

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD ON JUNE 16, 2011 AT 5:00 P.M.

Jack Straub called to order the June 16, 2011 meeting of the Ottawa Hills Zoning Commission at 5:05 p.m. Roll was taken with Commission members Sam Zyndorf, Zac Isaac, Katherine O'Connell and Jack Straub present. Mayor Kevin Gilmore was absent and was not expected to be in attendance. Also in attendance representing the Village of Ottawa Hills were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

In the audience were Mr. & Mrs. Patrick Gleespan and their two children, Steven and Neerja Jindal, Nasrin Afjeh and Melissa Burden.

Mrs. O'Connell made a motion to approve the minutes of the April 28, 2011 Zoning Commission meeting. Mr. Zyndorf seconded the motion which passed unanimously.

Mr. Straub then reviewed the process by which variances were to be considered. The process involves a report from the staff, any input from the applicant, questions or comments from visitors in attendance at the meeting and consideration by members of the Zoning Commission.

Mr. Straub then administered the oath to Mr. & Mrs. Gleespan, Dr. & Mrs. Jindal and Mr. Thompson.

The first item on the agenda was a continuation of the discussion involving the requested variance for an accessory structure at 2530 Olde Brookside Rd.

Mr. Thompson described the recent history involving erection of the accessory structure in the rear yard without a permit. The commission concluded that the structure did require a permit and therefore required a variance. At the April 28<sup>th</sup> meeting, after substantial discussion it was agreed that the Jindals would, in coordination with the Village, host a meeting of nearby property owners in order to address concerns that property owners may have. Mr. Thompson reported that such a meeting had occurred with one nearby resident attending in addition to the Jindals. That was Barry Lieber who indicated that although the Jindals made a mistake in not getting a permit, the actual structure was not offensive.

Mr. Thompson continued by reporting that the Jindals had received letters of support from seven nearby property owners. Those letters had been forwarded to the Zoning Commission.

The Zoning Commission also received an email from the Jindals discussing their plan for improved screening, maintaining low voltage lights only until 11:00 p.m. and other efforts to improve the appearance of the structure.

Dr. Jindal commented that he had recently hired Jay Brewster and was following through on recommendations that Mr. Brewster, a landscape architect had provided. He confirmed that he had spoken with the neighbors in the area and referred to his June 3<sup>rd</sup> letter to the Village Zoning Commission. He was asking for permission to proceed with the proposal contained in that letter.

Mr. Straub confirmed that the proposals in the recommendation from the landscape architect were acceptable to Dr. Jindal but had not yet been completed.

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Mr. Zyndorf stated that he continued to have concern that the structure was erected without getting permission and acknowledged that with the foliage in full bloom during the spring and summer it is substantially more hidden from view than it was when the issue was first brought to the Zoning Commission. He asked about the possibility of painting the structure.

Dr. Jindal stated that they had not planned to paint the structure but would do so if the Zoning Commission requested. Dr. Jindal also said that additional screening intended to be accomplished by large trees would, perhaps, alleviate the need for painting.

In response to a question from a member of the Zoning Commission Mrs. McHugh stated that a condition of the variance could be that landscaping would be installed and maintained.

Mrs. O'Connell stated that she agreed with Jay Brewster and that providing screening was the best way to address this particular problem but she also indicated that the Zoning Commission must zealously guard against the "build first, ask for permission later" approach. She said she was inclined to grant this variance.

Mr. Isaac said that he was bothered by the precedent that may be set. Although the structure is well built he would not have approved it if it had come before him as a member of the Zoning Commission.

Mr. Isaac then asked Mr. Thompson if there had been any comments by citizens regarding the recent tendency of residents to build structures and then seek authorization after the structure has been completed. Mr. Thompson commented that the recent Village Voice publications have described that the "build first, ask permission" later problem has been growing. He also said that in the past ten days there have been people questioning whether or not they should seek a variance or just proceed and built.

Mr. Isaac continued by expressing concern that if this was approved after construction the precedent would be set and that the Zoning Commission must be very careful about maintaining control of the Zoning Code. He said he was also troubled by the large size of the entire structure. Mr. Isaac said that the Village was a special place in part because of the Zoning Code and the quality of housing structures as well as concern about the well being of neighbors.

