

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON MARCH 13, 2014 AT 5:00 P.M.

Mayor Kevin Gilmore called the March 13th meeting of the Ottawa Hills Zoning Commission to order at 5:00 p.m. Present were Zoning Commission members Sam Zyndorf, Kate O'Connell, Paul Bishop, Zak Isaac, and Mayor Kevin Gilmore. Also in attendance representing the Village of Ottawa Hills were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

Members of the audience included Tim Erickson, Stephanie Harmon, Todd Kime, Yarko Kuk, LaRonna Mensior, TFH Investments Representative Mike Herbert, Kirsten Robinson and Nasrin Afjeh.

Mr. Isaac made a motion to approve the minutes from the February 20th meeting. Mr. Bishop seconded the motion which passed unanimously.

The oath was then administered to Tim Erickson, Stephanie Harmon, Todd Kime, LaRonna Mensior and Marc Thompson.

Mr. Thompson provided a report regarding the proposed variances at 4143 Brookside Road. The applicants, Joshua and Stephanie Harmon wish to construct a new home on this lot and are requesting four variances. Mr. Thompson described the variances as related to the side yard, both total side yard and the minimum of 18 feet on one side. Second variance relates to the height proposed to be 38 feet 10 inches on the east side and 32 feet 2 inches on the west side. A front load garage and the front setback were also variance requests. Additionally, Mr. Thompson described that proposed court yard wall on the east side of the property and discussion regarding the railing around the pool at the rear of the property. He described that some of the railing was not shown simply to provide for the best visual representation of the proposal. However, that was something he asked the Zoning Commission to address.

Mayor Gilmore stated that he had a conflict on this particular case and would not be voting.

Todd Kime, representing the owners then spoke to the Zoning Commission regarding the proposed variances. Mr. Kime provided a map showing that eleven other homes on the street had front load garages and reminded the Zoning Commission that the zoning code changed in 2002 and the front load garage prohibition took place at that time.

Mr. Zyndorf confirmed that the proposal was for two single car garages. Mr. Kime confirmed that there will be two 9 foot garage doors.

Regarding the height of the proposed home, Mr. Kime mentioned that it was driven primarily by the slopping nature of the lot particularly on the east side where the property drops. He described another issue related to height as the requirement that the bottom floor be one foot about the floodplain elevation.

Mr. Bishop asked if the plans show the bottom floor being one foot above the floodplain. Mr. Kime confirmed and said that the height issue was affected by that requirement.

Regarding side yards Mr. Kime commented that the west side is in compliance with the zoning code. The lot tapers to the rear so that the variance is made necessary at the rear of

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the house on the east side where the proposed side yard is 14 feet 6 inches. Mr. Kime also pointed out that many homes in the immediate vicinity have side yards smaller than what is now required by the zoning code.

The zoning code has two standards regarding the front setback and in this case they conflict. The proposed setback is 45 feet which is the maximum allowed under Section 8.1 of the zoning code. However, Section 8.4 requires that the front setback be not less than the average of the other homes on the street. In this case that would create a 55 foot setback. Mr. Kime mentioned that the adjacent home is at 50 feet and since this home would be the last home in the line it would not be particularly obvious.

Mr. Bishop pointed out that moving the home further back to meet the front yard setback requirements would create a problem on the side yards since the lot tapers.

In response to a question from Mr. Isaac, Mr. Kime stated that if the Commission wishes to move the home back to meet the front yard requirements the applicant would be agreeable.

Regarding the courtyard walls on the east side, Mr. Kime commented that instead of having a traditional walkout basement to the rear, the topography dictated that it would be at the side. The Harmon's hope to have some area for their pets and some privacy for a small courtyard. They commented that the proposed walls were not on the property line and did not meet the strict definition of a fence.

Mr. Kime also confirmed that there would be a railing around the entire swimming pool as required by the code.

In response to a question from Mr. Bishop, Mr. Kime stated that the adjoining neighbor was the property owner and sold the property to Mr. and Mrs. Harmon.

Mike Herbert commented that he lives across the street and has a front load garage and believes the proposed home will enhance the area. He was at the meeting to speak in favor of the variance and commented that it would be a very good project.

Mrs. Mensor of 4152 Brookside Road said that she did not object to the front yard setback but was concerned about the height. She commented that from the east side 38 feet in height was too high. She also expressed some concern regarding the drainage ditch on the Village property to the east of the proposed home. She confirmed that her only objection was to the height.

Mrs. O'Connell stated that each of the variances when considered individually did not seem extreme but together the combination of variances may be of concern. Mrs. O'Connell also stated that pushing the home back to meet the front setback might be a good idea but was particularly concerned about the height on the east side and its potential for being out of proportion to the other homes in the area. She mentioned that a home proposed for Inlands Court was required to be reduced in height because of the concern for its appearance.

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Mr. Zyndorf said that he did not have any issues with the house particularly since there was no home on the east side. He also commented that the height of the home does not go up but rather the land drops off on the east side of this property. He further stated that he would be in favor of moving the house back to meet the front setback requirements.

