



CITY OF OLMSTED FALLS
PLANNING & ZONING COMMISSION
MINUTES
APRIL 19, 2017
7:30 PM
COUNCIL CHAMBERS

Commission Members Present : Brett Iafigliola, Bob Sculac, Michelle Hawkins, Gary Pehanic, Fran Migliorino, and Tony Budak.

Others Present: Santo Incorvaia, Asst. Law Director. Audience: 3

Meeting was called to order at 7:30 p.m.

1. Planning & Zoning Case # 04-2017 A request by Laura Rini, owner of 7752 Brookside, PP# 281-17-007 for a side yard setback variance of 5 feet to Section 1240.05(a) and a garage area variance of 20 square feet to Section 1240.09(a)(3)(A) to extend an existing single garage into tandem style garage.

Ms. Rini indicated that prior to purchasing this home she went to the ABR knowing that the history of the home was important to the community. She presented to them the idea of demolishing the one car garage and installing a pull through driveway along the home which would then open up to a two car detached garage at the back of the property. ABR's recommendation was that since the garage and connecting breezeway was considered original to the home they did not want to see the garage demolished. She stated that she is utilizing the Heritage Home Loan Program and is speaking to contractors through the Cleveland Historical Society. The suggestion was the tandem style garage which allows the front of the single do remain unchanged. The ABR has approved the tandem style garage.

Mr. Iafigliola indicated that the City Engineer has requested that a licensed surveyor measure the distance and provide a stamped drawing indicating that the existing conditions are correct as shown. Ms. Rini agreed. Mr. Iafigliola stated that the City Engineer has also indicated that the drawing does not show topographic information. Mr. Rini indicated that the property was waterproofed and any new addition would be tied into those drains.

Mr. Iafigliola read the last paragraph and back of Mr. Smerigan's report dated April 11, 2017 (see attached).

Ms. Migliorino asked if any of the neighbor's had any concerns. Mr. Rini indicated that the neighbor's have been appreciative of how they are improving the home. Ms. Migliorino asked if the roofline would remain the same. Mr. Rini replied yes. Ms. Migliorino stated that this is not historical so there are no materials that must be used. Ms. Rini indicated that the hardy board siding that will be replaced on the home will also be utilized for the garage extension.

Jaimie O'Connor, 25659 Water Street, stated that she is also updating an older home and are in favor of the alteration to add onto the existing garage.

Mr. Iafigliola moved to grant the request of Ms. Rini at 7752 Brookside pp#281-17-007 for a sideyard setback variance of five (5) feet pursuant to section 1240.05(a) and a garage area variance of 20 square feet pursuant to section 1240.09(a)(3)(A) to extend an existing single

garage into a tandem style garage on the condition that Ms. Rini obtain a licensed surveyor to verify the distance and provide a stamped drawing to the building department; Mr Budak seconded. Poll: 6 ayes; 0 nays. Motion carried.

2. Planning and Zoning Policy and Procedures – Mr. Pehanic gave the clerk a copy of a document that was used during the Board of Zoning Appeals meetings that he would like incorporated into the new Planning and Zoning Procedures. Mr. Incorvaia indicated that applicants present for variance requests do need to be sworn in. He would suggest that at the beginning of the meeting the chairman request that any applicant present for the variance issue stand and be sworn in. Mr. Pehanic suggested that any variance requests be placed first on the agenda in order to allow for the oath to be given.

3. Review of Ordinance 70-2016 - “AN ORDINANCE ADOPTING CHAPTER 1469 OF THE CODIFIED ORDINANCES OF THE CITY OF OLMSTED FALLS TO ESTABLISH EROSION AND SEDIMENT CONTROL AND DECLARING AN EMERGENCY”
(Council is requesting that Planning & Zoning Review and submit comments, if any, prior to their adoption).

Mr. Sculac indicated that when the county changed their rules and regulations they have requested that cities do the same. Mr. Incorvaia indicated that many communities are updating and reviewing their rules regarding erosion and sediment control. This is similar to what other communities are doing and what is being requested of Olmsted Falls. He stated that there is a mandatory referral to Planning & Zoning there is a timeframe, but, if it is not a mandatory referral but just a request for feedback there is no timeframe.

