

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD ON JULY 15, 2008 AT 5:00 P.M.

Mayor Kevin Gilmore called to order the July 15, 2008 meeting of the Ottawa Hills Zoning Commission at 5:10 p.m. Roll was taken with Commission members Sam Zyndorf, Jack Straub, Zac Isaac and Mayor Kevin Gilmore present. Commission member Katherine O'Connell was absent from the meeting. Also in attendance representing the Village of Ottawa Hills were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

Members of the audience included William & JoAnn Murtaugh, Molly Meyers, JoAnn Youngen, Andy Suhy, David Novak, Dan Murtaugh, Nasrin Afjeh, Christine Shallal, Youssif Allos, Mark Youssif, Frank Shallal, Leslie Risley, Dr. Assi, Bruce Schoenberger, Pradeep Vij.

Mr. Zyndorf made a motion to approve the minutes from the June 19 meeting. Mr. Isaac seconded the motion which passed unanimously. Mayor Gilmore then administered the oath to Dr. Daniel Murtaugh, Andrew Suhy, David Novak and Christine Shallal, as well as Marc Thompson.

The first application for a variance related to Dr. and Mrs. Assi at 2609 Edgehill Rd. The applicants recently purchased the property and are undertaking major renovations both to the inside and the outside of the property. They have a swimming pool in the backyard and therefore must have a four foot fence around the pool. They request a variance to allow a split rail fence with wire fence attached to be closer to Derby Rd. than is the setback line of the house. Specifically, the variance request would be approximately 12 feet, which would allow the fence to correspond to the fence on the neighboring property.

Photographs were exhibited showing the proposed location of the fence relative to the neighboring property which has an existing fence.

Dr. Assi stated that he wished to place the fence in line with the neighbor's fence which would result in it being more aesthetically pleasing. He stated that the fence would be 42 feet from the edge of the street if the variance was granted. Mr. Thompson asked about the neighboring fence and how it became located. It was explained that a homeowners' association in the Hasty plat used to evaluate fence applications and perhaps they approved the fence on the neighbor's property.

Dr. Assi described the location of the proposed gate in the fence. Mr. Straub stated that corner lots can be difficult. In response to a question from Mr. Isaac, Dr. Assi stated that there would be landscaping on the outside of the fence.

Mayor Gilmore stated that he had walked to the property since he lives very close by and that the proposed variance makes sense to him.

Mr. Isaac made a motion to approve a 12 foot variance as requested along the south side of the property line where the fence would be 42 feet from the roadway. The purpose of the proposed variance would be to allow the new fence to line up with the existing neighbor's fence. Mr. Straub seconded the motion and upon call of the roll the motion passed unanimously.

The next item on the agenda was a request from Andrew and Keri Suhy at 3000 Valleyview Dr. related to the fence location at the front of the property and a second location at the rear of the property.

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Mayor Gilmore stated that he would abstain from taking part in this variance request since Mr. Suhy is a client of his firm.

The applicants are requesting two variances, one in the front of the home and one in the rear of their property. They have recently purchased the property and are undertaking substantial renovations.

The variance request in the front would allow two low accent walls close to the public right-of-way but on private property. These walls would be approximately 24 inches tall and about 25 feet in length. At each end of the walls would be a pillar approximately 36 inches in height.

This property also has frontage on Central Ave. and a second application for a variance has been submitted which would result in the installation of a 48 inch high split rail fence along the rear of the property, parallel to Central Ave. They also wish to extend the fence along their side property lines to enclose their entire rear yard.

While there are two variances they both request permission to have the fence closer to the street than is the building setback of the house.

Mr. Suhy informed the Zoning Commission that he has three children under the age of three and wants to assure that the backyard is secure. He indicated that he would get a survey before any installation of the fence to make certain of the location of the property lines along the side and rear of the property.