Mr. Isaac stated that he was not making a motion but wanted to consider discussion regarding a variance for the tree house but removal of the additional structures, opining that he would have probably approved such a request.

Mr. Zyndorf stated that he was not so concerned about the size but more about the location being on the street side of the lot and very visible. Mr. Zyndorf also mentioned that in a recent meeting of the Zoning Commission a fence had been put up in violation of the Zoning Code and it was adjusted at the direction of the Zoning Commission.

Mrs. Jindal stated that the location of the structure was driven by the shape of the lot. She agreed that the height of the structure may require a variance although she did not believe it was in the side yard. She also commented that they had made a strong effort to satisfy the

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neighbors' concerns. She also indicated that she understood the point of concern of the Zoning Commission regarding precedent.

Mr. Straub commented that the corner lot made the whole situation more difficult and that he would prefer not to have to deal with this situation but is forced to by virtue of the actions of the Jindals.

Mr. Isaac again suggested the possibility of removing part of the structure.

Dr. Jindal stated that Mr. Isaac was correct and noted that it is the decking and walkway between the two main structures that is most visible although it is becoming less visible as it weathers and as leaves fill in.

Dr. Jindal confirmed that they would be planting additional evergreen trees.

Mr. Zyndorf said that he would not have approved this had it been brought in before it was constructed and that at some point the Zoning Commission will have to draw the line and make someone take something down.

Mr. Isaac agreed and mentioned the need to be consistent and the fiduciary responsibility of the Zoning Commission to uphold the Zoning Code.

Mr. Isaac then made a motion to approve the height variance and the location of the tree house variance provided that landscaping as proposed be installed and maintained and that the lighting be off by 11:00 p.m. Also included in the motion was the requirement that the additional decking structure around the second tree would be excluded from the variance and would be removed. Mrs. O'Connell seconded the motion.

Mr. Isaac commented that he made the motion reluctantly but felt the strong need to be consistent and take seriously his responsibility as a member of the Zoning Commission.

Dr. Jindal stated that the tree house is actually hidden by other trees and review of the photographs occurred. After additional discussion Mr. Isaac made a motion to modify his original motion. The modification made by Mr. Isaac would include in his motion authorizing a variance for the main part of the structure as well as the second octagonal structure with the understanding that the decking/walkway between the two structures would be removed. Mrs. O'Connell seconded the motion to amend the original motion.

Brief discussion followed clarifying that the motion required installation of evergreens consistent with the plan, lighting eliminated at 11:00 p.m., and removal of the walkway and railing between the two structures. Upon call of the roll Commission members Zyndorf, O'Connell, Isaac and Straub voted in favor.

Mr. Straub commented that the Zoning Commission appreciated the efforts put forth by the Jindals to reach an acceptable resolution to this problem.

The next item on the agenda was a request for a variance by the Gleespan family at 3344 Brantford Rd. The Gleespans have a current fence which constitutes a nonconforming use in

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that it is located between the front of the house and the street. This fence has been in existence longer than anyone can remember.

Mr. Thompson reminded the Zoning Commission of the policy which allows replacement of deteriorated fences that constitute nonconforming uses. That replacement must be in an identical location and must involve the same type of fence that is being replaced.

The Gleespans wish to modify the type of fence from a split-rail fence to a solid type fence. They also wish to move the fence approximately 6 to 12 inches closer to the street. Therein lies the need for the variance.

Mr. Gleespan then described the desire to provide some more privacy for their children and to make the fence in this part of the yard match the existing fence in the rest of the yard.

Mrs. O'Connell commented that the neighboring property owner could actually have a fence at this location by virtue of the location of the neighboring house.

Mrs. O'Connell also expressed concern about the view of the fence from the street suggesting that some landscaping in front of the fence would be helpful. Mrs. Gleespan said that she intends to place landscaping in front of the new fence so that it is not so visible. After brief additional discussion Mr. Isaac made a motion to approve the variance to erect a solid wood panel fence as described in the variance request. Mr. Zyndorf seconded the motion, Mr. Zyndorf and Mr. Straub voted in favor of the motion, Commission member O'Connell voted in opposition to the motion.

It was agreed that the next meeting of the Zoning Commission be on July 21, 2011 at 5:00 p.m.

There being no further business the meeting was adjourned.



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Mayor Gilmore