission generally does not grant such variances unless the fence separated different types of property uses. He reminded the applicants that a 4 foot high fence does not need a variance of any kind.

Mayor Gilmore stated he was not in favor of a 6 foot fence or a 5 foot fence.

Solicitor McHugh advised the applicant of the portion of the zoning code which prohibits an application for variance once a variance request has been denied.

After brief additional discussion Mrs. Neuendorf asked to withdraw her variance request.

The next item on the agenda was continuation of the discussion regarding a fence variance requested for 4122 Northmoor Rd. This request had been tabled at the last meeting and Mr.

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Isaac made a motion to remove it from the table to allow for consideration at this meeting. Mr. Bishop seconded the motion which passed unanimously.

Mr. Thompson reviewed the proposed variance reminding the Zoning Commission that the variance related to fence height and the requirements that the finished side of any fence be on the outside, whereas some of the fence erected at this location had the finished side on the inside.

The applicant, Mr. McGhee had spoken with his rear yard neighbor and had reduced the rear portion of the fence to 4 feet in height and turned the fencing so that it had the finished side on the outside.

He continued by stating that the fence on the west side is actually on the neighbor's property and it continues to be 6 feet in height. Substantial discussion followed regarding the various heights of the fence panels and it appears that there are some panels that are 4 feet high, some 5 feet high and some 6 feet high.

Mr. Zyndorf stated that he still had concern regarding the height of the fence.

Solicitor McHugh read the minutes from the last meeting related to this variance request.

Mr. Gilmore said that he did not think the Zoning Commission could allow this variance request having just denied a similar request at the Darlington Road property. Mayor Gilmore suggested that the Zoning Commission table this issue to allow for a personal visit by members. No action was necessary at this time.

Mr. Isaac made a motion to table the variance request. That motion was seconded by Mr. Bishop and passed unanimously.

The next item on the agenda was a request to subdivide the property at 4590 Brittany Rd. Mr. Thompson described that Mr. and Mrs. David Childers own an irregularly shaped lot consisting of about 5.5 acres with about 415 feet of frontage on Brittany Road. The applicants are seeking authorization to subdivide their existing parcel into two parcels identified on the provided drawings as parcels "A" and "B". Parcel "A" would consist of about 36,800 ft.<sup>2</sup> and parcel B would be the remainder of about 204,000 ft.<sup>2</sup>.

The Zoning Commission had considered in June 2006 and again in November 2006 similar requests to subdivide the property. Minutes from the meetings of the Zoning Commission in 2006 were provided for review by the Zoning Commission. Mr. Thompson reviewed the requirements of Ordinance 94-10 which had also been provided.

Mr. Thompson continued by stating that the Zoning Commission was charged with reviewing requests for subdivision of real property. That authorization was included in Ordinance 94-10.

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Mr. Childers then addressed the Commission stating that a building envelope had been established during the 2006 discussions and it is his intention to construct a home of about 2000 ft.<sup>2</sup> on the property and that he would live in that home.

Bobby Jorgensen then addressed the Zoning Commission stating that he purchased the former Betz property and that he has a severe issue with the proposed subdivision and objects to the request. He said that if the home was built on the property, as described, it would diminish the value of his property. He expressed concern about how such a property would be built upon and the disruption that construction would cause in addition to the long-term reduction in value to his property.

Cheryl Freeman said that she lived directly across the street from the property in question and did not understand how a house can be built given the nature of the land and the floodplain. She objected to the proposal.

Mr. Childers stated that the rear of the home would be on pilings and that homes are built under these circumstances frequently. He suggested that the front setback would be 40 feet and that the front of the home would be on solid ground.

Mr. Isaac and Mr. Gilmore left the meeting at this time due to prior commitments. Mayor Gilmore asked Mrs. O'Connell to chair the meeting in his absence.

Mr. Zyndorf stated that he had the same issues and concerns as 10 years ago regarding this proposed "A" lot. He thought that it would be extremely difficult to build upon.

Mr. Childers said that he was a builder and that he is building homes on lots like this every day. He asked if it met the conditions of the zoning code commenting again that homes are built under these conditions frequently.

Mr. Bishop expressed concern that it would diminish the value of nearby properties.

Substantial discussion followed regarding the front setback with Mr. Childers commenting that the requirements regarding the front setback had been modified in 2007. It was concluded that Mr. Childers was correct and that the front setback would be as determined by legislation adopted in 2007. Mr. Zyndorf stated that the 2007 legislation would increase the front yard setback when compared to the prior legislation.

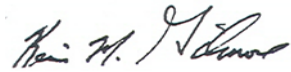
It was also made clear that the considerations required by the Zoning Commission were not strictly related to the zoning code and that the Zoning Commission has been assigned the task of reviewing subdivision of land as well. Compliance with the requirements of Ordinance 94-10 was the issue before the Zoning Commission, not the contents of the zoning code.

After additional discussion Mr. Bishop made a motion to table this request pending the provision of additional information. Mrs. O'Connell seconded the motion which passed unanimously. It was agreed that when this issue was brought back to the Zoning Commission notices would be sent to the neighboring property owners as required by Ordinance 94-10.

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John Keener of 3865 Indian Rd. addressed the Zoning Commission briefly regarding a proposed variance that he intends to present at the next meeting of the Zoning Commission. Mr. Keener wishes to expand his garage and would need a side yard variance in order to do so.

The meeting was adjourned at 6:38 pm.



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Kevin M. Gilmore, Mayor