

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON OCTOBER 10, 2017 AT 4:30 P.M.

The October 10, 2017 meeting of the Ottawa Hills Zoning Commission was called to order at 4:32 pm by Mayor Kevin Gilmore.

Roll was taken with Commission members Paul Bishop, Zac Isaac, and Mayor Kevin Gilmore present. Kate O'Connell and Sam Zyndorf were not present, but expected shortly. Also present were Village Solicitor Sarah McHugh and Finance Director Karen Urbanik.

Others in attendance included Yarko Kuk, JoAnn McKelvey, John and Karol Williamson, Doug Wilkins, Jeff Shoffer, Diane Kalb, Ed Coy, David Dennis, Megan Walter, Matt Gargas, Allen Snyder, Jacquie McIntyre, Rob Wilson, Peter Rondanelli, Kirk Keaffaber, Paul Jednak, Paul Peters, Kate Backoff, Eric Haigh, Tom Hopkins and Shyamalesh Nandi.

Mr. Bishop made a motion to approve the minutes of the August 30, 2017 meeting. Mr. Isaac seconded the motion which passed unanimously.

Sam. Zyndorf entered the meeting.

Mayor Gilmore administered the oath to Mr. Snyder, Mr. Hopkins, Mrs. Kalb, Mr. Coy, Mr. Wilson, Mrs. Backoff, Mr. Jednak, Mr. Rondanelli, Mr. Haigh, Mr. Peters, Mr. Keaffaber and Mrs. Urbanik.

Because of the number of audience members in attendance regarding the proposed zoning code amendment for planned unit developments (PUDs), Mayor Gilmore moved that item to the beginning of the agenda for discussion. He began by indicating that he thought there was some misunderstanding in the community and explained that the purpose of the proposed amendment was to allow the Village to have different options under our zoning code, including different types of housing. This would provide a very controlled process to consider any future development, with several levels of hearings. No PUDs are currently under consideration, despite rumors to the contrary.

Mr. Isaac noted that the proposed change was an outgrowth of the surveys and discussion that took place in the last several years related to the visioning process. Residents expressed interest in different types of housing, for example older residents who might like to stay in the Village but are looking for smaller housing options. To be able to consider that type of construction a change was needed in the zoning code. Under the planned unit development a developer would have to provide a footprint with details about materials, setbacks, relationships to neighboring properties, etc. Mr. Isaac, who noted that he is a commercial developer, said that he would vote no on a commercial project at the Point and that he did not think it could be developed commercially because of ingress and egress issues, parking and other challenges.

Mr. Bishop stated that the process outlined in the planned unit development amendment would be much more arduous than what we have in place today. We currently have limited control over architectural qualities and this would allow for that control. He was comfortable that this would support the vision planning that was developed by Council and with major input from the community, while providing a strenuous approval process.

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Kate O'Connell entered the meeting at this time.

Sam Zyndorf noted that this kind of development is what he does for a living. In his opinion commercial development under this zoning change is unlikely because it is not feasible financially or demographically. He believes this zoning change would be better for future residential development in the Village. It provides more control for the Village. If Exmoor or the Stables were being developed today it would likely be under a PUD format.

Mrs. O'Connell deferred her comments until later and Mayor Gilmore asked those in attendance for any comments.

John Williamson commented that he was not aware of the survey that was mentioned. Many people on the Zoning Commission and in the audience indicated they had participated in the survey and it was noted that over 500 surveys were returned. He then asked if this zoning change excluded the Point.

Sarah McHugh indicated that there is no exception for the Point built into this amendment. If a developer wanted to do something on the Point they would have to come to the Zoning Commission and specifically ask that we approve that development. She said that what Mr. Zyndorf had remarked was that it was not commercially feasible to develop the Point.

John Williamson then read from an article by the Mayor in the Village Life and Home magazine: "In fact two local developers have voiced support for the effort and are interested in participating with a goal of creating a very high quality, small scale new development... One possibility may be the Village owned property at the intersection of Indian, Bancroft and Secor Roads." To him that sounded like there was current interest

Mayor Gilmore said that the ordinance does not relate to the Point specifically. He noted that the earlier discussion indicated that commercial development of the Point was likely not feasible.

Mr. Isaac said that any such development would have to go through both Council and the Zoning Commission and that several members have indicated they wouldn't approve commercial development of the Point.

