



CITY OF OLMSTED FALLS
PLANNING & ZONING COMMISSION
MINUTES
SEPTEMBER 20, 2017
7:30 PM
COUNCIL CHAMBERS

Commission Members Present : Brett Iafigliola, Bob Sculac, Michelle Hawkins, Gary Pehanic, Fran Migliorino, and Tony Budak. Terry Klimchak was mark unexcused as he did not contact the chairman.

Others Present: George Smerigan, City Planner. Audience: 9

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

1. **Planning & Zoning Case #16-2017** – A request made by Joe & Melissa Santoro, owner of 26140 Redwood Drive, PP# 291-07-028 for a 2 foot side setback variance to Section 1240.09(a)(1) so that the garage can be 3 feet off of the side lot line and a variance of 1 foot 7 inches to Section 1240.07(b) to permit the garage height be 16.7 feet.

Mr. Iafigliola administered the oath.

Mr. Santoro indicated that his request is to reconstruct his garage, add more storage and move the garage over in order to allow for the ability to get in and out easier. He believes the current garage was constructed after the home was built.

Mr. Smerigan stated that the current garage is located behind the home which makes it difficult for the applicant to maneuver two vehicles into the garage. There is not much distance between the home and the front of the garage which makes the maneuvering difficult. If he is granted the additional two feet to move over the garage it will give him better maneuverability for the vehicles in and out of the garage. Mr. Smerigan indicated that Mr. Santoro's practical difficulty is the inability to fully use the garage at the present location in order to get two vehicles into it. The second variance is a slight variance to the height requirement in order for him to have a pitch on the garage that would be similar to the pitch on the roof of the house. He believes it makes sense to have the consistency and design and that variance is only 1.7 feet so it is not a substantial request. Mr. Iafigliola asked if Mr. Smerigan was in favor of both variance requests. Mr. Smerigan indicated that he believes it is possible to make a determination that practical difficulties exist and the two variances are relatively minor and would resolve the issues in the most appropriate way and he is in favor of granting the variances.

Mr. Iafigliola moved to **approve** the request made by Joe and Melissa Santoro, owner of 26140 Redwood Drive, PP#291-07-028 for the requested two (2) foot side yard setback variance pursuant to Section 1240.09(a)(1) so that the garage can be built three (3) feet of the side lot line and a variance of 1 foot 7 inches pursuant to Section 1240.07(b) to permit the garage height to be 16.7 feet; Mr. Budak **seconded**.

Mr. Santoro indicated that he did request for the garage to be 17 feet and assumes that after the plans were reviewed the 16.7 feet was what was requested. Mr. Smerigan indicated that

the 16.7 came from the plans but if the Commission would like to approve 17 feet he has no concerns.

Mr. Iafigliola moved to **modify** his motion to permit the maximum height of the garage not to exceed 17.0 feet; Mr. Budak **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

2. Planning & Zoning Case #17-2017 – A request made by Dana Ciarlillo and Enzo Sberna, owners of 7872 Columbia Road, PP# 281-18-019 for a use variance to Section 1240.04(b) to permit more than one principal building (single family dwelling) to be constructed on a lot in a D-3 Dwelling District; a variance of 511 square feet to Section 1240.09(a)(3)(B) to permit an accessory building to exceed 3,000 square feet in area; a height variance of 10.3 feet to Section 1240.07(b) to permit an accessory building to be 25.3 feet in height; a variance of 843 square feet to Section 1240.09(a)(3)(A) to permit a garage area of 1723 square feet; a variance of 12 feet to Section 1240.09(a) to permit an accessory building to be located 30 feet from the side lot line in lieu of the required 42 feet.

Mr. Iafigliola administered the Oath.

Mr. Sberna indicated that prior to purchasing the property he approached the historical board and asked what they would like to see. He will stated the same thing he has said from day one, “tell me what I can have and that is what we will put in”. He dealt with the ABR board for the last 10 months in order to give them what they felt was appropriate for the historical, architecture, and credibility of the neighborhood. Originally he was told that he could have up to a 3,000 square foot building, one building, so he determined if he had one shot that would be his request. He has been trying to avoid any variance requests because he did not want variances. His proposed building has been called a garage, accessory building, pool house, guest house, frankly he does not care what the building is called but he definitely needs it as the house is small. The garage on the property is more of a glorified shed that someone allowed somebody to cut a hole into a historical property and install a vinyl door, but, no one wants to take credit. At some point he will need to correct this issue because it compromises the integrity of the building.