He informed the Zoning Commission that the request in the front yard is for a visual enhancement wanting to update the curb appeal of the property. He stated that the front of the property has become overgrown and that he has removed a substantial amount of vegetation, trees and bushes and hopes to make the front very attractive. He described the walls in front as low curved walls with a pillar at each end. One pillar may have some type of planting and the other pillar may have a light.

Mr. Isaac reported that he had recently walked the property and asked if the variance at the rear was for the entire rear yard or just what was necessary to reach existing fences.

Mr. Suhy responded stating that he is not fond of chain link fence and would probably use split rail to do the entire perimeter of the property after the survey establishes the property line. After brief additional discussion Mr. Isaac made a motion to approve the variance for two low accent walls 24 inches in height and 25 inches long with a pillar at each end. The pillar at each end of the two walls would not exceed 36 inches. Mr. Zyndorf seconded the motion.

Mr. Straub asked about the possibility of using greenery in the front to improve the appearance of the home.

Mr. Suhy reported that perhaps 70% of his new installations would be greenery with perhaps 20% being hard scape. He stated that the property was substantially overgrown when he took ownership and did not have much hard scape at all. He mentioned that the pillars at either end

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of the wall would be 36 inches in height with a light fixture on top of one and a planter on the other.

Mr. Straub asked about the height of the Goodell wall recently approved by the Zoning Commission. Mr. Suhy stated that he thought the proposed wall would be consistent with the other structures in the area.

Mr. Straub responded by saying that he was bothered by walls in the front yard and this was a request for another intrusion into the front yard.

Mr. Isaac reminded Mr. Straub of the recent approval of the Zoning Commission of a similar wall at the Ice residence on Underhill Rd.

Mr. Straub stated that he was not at the Zoning Commission meeting when that vote had occurred and would probably have voted against that request. Solicitor McHugh reminded everyone that three votes were needed in order for a variance to be approved. Since Mrs. O'Connell was absent and Mayor Gilmore could not vote it would be necessary for all three remaining commission member, Zyndorf, Isaac and Straub to vote in favor of any variance for it to be granted.

Mayor Gilmore reminded everyone that next month, all five members of the Zoning Commission should be in attendance and that Mr. Suhy and other applicants may wish to consider that when their variance requests are being reviewed by the Zoning Commission.

Mr. Suhy stated that he thought they had a very good plan and would like to have more time to discuss it in hopes of gaining additional support from members of the Zoning Commission.

Mr. Straub said that he had not made up his mind about the proposal yet, but was very concerned about the front yard request. He stated that the situation at the Goodell property was somewhat different in that a wall was removed from the property across the street and that very wall was erected on the Goodell property.

Mr. Suhy said it was not so much a wall but an accent near the driveway.

Mr. Zyndorf stated that he looked at the proposed front yard wall as landscaping not so much as a wall.

Mr. Suhy then withdrew the variance request for the front yard walls.

After brief additional discussion Mr. Straub made a motion to grant the variance as requested to allow a four foot fence along the perimeter of the rear property. Mr. Zyndorf seconded the motion. Upon call of the roll Commission members Zyndorf, Straub and Isaac voted in favor of the variance. Mayor Gilmore abstained from voting.

The next application before the Zoning Commission was for three variances related to the property at 2600 Hasty Rd. The applicants, Youssif Allos and Christine Shallal have purchased the vacant lot at 2600 Hasty Rd. This parcel was part of the Rueben property which became the Stableside subdivision. However, this parcel was excepted from the Stableside subdivision

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and therefore never platted. As a result the architectural review process for the Stable subdivision does not apply on this parcel.

Since it is not a platted lot, Section 7.1 of the Zoning Code which applies the minimum and maximum lot areas is applicable. In this case, the parcel, approximately 32,000 square feet is greater than the maximum allowable lot size of 21,000 square feet in the A-15 zone. The proposed new home would be 34 feet in height, exceeding the A-15 zone maximum of 30 feet in height. The applicants' original submission did not require a front yard variance. However, concern about the height of the structure with a 20 foot setback from the street prompted a revised site plan with a front setback of 35 feet. Because of the shape of the lot, increasing the front setback moved the home toward the northwest property line a distance of approximately 50 feet. The side yard setback on the north side is approximately 53 feet which far exceeds the minimum requirements for the A-15 zone. However, since the front setback in an A-15 zone is permitted only at 20 feet, anything in excess of 20 feet requires a variance.

