

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD ON JUNE 25, 2009 AT 5:00 P.M.

At 5:03 p.m. on June 25 Mayor Kevin Gilmore called the meeting of the Ottawa Hills Zoning Commission to order. In attendance were Commission members Sam Zyndorf, Jack Straub and Chairman Kevin Gilmore. Absent were Commission members Katherine O'Connell and Zac Isaac. Also in attendance were John Tasnadi, Larry Nichols, Tony Bassett, Nasrin Afjeh, Tom Richards and Rick Prokup. Staff members present were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

Mr. Zyndorf made a motion to approve the minutes from the May 28, 2009 meeting of the Zoning Commission. Mr. Straub seconded the motion.

Mayor Gilmore then administered the Oath to Tom Richards, Rick Prokup, John Tasnadi, Larry Nichols, Richard Gallegos and Marc Thompson.

The first item on the agenda was a variance request for the property at 3321 Pelham Rd. Mr. Thompson reported that this new home construction had received two variances previously from the Zoning Commission relating to height of the main structure and relating to height of the accessory structure. The home is well under construction now and the applicants have requested a variance to change the location of the garage. The Zoning Code requires that the detached garage be located not less than five feet from the side property line. The applicants have requested a variance that would allow the garage to be located one foot from the side property line. This is in order to allow for improved access to the garage for the eventual homeowners.

Rick Prokup of Saba Custom Homes stated that the proposed new position of the garage would make access much simpler since the lots are relatively narrow. He also commented that many of the other garages in the area appear to be on or very close to the lot lines. He confirmed that the proposal would still keep the garage ten feet from the rear lot line as shown in the original plans.

Mr. Straub stated that he had received a letter from the most affected neighbor, Ms. Judy Kean. Ms. Kean opposes the variance unless the applicant is willing to construct a four foot privacy fence along the property line between the two homes. Mr. Zyndorf asked if the proposed fence would be on the applicant's property and Mr. Straub confirmed that he believed that was the intention of Ms. Kean. Mr. Straub also stated that he thought Ms. Kean had sent her correspondence to the Village for distribution to the Zoning Commission although that did not occur and her letter was not available at the meeting.

Mr. Zyndorf continued stating that he thought there were many detached garages in the area which were very close to the lot line.

Mr. Thompson commented that prior to the Zoning Code change in 2002 there was no minimum setback for a detached garage so most of the garages in that area were close to the lot line.

Mr. Straub commented that he would likely oppose the variance based on the neighbor's request if the suggested privacy fence was not agreeable to the applicant. He commented that if a variance is asked for, then neighbor input is often significant.

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Mayor Gilmore asked Mr. Prokup if he would be willing to construct such a fence in return for the variance. Mr. Prokup informed the Zoning Commission that the house sold recently and that the expense related to the fence would have to be a decision made by the new owners.

Mayor Gilmore then mentioned to Mr. Prokup and everyone present that three votes are necessary in order to approve a variance and since there are only three members present at the meeting all three would need to vote in the affirmative to approve a variance.

After brief discussion Mr. Prokup suggested that he would like to have the issue tabled in order to allow more time for consultation with the new owners of the home.

Mr. Zyndorf then made a motion to table the variance request until the July meeting. Mr. Straub seconded the motion which passed unanimously.

(A few days after the meeting Mr. Prokup called the Village offices and stated that he had talked with the home purchasers and they now wish to withdraw the variance request entirely.)

The next item on the agenda was a request for a variance at 3664 Indian Rd. involving a front facing garage door. Mr. Thompson reported that in an A-2 zone attached garages must be rear or side loading. The Gallegos home currently has a side load garage consistent with the Zoning Code.

Mr. Gallegos wishes to do substantial work to their home which would not change exterior dimensions but would change the location of the garage door making it a front load garage. Mr. Gallegos has indicated that this would allow him to park his cars in the garage instead of in the driveway which is the current situation.

Mr. Gallegos original plan was to have the existing curb cut remain and have a curve in the driveway to get to the new garage doors. Subsequent to his initial application he determined that moving the curb cut to allow a straight in approach to the garage would be more appropriate.

Mr. Thompson reported that between Evergreen Rd. and Manchester Rd. there are 43 homes, 14 of which have attached front facing garages.

Mr. Gallegos reported to the Zoning Commission that the variance request to change the orientation of the front door is part of the major beautification which will include a new front porch, new roof, re-bricking of the entire house, and substantial upgrades inside the home.

Larry Nichols stated that he had good relations with his neighbor and wished to continue such good relations. He has lived in the home immediately west of the applicant property for the past 17 years. He also commented that many of the residents in the neighborhood have lived in their homes for lengthy periods of time.

Mr. Nichols continued by stating that he was not aware of any hardship that was created by the existing situation and was concerned that the existing garage is in the same plane as the front of the Nichols' home. He saw no reason for the variance and thought that the garage could be used in its present configuration if the applicant so desired.

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Mr. Gallegos responded by stating that two cars can't fit in the garage because they can't make the required turn. He also commented that he has a physical impairment and the current situation requires him to park cars outside of the garage. He commented that it certainly is a hardship for him to have to clean snow and ice off of the cars in the winter and in that regard he disagrees with Mr. Nichols.

Tom Richards stated that he was the adjoining neighbor on the east side and had some questions about the plan. Mr. Richards commented that the garage doors currently appear to be on the widest part of the garage and moving them may make entry into the garage more difficult than the current situation. He also asked what was intended to occur where the existing garage doors are located if the zoning variance is granted.