Mr. Iafigliola asked Mr. Sberna to explain the history as he is unfamiliar. Mr. Sberna stated that he is attempting to build an accessory building that will accommodate a guest house, garages and storage because he cannot modify the existing structure because it is an historical home. He is not permitted to build an addition nor change the existing home, which has been badly neglected over the years.

Mr. Iafigliola asked where the applicant’s driveway was located. Mr. Sberna indicated that his current drive is on Columbia Road but would like to eventually install an entrance at the rear of the property.

Mr. Iafigliola indicated that this structure will have living quarters and is not used exclusively for a garage. Ms. Sberna stated it is a guest house.

Mr. Smerigan indicated that what is before the Commission is a request for another dwelling unit, the code only permits one dwelling unit per parcel. The applicant is requesting to place a

second dwelling unit on the parcel, you can call the structure whatever you would like but it is a dwelling unit, it meets the criteria and standards for a single family dwelling unit. The applicant will require a use variance which will permit the second use on the property and the standard for that is unnecessary hardship. He included the other variance requests in an effort to expedite the request for the applicant, if the Commission would determine, in his opinion he does not believe the Commission can, but if you were to determine that this is an accessory building and not another principal building the applicant would then need the other variances being requested because he does not meet the requirements for an accessory building. In his opinion the primary issue is the use variance for the second dwelling unit on the parcel. If the Commission approves a second dwelling on the property the other variance requests are irrelevant due to the fact that they deal with an accessory building. He wanted to make sure that all variances needed for either a dwelling unit or accessory building were covered in order to prevent the applicant from needing to come back before the Commission.

Mr. Sberna indicated that he is not calling it two principal residences. From day 1 he has asked for a guest house. He read into the record an email from Mr. Smerigan addressed to Terri which states "it appears to me that the amount of garage space is still going to exceed 880 square feet so he is going to need a variance for the guest house because of the garages on either end the total size of the accessory building is ok but he exceeds the code provisions regarding the maximum amount of garage space. Having said that he can go forward to the ABR to review the accessory building relative to architectural style and compliance with historical district standards. Any action by the ABR should be conditioned on the applicant obtaining a necessary variances and this way the ABR will provide guidance to the Planning & Zoning Commission regarding the compatibility and appropriateness of the design of the proposed structure but their action would not be considered a recommendation regarding the variance whether its practical difficulty."

Mr. Smerigan indicated that he has been asked several questions regarding this property. He was asked whether or not he could have a driveway coming in from the back, and he indicated that he was permitted to do that; he was asked about having an accessory building on the property and he indicated that he could have an accessory building up to 3,000 square feet; he received a question from the ABR Board who indicated to him that they believed it was garage space and they were informed that he could not have garage space of that size without getting a variance. He does not attend the ABR meetings and does not know what the ABR indicated to the applicant of the design of the structure itself. He stated that he wrote a memo indicating that from his perspective the applicant can go to the ABR to pursue design drawings but any action they took would be subject to approval of any variances needed. In reviewing the current drawings there are several issues and the principal issue is the fact that the proposed structure meets all the criteria of a dwelling so it is a second dwelling on the same property, you cannot have two dwellings on the same property so the applicant needs a variance or split the property so there are two lots. If the structure is an accessory building there is a height limitation of 15 feet and the proposed structure far exceeds that limitation. There is also a limitation on garage space and based on the plans there is more garage space than permitted. The third problem is if you have an accessory building that exceeds 880 square feet in area, which this proposal clearly does, then the side setback is related to the length of the wall that parallels the side lot line. Since there is an 84 foot long building it would be 42 feet from the side line, which he is not. All of these issues come in if this structure is an accessory

building. The code lists single family residents as a principal use in the district and not as an accessory use. He does not feel there is any other way to interpret this other than the fact that the applicant is requesting a second principal use on the property.

Mr. Iafigliola read into the record a letter from Ms. Nancy Vogt dated September 19, 2017 (see attached).