Pete Rondinelli from Orchard Road requested that the ordinance specifically exclude the Point.

Rob Wilson agreed that if the ordinance specifically excluded the Point it would save headaches in the future. Neighbors would prefer that the Point be left as a beautiful park. He moved there in December and really appreciates the beauty of the Point and that his kids can play there.

Sam Zyndorf noted that we are not changing zoning on a specific property but adding a new category of zoning. He asked that if the Point was specifically excluded, wouldn't there be other properties that residents would want to exclude?

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Mr. Wilson asked about residential development on the Point. Mr. Zyndorf indicated that it was possible but was probably not a good fit.

David Dennis said that the concern came from the Mayor's article. Mayor Gilmore indicated that he was just trying to give examples, and he apologized for any confusion.

Kate Backoff asked if the PUD was applicable to all areas of the Village. She felt that if the Point was going to be excluded that there would be other places that other residents might want to exclude.

Paul Peters, from the management team of Hope Lutheran Church, noted that the church owns two properties along Indian Road. The magazine article was circulated at the church and there was concern expressed. He saw this as an effort by the Village to control development and he appreciated the effort to make more housing options available.

Mr. Bishop noted that there would be no way to allow development of alternative housing choices without making this change.

Karol Williamson asked a question about the pictures of PUDs that were put on the website. Mrs. McHugh explained that those were examples from other communities, not proposals for Ottawa Hills.

Kate Backoff noted that if residents near potential sites on Central Avenue were aware of these discussions, they might be here to ask that those areas be excluded also. She was confused about the Zoning Commission discussion versus the public hearing to occur on Monday, October 16<sup>th</sup> prior to the Council meeting.

Mayor Gilmore said that not only was this being discussed today, but it will be discussed at Monday's public hearing and at three Council meetings before it could be approved.

Mr. Zyndorf said that there are safeguards built into the amendment requiring a developer to acquire property, develop a plan, present the plan and get approval from both the Zoning Commission and the Council, with several public hearings. Putting this PUD amendment in does not mean development will happen; it just provides a tool.

Mr. Isaac noted that screening would be required for any development that was proposed. He emphasized that the Commission takes its responsibility to protect the Village very seriously. This tool would allow the Commission to continue to exercise its fiduciary responsibility on behalf of the Village.

Mayor Gilmore emphasized that the PUD amendment is in response to the input from the community and a potential way to retain residents in the community, both as they become empty nesters and want different housing and also to appeal to new residents who would like to move into the Village.

Mrs. O'Connell emphasized that the amendment is in response to intensive feedback from the community through the surveys and a meeting related to the visioning efforts. This is

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part of an effort to prepare the Village for the future and housing options and preferences have changed a lot since the Village was founded. The current zoning doesn't contemplate the housing options that are becoming popular now. We need to look at ways to appeal to both the young and older people who want to live or continue to live in the Village. This is a tool that would allow us to talk with someone who came to the Village with a great idea in an appropriate location. She said she takes the comments very seriously, but she was concerned that if the areas where it can apply are limited, its usefulness will be eliminated.

Mr. Dennis asked why the meadow and the Point couldn't be specifically excluded.

Mr. Isaac indicated that it would be practically impossible to develop the flood plain.

Mr. Zyndorf noted that he agreed with Kate O'Connell that at the end of the day residents need to trust the Zoning Commission to act appropriately.

Mr. Haigh said that he came with the concern that inappropriate development could occur at the Point. He indicated that his concerns have been alleviated by the discussion. He saw no need to handcuff the Zoning Commission for the future. He felt this was a valuable tool that could benefit the Village.

John Williamson asked how residents would find out about potential PUDs in the future.

Mayor Gilmore reinforced that the Zoning Commission and Council would continue to be transparent, as they have been to this point, noting that the proposed legislation has been posted on the website and sent out in email newsletters multiple times. He also mentioned the long process outlined in the legislation with several layers of public hearings.

Solicitor McHugh described the notice provisions in the legislation, which require public notices at every step.

Mr. Isaac indicated that there was a two-acre minimum in the proposed legislation, which would require a significant expense for a developer.

Mr. Williamson asked about the size of the Point.

Mr. Zyndorf found that the Lucas County website had the Point listed as 1.62 acres.