Mr. Pehanic asked what Council is requesting from the Commission for this particular document. Mr. Incorvaia stated that it is a requirement that the Commission review any of these types of changes, if there are no objections and the engineer makes his or her recommendations, then the Commission would reply to Council indicating that there are no objections.

Ms. Migliorino indicated that her speculation is that the county wants the language “storm water” added. She believes that the reason they are requesting the change is due to the fact that the Northeast Ohio Regional Sewer District determined that all of the larger pieces of land that have parking lots will be taxed except for churches and non-profits. She believes that not only is this request being dictated by the State of Ohio but also the Northeast Ohio Regional Sewer District. Mr. Incorvaia indicated that there are some changes to the storm water regulations that are more stringent than they use to be for the reason Ms. Migliorino discussed.

Mr. Pehanic asked that the City Engineer attend a meeting in order to discuss this issue or submit a report indicating the substance of the changes including the reasons for the revisions.

Mr. Iafigliola moved to table the review of Ordinance 70-2016 when the City Engineer could be in attendance at a meeting; Mr. Budak seconded. Poll: 6 ayes; 0 nays. Motion carried.

COUNCIL LIAISON REPORT: Mr. Sculac stated that Council has agreed to sell the old library building and a purchase agreement has been signed. The gentleman who owns Gunselman’s

in Fairview Park will be the new owner. He is a restoration type of person and will maintain the building as it looks, as much as feasible. The building will become a bar/restaurant and will be named "The Library in the Falls." The interior will reference the old library with books on the walls, etc.

OTHER BUSINESS: Mr. Incorvaia stated that some of the members are new to the variance and zoning appeal issues. He would like to suggest that when the Commission makes a motion to grant or resolve a variance issue you outline the reasons the variance is to be granted. He stated that if there are appeals that go to court it is important to have, in the record, why a variance was granted. He stated that there are two types of variances, a "use" variance and an "area" variance. The use variance is to allow the property owner to use the property for a use it is not zone. A use variance requires of finding that there is some type of hardship why the applicant needs the use variance. The use variances are higher standards than an area variance. In the State of Ohio an area variance requires practical difficulties, which is a term the Ohio Supreme Court used in *Duncan v. Village of Middlefield*. Types of issues in area variances include whether the variance is substantial, the character of the neighborhood is substantially altered or whether it would suffer substantial detriment, whether the variance would adversely affect the delivery of government services, whether the problem could be resolved by other means, other than a variance, and whether or not the variance would preserve the spirit and intent of the zoning requirement, and whether substantial justice would be done by granting the variance. For example, in the Rini case tonight, the five foot variance made sense because most of the existing building already had a five foot width from the property line and it made sense to continue that line. One neighbor was present indicating she did not have any issues with this request. These are the types of reasons that should be outlined when the variance is granted.

Mr. Iafigliola asked when the reasoning would occur, during the motion or after the motion. Mr. Incorvaia suggested that the reasoning be part of the motion, or part of a written format when the variance is granted and would be made part of the record. He stated that the same suggestions would apply for the denial of a variance. Secondly, if there are some issues where more information is needed the Commission can consider the testimony given at the meeting but also ask for additional testimony from an expert or someone they deem information needed from. For example, there was a large portion of acreage north of the building and in that case went to the Common Pleas Court and then to the Court of Appeals and ultimately the Supreme Court and they ultimately agreed with the Court of Appeals. This case took eight to 10 years to work through the court system. The Court of Appeals had no issues with the procedures the Board of Zoning Appeals followed but their concern was that there was no testimony given or information from any expert as to why the variance was denied. The other side gave expert testimony but the city did not and that is important so there is a basis for rejection or approval.

APPROVAL OF MINUTES: Mr. Sculac moved to **approve** the Planning & Zoning Commission minutes of February 15, 2017; Mr. Budak **seconded**. Poll: 5 ayes; 0 nays; 1 abstain (Migliorino). **Motion carried.**

ADJOURNMENT

Mr. Sculac moved to **adjourn**; Mr. Pehanic **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

Meeting adjourned at 8:25 p.m.

Planning & Zoning Commission Clerk

Date

Planning & Zoning Chairman

Date