Joan Tabar 25601 Elm Street, she would like to thank Ms. Mancini and Laura who have been very helpful to her and professional helping her through some of her questions. Ms. Tabar stated that zoning ordinances serve a purpose and in Olmsted Falls it's to protect the character and values of our residential areas and to assure orderly and beneficial development. The dwelling districts are established to protect the desirable characteristics of the existing residential development, in other words to maintain the character of our neighborhoods. This neighborhood, as the other neighbor indicated, is a historic district, more than one home is on the U.S. Department of Interiors National Register of Historical Places, including her home. The area is zoned for single family dwellings, one per lot. It's made up of mostly modestly sized single family homes. The excessive nature of their requested variances indicate that the plans aren't in keeping with either the historic nature of the neighborhood or the current laws. As you know they want to build a second dwelling on a single family lot which isn't permitted under the current zoning laws and it would be 3500 square feet and 20 feet tall which is more than 500 square feet larger than would be allowed under the ordinances apparently for an accessory building and its 10 feet higher. She is not sure what is going on with the garage but 1700 square feet is 800 square feet larger than what is permitted currently. The proposed house is twice the size of most of the homes in the area and the garage is bigger than her house by a couple hundred square feet. She stated that 24 years ago she and her husband moved into this neighborhood specifically because of the historic nature of the neighborhood and her house and we've really loved it here. Its heavily treed areas and our park like back yard were big reasons that we moved into the house and bought it. We also figured there wouldn't be any development because it's a fully developed neighborhood of single family homes with the protections afforded by the zoning. We have lived relatively happy here but have watched the neighborhood slowly change over time. One tree is gone here, two here, two there and the corner lot was all treed and those are all gone and what we are left with on that particular lot is a big house. The owner was a builder and promised that it would fit into the neighborhood he also said they were building their dream home. Well they were gone in a couple years and we are left with a big house which really is more suited to a development and we moved here because we weren't really development people we wanted something different and that's why we are here. There are now two or three vacant houses in the immediate vicinity and unfortunately our park like back yard is now gone. They took down healthy 100 year old trees, she is guessing at the age, and maybe 50 year old bushes. Our back deck and upstairs sunroom are almost useless anymore because it's so hard to sit back there and look at what was there and what is there no more and perhaps soon our whole neighborhood is going to be further disrupted by two really large buildings that don't seem to fit the nature of the neighborhood. We really don't bear any ill will to the applicant and she is sorry for the process they have had to go through. We are really disappointed about the trees being gone. They just recently purchased this property and surely they did that with the understanding of what the zoning laws were, if not, from the actual knowledge of the laws but from sheer observation of their surroundings. We understand that they maybe want to take care of some elderly parents

but surely they have other options when they bought which she is guessing they can probably afford if they can build a building like this. There are many locations that can accommodate these kinds of arrangements and without destroying established neighborhoods. They might consider renovating one of the current vacant homes that would really be a benefit to our community and they are right on their property lines. Surely the rights of the surrounding homeowners who enjoy our properties without nuisance are not outweighed by their development desires which are incongruous with the existing laws and character of the neighborhood. Permitting this type of develop may increase the city's tax base but only in the short term and at the cost of the values of the surrounding properties and over time she thinks the affect would actually be the opposite. Historic features compensate for the planes, trains and automobiles and without that we become just another subdivision with nothing to set us apart or compensate for what already holds down the values of the properties in the area. Granting these requested variances would certainly fail to fulfill the stated purpose of the city's zoning ordinances to protect the character and values of our residential neighborhoods. She and those who agree with her pray you uphold the civic will to preserve and deny the petitioners request. Although we strongly oppose the issuance of these variances we request, that should they be granted, a condition of any construction be for them to provide live landscape screenings of sufficient height and density between adjacent properties and the structures to block everybody's views of these structures. We realize that this might be a lot to ask but no more than asking us to look at a 3500 square foot building 100 feet from our back door after enjoying 20 years of trees, natural greenery and wildlife.

Mr. Sberna showed the Commission a portion of the rotted tree that was removed. He indicated that according to his deed the property is a double lot and stated that he would move to the second lot which is vacant. He indicated that a lot of trees would be lost and doesn't really want to use that as an option. He stated that the tree previously discussed would not only take out their houses but also the homes across the street. Ms. Ciarlillo indicated that the tree was covered in carpenter ants. Mr. Sberna indicated that it also had lightening damage. He also indicated that the neighbors are comfortable with how things were but they were not paying for that, you are enjoying the luxury of someone else's property. Once we began clearing out the brush they noticed all the garage that was dumped there. The garages are along the property lines so his neighbors have been enjoying his property for years.