Mr. Isaac again said that the Zoning Commission had tried to be transparent as they went through this process and he hoped that they had allayed any concerns. As Mrs. O'Connell said, things have evolved and there may be a limited number of possible projects that would benefit the Village. There will be lots of opportunity for public input should a PUD be considered.

Mr. Williamson thanked the Commission for hearing the concerns of the residents.

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Mr. Isaac moved that the Zoning Commission recommend to the Council the inclusion of a new chapter in the zoning code providing for planned unit developments and ask the Council to move forward with their three reading process.

Mr. Zyndorf seconded the motion. Upon call of the roll the motion was passed unanimously.

Mayor Gilmore noted that this would be moved forward to Council and that there would be a public hearing on Monday, October 16<sup>th</sup> followed by three readings over the course of the meetings in October, November and December. The Mayor thanked the participants for their comments.

Attention turned to variance requests.

Mrs. Urbanik provided the report related to the variance request at 2826 Falmouth Rd. She informed the Zoning Commission that Mr. Snyder wishes to construct a solid wood fence along his rear property line which would be 5 feet in height. It was noted that the request for a fence permit was made on August 18, 2017, before the new fence code was in effect. He wishes to continue the height and style of the fence on the adjacent property. The variances needed are for height and openness.

Mr. Snyder then addressed the Commission. He said that he was trying to open up his back yard by removing some older bushes, but that he could see directly into his neighbor's backyard. Due to the pine trees in his backyard it is hard to get anything to grow that would provide separation. He indicated his neighbors were supportive of the proposal.

Mayor Gilmore clarified that the request was for fencing along the entire back property line.

Mr. Snyder indicated that he would do some repairs on Dr. Gross's fence next door to his at the same time as his proposed construction.

Mr. Zyndorf noted that because the application was made before the new fence code was effective, he would be willing to consider a 5-foot fence if it was open, or a 4-foot fence if it was solid. He does not like large solid fences.

Solicitor McHugh thought that the Zoning Commission had previously required Dr. Gross to reduce the height of his fence. The minutes from the December 9, 2010 meeting indicated that Dr. Gross was granted a variance for a fence he had constructed, but that he was required to reduce the fence to 5 feet in height.

Mrs. O'Connell said that she was not comfortable with the request in regard to either height or openness. She would be more inclined to go with the 4 foot solid fence, as that was the rule at the time he applied.

Mr. Bishop agreed, saying he found it hard to support a solid 5-foot fence given how carefully the Commission considered the new fence code. He knows the landscaping is difficult, but that is what they are trying to encourage.

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Mr. Isaac said he is not fond of solid fences, but he appreciated that Mr. Snyder applied before the new code went into effect. He would reluctantly agree with the idea of a 4 foot solid fence or a 5 foot open fence.

Based on the discussion by the Commission, Mr. Snyder asked to amend his request to a 4 foot solid fence.

Mrs. McHugh indicated that there would be a question about whether the application date was relevant and felt the Zoning Commission was likely not obligated to grant the variance.

Mrs. O'Connell made a motion to approve a variance request for a 4 foot high solid wood fence along the east boundary of 2826 Falmouth that does not meet the 50% openness requirement of the zoning code, because the application was made on August 18, 2017 prior to the effective date of the revisions to the fence section of the zoning code. Mr. Zyndorf seconded the motion and upon call of the roll the motion was approved unanimously.

Mr. Snyder noted that he would make some improvements on Dr. Gross's fence as well.

Mrs. Urbanik provided the report related to the variance request at 4304 Bonniebrook Rd. She informed the Zoning Commission that Mr. Keaffaber is requesting a location variance for a 4 foot split rail fence he wishes to construct on the eastern property line. The variance is required to place a fence closer to the street, Talmadge Road, than the setback line of the house because this is a corner lot. All other aspects of the fence comply with the zoning code.

Mr. Keaffaber supplied some additional photos showing the location of the proposed fence indicated by flags.

Mr. Isaac asked if the plants along that side of the yard would be removed to install the fence.

Mr. Keaffaber said that he thought that he would be able to keep most of the vegetation and put the fence through it. He also noted that the fence will actually be about 32 feet back from the curb. He said there are other fences along Talmadge that are much closer to the curb.

Mr. Bishop asked about the motivation for the fence. Mr. Keaffaber indicated he was interested in keeping kids and dogs inside the fence, particularly because Talmadge is a busy road. Mr. Bishop also clarified that there would be wire on the fence as well.