Christine Shallal addressed the Zoning Commission stating that the request for the 35 foot setback allows the home to be centered on the property. She stated that they hope to have a walkout basement to take advantage of the topography of the lot but did not want to have their home built in the drainage area. She described the nature of the home and the reasons for the height variance.

Mayor Gilmore asked about trees along the north side of the property which provides some privacy for the condominiums that front on Citation Rd. He asked if the applicant would be willing to keep the existing trees.

Ms. Shallal responded by stating that she had not yet made any final decisions about which trees, on her property, she would keep and which she would remove. She said she would be willing to talk with the neighbors about their concerns.

Ms. Shallal stated that she lived in Ottawa Hills for 15 years and is a graduate of Ottawa Hills High School. She confirmed that she wants to continue to be part of the community and contribute to the betterment of the area. She purchased the property so that her children could attend Ottawa Hills High School.

Dr. Daniel Murtaugh expressed thanks to the Zoning Commission for the opportunity to speak. He stated that the applicants certainly have rights to develop their property and follow their hopes and dreams for a new home for their family. His concern was about the property line being ten feet from the rear porch of the condominium owned by his parents.

He confirmed that his parents would welcome the new family to the community and to the neighborhood regardless of the outcome of the Zoning Commission's decisions. He spoke, on behalf of his parents, stating that the applicants should be able to build a home that they want to build but objected to the variance because of the closeness of the lot line to the rear of the Murtaugh condominium.

Mr. Straub commented that the height codes in the new home were developed in part due to the construction of a house not far from his own. He stated that this property is different from that situation in that there seems to be an opportunity for the concerns of all parties to be addressed.

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Mayor Gilmore stated that he became aware of the issues regarding the trees the night before the meeting and understands the concerns of the neighboring property owners regarding privacy. He saw a relationship between maintaining the trees and the requested height variance.

Ms. Shallal stated that the trees in question are on the Shallal property and are taking a substantial part of their rear yard. She also commented that the trees would not be an issue if there was not a variance request to move the house back.

Solicitor McHugh stated that there were three issues before the Zoning Commission, lot size, height and front setback. She reviewed the reasons for the lot size variance since the parcel is actually too large for the zoning district.

Attorney Schoenberger took the oath before speaking. He stated that he believed there was a mistake in the Zoning Code and that if it was determined that the lot was not buildable then it would be a takings issue. He also stated that the reason for the specific site plan was to center the house in a rational manner on the lot. He also informed the Zoning Commission that the applicants did not want to put the house too close to the street even though the Zoning Code called for the house being 20 feet from the street. He mentioned that this lot is more similar to a lot in the estate section of the Village than in the A-15 zone. He said that his clients have no problem with landscaping barriers to provide privacy for neighbors because the applicants wish to have privacy as well.

Mr. Straub commented that this lot certainly should be classified as a buildable lot. Mr. Zyndorf stated that he agreed.

Mr. Straub then made a motion to approve the variance requested regarding the maximum lot size which would result in this parcel being classified as a buildable parcel. Mr. Zyndorf seconded the motion. Upon call of the roll the motion passed unanimously. It was confirmed that this variance related to the lot size and did not relate to the height or the setback issue.

JoAnne Murtaugh, JoAnn McKinney and Bill Murtaugh then took the oath.

Discussion followed regarding the 20 foot setback from Hasty Rd. as being too close to the street particularly for a house of this nature.

Mr. Zyndorf stated that there was a substantial difference between the location of the property line being close to the rear of the Citation Rd. condominiums and the location of the house which would be over 50 feet from the property line.