He stated that the plan states that there will be white brick entirely around the house but was unsure if that was the actual plan. Questions about landscape and side walking also were raised by Mr. Richards who requested additional information regarding the proposal.

Mr. Gallegos responded by saying that what is done on and in his home is his own business, aside from those items which require action of the Zoning Commission.

Village Solicitor Sarah McHugh then read a brief statement describing appropriate considerations by the Zoning Commission when reviewing variances.

Mr. Gallegos commented that the landscaping would be completely redone, the old driveway would be removed and replaced, windows would be replaced, and he commented that the home should be a substantial improvement. He also commented that there will be new white brick all around the house.

Mayor Gilmore asked Mr. Richards if he was in support or opposition of the proposed variance. Mr. Richards responded stating that there are multiple pieces of the proposed improvement and that he was not sure of the whole picture.

Mr. Straub stated that the Zoning Code requires a side or rear load garage and that there are no attached front load garages in the immediate vicinity. He also commented that the Code is written in its current fashion for a reason and exceptions require substantial justification. He also stated that he understands the problems with getting cars into the garage as described by Mr. Gallegos and asked if he would commit to keeping cars in the garage if the variance was granted. Mr. Gallegos responded that he would keep the cars in the garage and it would look much better.

Mr. Nichols stated that he opposed the variance and understands the points just made about the existing Code. He also expressed concern that future property owners may not have the same commitment to park in the garage as does Mr. Gallegos and that there would be no way to require future property owners to park in the garage. He reconfirmed his opposition to the variance.

Mr. Gallegos stated that the proposed improvements to the home would be approximately \$40,000 and he is trying to create value for himself and for both neighbors. He continued stating that he wanted to take the existing home and make it a better place.

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In response to a question, Mr. Nichols said that he lives immediately to the west of the applicant property and does not see cars parked in the driveway currently.

Mr. Zyndorf commented that the existing situation results in cars parked in the driveway sitting back from the street behind the front line of the structure, but if the variance was granted cars parked in the driveway would sit very close to the street. He also stated that he didn't see how the cars would fit in the garage if they don't fit in the garage currently.

Mr. Straub stated that the garage appears to be fairly narrow and was concerned that both cars might not fit. He asked Ms. McHugh if there was a way to condition the variance so as not to allow cars parked in the driveway.

Ms. McHugh responded by stating that she was not sure exactly how such a restriction would affect future property owners.

Mr. Nichols commented that it would be an issue of policing such a restriction which would be very difficult to do.

Mr. Gallegos commented that he had looked at other options and that this one is extremely expensive but he's willing to incur those costs. He stated that if the variance is not granted he will move out of the Village and rent the house to someone else.

After brief discussion Mr. Straub made a motion to approve the proposed request with the condition that if the request is granted that all of the brick on the home would match the entire house. Mr. Zyndorf seconded the motion. Upon call of the roll Commission members Straub and Gilmore voted yes, Commission member Zyndorf voted no.

As a result the variance was denied because three members of the Zoning Commission must vote in favor of a variance for it to be approved.

The next item on the agenda was a discussion item involving John Tasnadi of 2557 Talmadge Rd. Mr. Tasnadi reviewed with the Zoning Commission drainage problems that he has experienced in his rear yard in the last few years. Mr. Tasnadi brought photographs for review by the Zoning Commission. He expressed concern that there was a great deal of development immediately surrounding his yard which seems to be lower than the adjoining yards. A large old tennis court is on the property immediately to the rear. More recently a variance was granted to construct a garage immediately to the north of Mr. Tasnadi's property. That variance allowed the garage to be very close to the lot line. Mr. Tasnadi also mentioned a swimming pool built two doors to the south which he believes also contributed to the problem.

In order to address the problem Mr. Tasnadi has placed a small pump in the water when it accumulates. He commented that he recently pumped 9,000 gallons of water out to the street.

He had looked into the possibility of placing a drain in the rear yard which would drain water to the front and was told by various contractors that the Village would not allow that to occur. He had met with Mr. Thompson recently who stated that the Village would allow such a drain to be installed allowing the water to flow out to the street.

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Mr. Tasnadi expressed concern that he was going to bear the expense of draining his lot when the problem has developed by actions of other nearby property owners. Additionally, some of the actions have been relatively recent and approved by the Village. He also stated that he had lived on the property since 1998 and that only recently has he been having these water ponding problems.

Mr. Zyndorf commented that he purchased his home at about the same time, although in a different neighborhood. He also commented that in the last two or three years he has been having water ponding in his backyard which never occurred in the past. He said that there has not been additional building in his neighborhood.


Mr. Tasnadi stated that he would like the Village to help pay for any proposed solution to the problem since actions of the Village have contributed to it, referring to the garage variance granted and the swimming pool permit granted.

Solicitor McHugh suggested that the issue be directed to the Village Council.

After brief additional discussion Mayor Gilmore suggested that it should go to the Services & Environment Committee of the Council for a more detailed review. It was agreed that Mr. Tasnadi would be made aware of the next appropriate meeting of the Services & Environment Committee.

After brief additional discussion it was agreed that the next meeting of the Zoning Commission would be scheduled tentatively for July 23 at 5:00 p.m. Contact would be made with Commission members Isaac and O'Connell to confirm that date.

There being no further business the meeting was adjourned.



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Mayor Kevin M Gilmore