Mayor Gilmore noted that there was a letter from a neighbor who was across the street and down one from the applicant. It appears that the neighbor would not be able to see the fence from their house.

Mr. Isaac made a motion to approve a variance for location of a 4 foot high split rail fence, 32 feet west of the curb of Talmadge Road, further providing that landscaping be maintained to the extent possible. Mr. Bishop seconded the motion and upon call of the roll the motion was approved unanimously.

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Mrs. Urbanik provided the report related to the variance request at 2630 Westchester Rd. She described that the request from Mr. Hopkins involved two variances for two different sections of fencing. Mr. Hopkins wishes to install aluminum fencing along the north side of his property which is 5 feet in height, requiring a height variance, with all other aspects in compliance with the zoning code. He also wishes to relocate an existing wood picket fence, which is currently located where the aluminum fence is planned, to the south side of his property and paint it black. This fence does not meet the 50% openness requirement and was a pre-existing nonconforming use at its original location.

Mr. Hopkins added that Marc Thompson had met with him at his home and looked at the picket fence. Mr. Thompson indicated that the fence was “close” on the 50% requirement and recommended since he was seeking another variance that he include the picket fence in the request.

The Zoning Commission confirmed that the intention was not to go down the side of the yard with the picket fence. The applicant noted that it was only going to be an 18 foot section of picket fence. The aluminum fence is intended for the end of the driveway

Mr. Zyndorf did not have a problem with the openness of the picket fence. He described it as a decorative fence and noted others that were similar in the neighborhood. He did not have a problem with reusing that fence because of its openness and limited visibility to neighbors at that location.

Mrs. O’Connell agreed that the openness of the picket fence was not a concern, but was she was not in favor of the 5-foot high fencing.

Mayor Gilmore asked why he wanted a 5-foot high fence and Mr. Hopkins indicated it was based on aesthetics.

Mr. Bishop shared the concern about the height of the new fencing. The new aluminum fence is not something that is being grandfathered or re-used.

Mr. Isaac noted that he had no problem with the picket fence but was concerned about the precedence of granting the variance on the 5-foot aluminum fence.

Mayor Gilmore asked for other comments and Paul Jednak spoke and noted that he owned an adjacent property at 2618 Westchester. His concern was whether the intention in the future was to continue the picket fence down the shared fence line. He also asked why Mr. Hopkins would not put the same aluminum fence on both sides of the house for symmetry. He noted that he would be able to see the picket fence.

Mr. Hopkins stated that it was not their intention to continue the picket fence down the shared fence line. He said that they intended to reuse the picket fence to replace a previous metal fence that was in disrepair.

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Mrs. Backoff who lives across the street from the applicant said that she appreciated that the Zoning Commission had taken a lot of time to review the fence code and maintain the 4 foot height limit. She asked if the revised fence code addressed a consistent look across the front of the house.

Mr. Hopkins said that the picket fence was intended to replace ugly metal fencing that had been taken down, but that he could certainly use the aluminum fence on both sides. He and his wife preferred the 5 foot fence because the bars on the fence were thinner than on the 4 foot version. He noted that the fence sections were a long way from the road.

Mr. Bishop noted that if he decided to do a 4 foot fence on both sides, he would not need a variance.

Mayor Gilmore indicated to Mr. Hopkins that it did not look like the Zoning Commission would approve the 5 foot fence. He advised Mr. Hopkins that if his variance request was turned down that he was prohibited for a 12-month period from submitting another request, so that it might be in his interest to withdraw his request at this point. The Mayor also noted that the two variance requests could be considered separately.

Mr. Hopkins said that he understood the desire for consistency in the front of the house and the Zoning Commission's viewpoint, so he would withdraw the request for the variances.

Mrs. Urbanik provided the report related to the variance request for 7 Exmoor. She said that the owner Mrs. Kalb did some repair work on her deck more than a year ago, and at that time also enclosed a portion of the deck. No permits were requested and the Exmoor Homeowners' Association was not asked for approval. Generally approval from the homeowners' association is required before the Zoning Commission considers a variance request. No such approval has been received for this request. It was also noted that no Lucas County building permit was requested and no building inspection took place.

The Zoning Commission had received a letter from Shelly Walinski, the president of the Exmoor Homeowners Association. Mrs. Walinski could not attend the meeting.