Mr. Bishop commented that he thought the design resulted in an attractive home on a difficult lot and supports moving the house back and giving a larger side yard variance. Discussion followed regarding what the side yard variance would be if the house was moved back.

Mrs. O'Connell mentioned the railing around the pool and stated that the area will be quite visible from the meadow. Mr. Kime recommended that the railing be a 48 inch on top of the proposed deck. Mrs. O'Connell stated she felt strongly that it should be a 48 inch railing from the top of the deck. Mrs. Harmon agreed with the proposed 48 inch railing and as a result no variance was needed.

Mrs. Harmon also stated that she had substantial concern about the height of the home particularly on the east side and identified several changes that were made in the plans to minimize the effect of the height. She also commented that there will be substantial landscaping on the east side mentioning tall trees to screen the east wall of the house.

Mrs. O'Connell asked that the height be considered as a separate vote.

Mr. Isaac then made a motion to approve the variances with the front setback at 50 feet or in line with the house to the west, the side yard would be 12 feet on the west side and approximately 12 feet on the east side, the front load garage would have two single car garage doors with the understanding that the railing around the pool would be 48 inches high from the deck level.

Mr. Zyndorf seconded the motion upon call of the roll Commission members Zyndorf, O'Connell, Bishop and Isaac voted in favor of the motion. Commission member Gilmore abstained.

Further discussion occurred regarding the height of the house with Mr. Kime stating that they had explored various options and there simply was not much of an alternative.

Solicitor McHugh then read the definition from the zoning code regarding height. Mrs. Harmon stated she agreed with Mrs. O'Connell regarding the wall height and added windows to break up the wall and committed to plant large trees to screen the wall.

Mr. Zyndorf commented that the house will look bigger from the street when heading west than it does looking at the front of the house and said that there are two homes on Talmadge Road with similar conditions because of similar slopping land.

Mike Herbert said that the alternative would be to install a retaining wall and that the proposal was a better solution than the need for a retain wall. Substantial discussion continued regarding the height.

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Mr. Isaac made a motion to approve proposed height at 32 feet 2 inches on the west side and 38 feet 10 inches on the east side because of the more than 6 foot change in topography on the lot. The motion was conditioned upon the understanding that mature landscaping would be put in place to screen the eastern wall of the property as much as possible. Mr. Bishop seconded the motion and upon call of the roll Commission members O'Connell, Bishop, Isaac and Zyndorf voted in favor of the motion. Commission member Gilmore abstained.

Next item on the agenda was a request for a special use permit related to a yoga deck located on school property near the scout house. Mr. Thompson described the process for special use permit applications emphasizing that the school is in a residential zoning district and is permitted to be at that location by virtue of a special use. Changes to the use or structures on the location require a modification to the special use. The Zoning Commission conducts a public hearing and takes testimony and will make a recommendation to the Village Council. It is the Council that actually grants a special use permit.

In this specific case the Board of Education is seeking a special use permit to allow the placement of a yoga deck on the property. The yoga deck is currently located on the property to the east of and in front of the scout house but the proposal is to have the yoga deck be relocated east of and to the rear of the scout house as shown in the information provided by high school Principal McMurray.

Tim Erickson, representing the Board of Education stated there will be screening all around the proposed deck with the exception of areas to allow for access to the deck.

Mr. Bishop asked who would own the deck and be responsible for its ongoing maintenance. It was made clear that the deck is on school property and therefore would be the responsibility of the Board of Education to maintain the deck.

The information provided by Mr. McMurray was read in part stating "if the Village does not approve this special use permit we would direct to hajar and our maintenance crews to remove the deck from the property as soon as the weather permits".

Discussion followed regarding accessibility as it being noted that there no ramp to gain access to deck for wheelchair use nor is there a proposed sidewalk to allow for wheelchair use to get to the ramp. Discussion followed regarding control of the structure by the school. Mr. Zyndorf stated that it would probably be appropriate for the Zoning Commission to assure that the school was aware that they were incurring any liability issues and would be responsible for compliance with any Americans with Disabilities Act requirements.

Mr. Isaac made a motion that the Zoning Commission submit a report to the Village Council stating that the proposed yoga deck would not have an adverse impact on the character of the neighborhood, upon traffic conditions, public utilities facilities or other matters pertaining to the public safety and general welfare. This motion also stated that compliance with other requirements such as Americans with Disabilities Act would be the responsibility of the Board of Education. Mrs. O'Connell seconded the motion which passed unanimously.

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Mrs. O'Connell then asked that the Zoning Commission consider at their next meeting, as a discussion item the request made previously by Nasrin Afjeh of 3616 W. Bancroft Street for a variance related to a structure in her rear yard.

It was agreed that the next meeting of the Zoning Commission would be on May 1st, at 5:00 p.m.

There being no further business the meeting was adjourned at approximately 6:15 p.m.



Kevin Gilmore, Mayor