Mrs. Youngen spoke about the difficulty in moving large spruce trees. She said that there were several large trees on the property which probably could not be moved. However, there are smaller trees which probably could be moved to a new location to improve privacy.

Ms. Shallal stated that she was not sure of the final landscaping plans at this point.

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Mayor Gilmore stated that he was very sensitive to the concerns of the neighbors and was hoping that there would be an acceptable compromise that could be developed between the applicants and the neighboring property owners.

Ms. Shallal stated that she understood the neighbors concern but also stated that what the neighbors consider to be their backyard encroaches 20 to 30 feet onto their newly purchased property. She said they have a two year old and a seven month old child and wish to have an adequate backyard for them as they grow.

Mr. Straub mentioned similarities between the Shallal request and the request of a few years ago related to a property on Stableside. He also asked if the applicants preferred the 35 foot setback. Ms. Shallal confirmed that their preference would be to have this house set back at 35 feet.

Mr. Straub asked if Ms. Shallal would find the 20 foot setback acceptable with the height variance approved as requested. Mr. Zyndorf stated that he thought a 20 foot setback would be too close to the street particularly with the height variance.

Mayor Gilmore expressed hope that an understanding could be reached which would be satisfactory to all parties.

Mr. Isaac asked if the applicant could meet with the Risleys and the Murtaughs to try and establish some agreement regarding the property line and screening.

Mrs. Youngen stated that she did not think it be possible to move the larger trees.

Attorney Schoenberger stated that the 20 foot setback was a concern. He thought that the home needed to be centered on the lot in order to make it have a good appearance. He also stated that his client wishes to have a back yard as do most families. He commented this is not a nature preserve and that a 35 foot front setback makes sense in this case.

Dr. Daniel Murtaugh stated that building a home is a good thing and he was hoping to find some type of settlement to allow them to build the house they want where they want it but was concerned that if the house was moved back it would be too large and imposing over the neighboring property owners.

Attorney Schoenberger responded that the house would be 50 to 70 feet from the property line.

Mr. Isaac also hoped for some type of an understanding between the various property owners.

Leslie Risley then took the oath. She stated that Christine Shallal brought up the possibility of putting a fence along the property line which would be very disconcerting for the Citation Rd. property owners. Christine Shallal stated that she did not intend to place the fence but was laying out various options. Dr. Murtaugh stated that there was discussion previously about the potential for a swimming pool in the rear yard.

Mr. Zyndorf stated that the Zoning Commission could consider variance requests but cannot change the property line. Mayor Gilmore stated that the Zoning Commission could control the

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height and the setback of the property. Mr. Zyndorf stated that the applicants could build the home at a distance of 20 feet set back from the right-of-way and at a height of 30 feet and not need any additional variances.

Ms. Shallal stated that the majority of the home is 31 feet in height and that having 10 foot ceilings in the first floor and 9 foot ceilings in the second floor, which is very common, is what determines the height of the roof.

Mr. Isaac stated that he did not want to delay the project and asked if it was possible that the three families could sit down and explore some type of agreement. He suggested that the issue could be tabled to the August meeting.

Mr. Schoenberger stated that he did not want to delay the project and wondered if there was some possibility of continuing the potential negotiations this evening.

Mr. Murtaugh stated that he would be more than willing to sit down with the applicants because they want to have happy neighbors in a happy neighborhood.

Mrs. Risley stated that her husband would return home on Monday and she would like him to be involved in any discussions.

Mr. Schoenberger asked if the Zoning Commission would grant approval of the variances for height and setback conditioned upon unanimous approval of the parties, Shallal-Allos, Murtaughs and Risleys. Such approval would be in written form and submitted to the Village prior to proceeding.

Mr. Zyndorf made a motion to grant approval of the variances conditioned upon unanimous written approval of the parties. Mr. Isaac seconded the motion. Upon call of the roll the motion was adopted unanimously.

It was agreed that the next meeting of the Zoning Commission would be on August 21.

There being no further business the meeting was adjourned.



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Mayor Kevin M Gilmore