

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD ON DECEMBER 3, 2008 AT 5:00 P.M.

Mayor Kevin Gilmore called to order the December 8, 2008 meeting of the Ottawa Hills Zoning Commission at 5:00 p.m. Roll was taken with Commission members Sam Zyndorf, Katherine O'Connell, Jack Straub, Zac Isaac and Mayor Kevin Gilmore present. Also present representing the Village were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

In the audience were Tony Bassett of the Village Voice and Nasrin Afjeh of W. Bancroft St.

Mr. Isaac made a motion to approve the minutes from the September 24, 2008 meeting of the Zoning Commission. Mrs. O'Connell seconded the motion which passed unanimously.

Mayor Gilmore then called on Solicitor McHugh to review a new procedure which she recommends the Zoning Commission consider when dealing with variance requests.

Ms. McHugh suggests that the Zoning Commission establish facts related to any variance request prior to actually taking action on such a request. Legal research has indicated that establishing facts upon which a decision is based will make the final decisions of the Zoning Commission stronger from a legal standpoint. A form was provided which would be used to identify findings of fact in the future.

Mr. Isaac commented that the Board actually goes through this process in their normal deliberations but the suggestion from the solicitor would formalize and memorialize that process.

Mrs. O'Connell stated that there seemed to be no down side to the recommendation and it may avoid potential problems in some future situation.

The Board agreed that it would institute the process.

Mayor Gilmore then instructed anyone who wished to testify would be required to take an oath. Mr. Isaac and Mr. Thompson received the oath from Mayor Gilmore.

The first item on the agenda was a request for a subdivision of land at 2580 Underhill Rd. Mayor Gilmore commented that he had a conflict in this situation because he has a business relationship with one of the interested parties. Therefore, he would neither vote nor participate in the discussion.

Mr. Isaac is the owner of the property at 2580 Underhill and therefore would not be able to participate as a member of the Zoning Commission. After informing the commission of this conflict, Mr. Isaac left the table and took a seat in the gallery of the Council Chambers.

Mr. Thompson then provided the staff report informing the Zoning Commission that Mr. & Mrs. Isaac seek approval to split the vacant lot they own (Ottawa Hills Plat 7 Lot 25) so that they may sell approximately one-half of that lot to the adjacent property owners. The owners of lot 26 will be building a new home soon and the proposed split will assure that there remains substantial open space between the homes.

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Mr. Thompson informed the Zoning Commission that Ordinance 94-10 creates the criteria for review by the Zoning Commission when considering requests to subdivide property. The relevant portions of Ordinance 94-10 were then read to the Zoning Commission. The code states that the Commission must consider the area of the surrounding parcels, the general aesthetics including the amount of green space, the average population density in the neighborhood and other relevant considerations as set forth by the evidence presented by the parties.

The Zoning Commission was provided with information regarding the square footage of surrounding parcels, the aesthetics and green space and population density.

Mayor Gilmore then asked Mr. Isaac if he wished to comment. Mr. Isaac responded stating that lot 25 is currently a buildable lot but that neither he nor his new neighbors want a home located there. The proposed lot split would assure that a substantial amount of green space continues in the neighborhood and that both homes would have sizable side yards.

He commented that through deed restrictions that would be imposed by the seller, the prospective buyer would be allowed to construct a new home not more than ten feet onto what was lot 25. The prospective buyers understand this deed restriction and Mr. Isaac anticipates that they will proceed soon with the transfer, if the lot split is approved.

In response to a question from Mrs. O'Connell, Mr. Isaac said that the split portion of lot 25 would be combined with lot 26 and that the property line between them would be eliminated. By doing so the proposed home would not be built across the lot line.

Discussion followed regarding a difference between enforcing a deed restriction, which is a private property owner agreement, versus enforcing the Zoning Code.

Mr. Thompson passed out two letters from nearby property owners expressing no objection to the proposed subdivision of property.

Mrs. O'Connell then made a motion to approve the lot split as requested by Zac and Dee Isaac and as described in the survey provided by F.W.B. dated October 1, 2008.

Mr. Straub seconded the motion. Upon call of the roll Commission members Sam Zyndorf, Katherine O'Connell and Jack Straub voted in favor of the motion. Mayor Gilmore abstained from voting and Mr. Isaac remained in the gallery during the vote.

The next item on the agenda was a discussion item regarding the property at 4540 Brookside Rd. Joseph Goodell, the owner of the property, provided photographs and a written response to correspondence from the Village related to the fountain he constructed in his front yard. Mr. Goodell had previously received a variance authorizing the installation of the fountain, although actual construction was not completely consistent with the representations made by Mr. Goodell.

Mr. Zyndorf commented that he did not have an issue with the installation of the fountain. He stated that it looked very nice and commented that Mr. Goodell probably should have come to

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the Zoning Commission when he realized changes were going to be necessary. However, he commented that those changes would likely have been approved and did not see any problem.

Mayor Gilmore stated that the question before the Zoning Commission is whether to require Mr. Goodell to come back to the Zoning Commission.

Mr. Straub commented that there was another similar issue just down the street and that he actually voted for the fountain. He commented that he was very disturbed by Mr. Goodell's cavalier attitude and that the Village does not deserve to be treated in this manner.

Mr. Isaac commented that he wished Mr. Goodell had come back when he realized the difficulties but he said that it would likely have been approved.

Mrs. Afjeh asked about the nature of the problem.

Mr. Zyndorf commented that the fountain was not in the same location as originally proposed and that it had a higher profile than originally represented.

Mrs. O'Connell commented that Mr. Goodell made a good faith effort to comply with the variance as granted and that she was not concerned.

It was agreed that Mr. Goodell would not be required to return to the Zoning Commission for a modification of his original request.

Brief discussion followed regarding the property at 3000 Valley View.

It was agreed that the next meeting of the Zoning Commission would be on January 15 at 5:00 p.m. There being no further business the meeting was adjourned.



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Mayor Kevin M Gilmore