Mr. Smerigan indicated that if the applicants have another lot and can place the dwelling on the other lot then they have a solution to them other than a variance and the code clearly indicates if there is a solution other than a variance that is a solution that should be pursued. While they have a right to utilize their property they need to do so in a manner that conforms with the code. He stated that, in his opinion, he does not see a legitimate basis for the Commission to determine that there is an unnecessary hardship for this property that is different or unusual or not shared by any other larger lot in the City of Olmsted Falls. Mr. Sberna stated that if his property was anywhere else in the City he could add on an addition. He does not see why he has to address this issue when the ABR board believes it is adequate or concerns with how it appears. Mr. Smerigan stated that the ABR does not handle zoning compliance determinations, they do architectural design reviews and do not have the authority to approve a variance only Planning & Zoning does.

Ms. Ciarlillo stated that the option for the second lot would mean the removal of trees. They already took down a couple of trees that were damaged and there is an uproar, if we have to clear out an entire lot of woods then what would we face. She stated that before they purchased the house or even put in an offer they were in discussions with the ABR, which she is clear that they do not have authority over zoning, but, they have given them a Certificate of Appropriateness that this is historical and is ok in a historical context visually. She knows there is a lot of concern that we will ruin the appearance of the neighborhood but when the historical board gives their blessing we are obviously complying with their wishes to keep a consistent historical appearance. Mr. Smerigan stated that the design of the building is not an issue for this board. He understands the desire to preserve the trees but quite frankly there is nothing that would prohibit cutting the trees down in any case. Every time there is a home built there are trees removed, every time there are trees removed and a new home built some folks are unhappy and some are thrilled. Even if the variances were granted the owners would still have the ability to cut down the trees on the other lot.

Mr. Sberna asked why this building was not considered a second dwelling from the beginning of this process. Mr. Smerigan stated that the plans have changed several times and he has been asked several different questions from the ABR. He receives emails with zoning questions from the city daily and responds to them based on the information he has at that time. The design drawings that he received with this proposal now has a full dwelling unit.

Ms. Ciarlillo asked what the difference was between a pool house and a single family dwelling it is the amount of time someone spends or sleeps there. Mr. Smerigan indicated that typically a pool house is a place to change next to a pool, it's not a dwelling and it was never presented to him as a dwelling. Mr. Sculac indicated that they are not meant to be a dwelling.

Mr. Smerigan indicated that a solution would be for the applicant to complete a lot split/consolidation that way there would be frontage on both Columbia and Brookside Roads.

Mr. Sberna indicated that if he were to split the lot the proposed house would be located in the same spot and trees would not need to be cut down. Ms. Ciarlillo indicated that the acceptable solution for them would be to combine the lots and reconfigure them into two lots. Mr. Sberna asked what the setback would be from the back of his current home. Mr. Smerigan indicated that the setback is 30 feet. Mr. Sberna indicated that the proposed building would be six feet closer than he originally attended. He asked if the 30 feet was for the back or side setback. Mr. Smerigan indicated that he is assuming Mr. Sberna is going to consolidate the parcels and then split them so that there will be one parcel that fronts on Columbia and the other on the street to the rear and the lot line will be drawn between those two and that will end up being the rear lot line for both houses so both houses would have to be 30 feet off of that line. Mr. Sberna asked what would be the side setback. Mr. Smerigan indicated that the minimum side setback is 10 feet but the combined side yard setback has to be 25 feet. Ms. Migliorino indicated that if the property was split with east/west lots the applicant would have the ability to move the structure over which would allow him to keep as many trees as possible and provide landscaping for the neighbors. Ms. Ciarlillo indicated that she has no opposition to putting in landscaping.

Ms. Ciarlillo indicated that they will withdrawal their variance requests and proceed with reconfiguring the lot lines.

COUNCIL LIAISON REPORT: *No Report*

OTHER BUSINESS: *None*

APPROVAL OF MINUTES: Mr. Sculac moved to **approve** the Planning & Zoning Commission minutes of September 6, 2017; Mr. Iafigliola **seconded**. Poll: 5 ayes; 0 nays; 1 abstain (Budak). **Motion carried.**

ADJOURNMENT

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

Meeting adjourned at 9:00 p.m.

Planning & Zoning Commission Clerk

Date

Planning & Zoning Chairman

Date