Mrs. Urbanik identified that the structure would require variances for lot coverage and side yard requirements under the zoning code. The deck that the structure was built on would be considered a pre-existing nonconforming use and is not part of the issue before the Zoning Commission.

Mr. Isaac asked Solicitor McHugh whether this was a homeowners' association governance issue. Mrs. McHugh noted that ordinarily the Zoning Commission required approval from the homeowners' association before considering a variance. She confirmed that to her knowledge there was no approval from the Exmoor Homeowners' Association. In response to a question from Mr. Isaac, Solicitor McHugh stated that the Zoning Commission could table the request pending approval by the homeowners' association.

Mr. Zyndorf agreed that he felt that the homeowners' association needed to provide approval before the Zoning Commission could deliberate.



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Jacque McIntyre from 5 Exmoor then addressed the Commission. She said that Shelly Walinski, the president of the Exmoor Homeowners' Association, asked if she would come in Mrs. Walinski's absence. She stated that the homeowners' association has not approved this and that they are against it and that was why they were bringing it to the Zoning Commission. If the Association needs to do something else, she can take that message back to them.

Mrs. McHugh reiterated that traditionally the Zoning Commission has not voted on a variance request absent approval from the homeowners' association.

Ed Coy, an attorney for Mrs. Kalb, then spoke. He felt that it has been overlooked that the original plans when the home was constructed in 1987 called for the enclosure of the deck. When the enclosure of the pre-existing structure was done three years ago it was obviously not so prominent that anyone raised any objection until this past summer when a tree fell in the ravine and some people went back there. He also noted that the setback had been impinged on for more than 30 years by the deck.

Mayor Gilmore then stated that the Zoning Commission is saying that this is not our fight. The argument that Mr. Coy was trying to make would come if Mrs. Kalb got agreement from the homeowner's association, then the discussion could take place before the Commission.

Mrs. Kalb then spoke and said that she moved into the house 5 years ago. No issues were raised about the existing deck at the time she purchased the home. The decking had deteriorated and needed to be replaced. A family friend said that he would replace the deck for her. She then expressed an interest in creating a screened in porch, as was shown on the original drawings of the home. He said that he could do that for her and she didn't realize putting a screened in porch on the footprint of the deck that was already in existence would require her to contact the homeowners' association. She didn't realize that it would be a big deal; there was no intent to not get permits, she just didn't know it was necessary for this structure. The screened in porch gives her use of the deck and her neighbors were happy that the structure gave them more privacy.

Mayor Gilmore indicated that he would probably be okay with the structure if the Exmoor Homeowners' Association had approved it. But at this point the Zoning Commission cannot consider it because they don't have that approval yet.

Attorney Coy noted that Marc Thompson instructed them to apply for the variance.

Mr. Zyndorf stated that he agreed with the Mayor that if the homeowners' association approved the construction project, he would probably not have a problem with it.

Jim Houk from OHM joined the meeting

Mr. Bishop said that the Zoning Commission always takes heavily into consideration the opinion of the neighbors, and it seemed clear that there was a problem with the neighbors at this point.

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Attorney Coy said that there has not been a vote of the homeowners, just a letter from the homeowners' association.

Mayor Gilmore commented that it appeared there needed to be a discussion between Mrs. Kalb and the Exmoor Homeowners' Association.

Mrs. O'Connell asked if when the Kalbs bought the property the title noted an infringement on the setback. Mrs. Kalb and her attorney indicated that they were not sure. Mr. Zyndorf said it would show up on a survey.

Mr. Isaac then moved to table the request for variances for 7 Exmoor. Mr. Bishop seconded the motion and upon call of the roll the motion passed unanimously.

Mayor Gilmore then thanked Mr. Houk for his efforts to join the meeting this evening despite a conflict and apologized that the topic had already been reviewed. He described that the discussion of the PUD zoning code amendment was moved up in the agenda because of the large turnout of residents interested in the topic. He noted that the amendment was being forwarded to Council and confirmed that Mr. Houk would attend the public hearing on October 16<sup>th</sup> at 7:30 pm.

Solicitor McHugh indicated that there was no need for an executive session.

It was agreed that the next meeting would be on November 15 at 5:15 pm. Mayor Gilmore said he would likely not be available, but suggested the meeting go forward.

There being no further business the meeting was adjourned.



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Mayor Kevin Gilmore