

MINUTES OF MEETING

INDIAN HILL PLANNING COMMISSION

March 21, 2017

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, March 21, 2017 at 7:00 p.m. in the Council Chambers of the Village Administration building.

Members Present: Paul F. Madden
Richard C. Wiggers
Abbot A. Thayer
Joseph W. Rhodenbaugh
Rita M. Stolper

Members Absent: None

Officials Present: Jonathan D. West, Assistant City Manager

Visitors Present: Jon Homer, Twin Lakes
Doug Brendamour, 6105 Park Road
Beth Brendamour, 6105 Park Road
C. Francis Barrett, Barrett & Weber, LPA
Ann Kranbuhl, 9425 Holly Hill
Christopher C. Cole, 9450 Holly Hill
Sheila Cole, 9450 Holly Hill
Carey Chen, 4675 Walton Creek Road
Allison Kahn, 8095 Kugler Mill Road
Eric Kahn, 8095 Kugler Mill Road
Mike, Wentz, Wentz Design
Andrew Brendamour, 6105 Park Road
Ann & Don Highlands, 9375 Holly Hill
Rick Greiwe, 9355 Holly Hill
Elaine Greiwe, 9355 Holly Hill
Jim Barber, 7700 Chumani Lane
Cecily Harness, 6425 Park Road
Don Highlands, 9375 Holly Hill
Jeff Consolino, 8860 Old Indian Hill Road

Chairman Madden calls the meeting to order and asks for those in attendance to please stand, raise their right hand, and be sworn in prior to presentation of the cases.

Item Number 1: Minutes and Findings of Fact for the February 15, 2017 meeting: Chairman Madden asks for comments or corrections to the February 15, 2017 Planning Commission minutes and Findings of Fact. There being none, Mr. Wiggers made a motion to approve the minutes and Findings of Fact. Mrs. Stolper seconded, and the

minutes and Findings of Fact were approved. Mr. Thayer and Mr. Rhodenbaugh abstained from voting, as they were not at the February meeting.

Item Number 2: Case #17-004 – Bayer Becker, on behalf of Twin Lakes Life Enriching Communities, is requesting approval to expand an existing private ingress/egress and utility easement to serve additional land (5.6 acres) located west, in the City of Montgomery. The easement modification would allow Twin Lakes to expand and extend the existing private drive to serve twenty-two proposed villa units that will be owned and operated by Twin Lakes. The proposed easement modification is a change to Lots 1, 2, and 3 of the Twin Lakes at Indian Hill Subdivision as recorded in PB 397 – P 51.

Mr. Jon Homer, Director of Business Development for Twin Lakes Life Enriching Communities, comes before the Commission and displays a plat showing the requested 50' easement extension off of the Arbor Creek cul-de-sac in the north campus area. Mr. Homer states that he can answer any questions the Commission may have regarding the request.

Staff Report: Mr. West comments that previous actions related to Twin Lakes Subdivision are listed in the Staff report, but highlights the following:

- March 20, 2001 – The Planning Commission conditionally approved the Concept Plan for Twin Lakes Subdivision.
- September 18, 2001 – The Planning Commission conditionally approved the preliminary plat and final construction drawings.
- September 20, 2005 – The Planning Commission approved the Final Plat which includes six lots for single family residences.

The Village of Indian Hill Subdivision Ordinance, **Section 9.1** Procedure for Re-subdivision, states: “For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, ..., such parcel shall be approved by the Planning Commission...”.

The Re-Subdivision Plan review from Staff has been completed. The reason for the request is to provide access to the 22 proposed villa units located in the City of Montgomery that will be owned and operated by Twin Lakes. The proposed access easement and drive will go from 40' wide with an 18' wide pavement section to a 50' wide easement with a 20' wide curb and gutter pavement section per the Indian Hill Subdivision Ordinance.

The easement expansion will not change the lot size, area, or setbacks for the existing residences located on Lots 1-3. Twin Lakes owns all of the property in both Indian Hill

and the City of Montgomery. The residents rent/lease the property from Twin Lakes. The reason for the request is to have access for the proposed units to the clubhouse and amenities within the development, while providing safer access for the residents. Emergency services will not be disrupted by the proposal.

Staff finds that the applicant has met all of the submission requirements for re-subdivision approval. All adjacent property owners have been properly notified. Staff has been contacted by John Hamilton who asked for copies of the plan but did not submit any comments regarding the request. Should the Planning Commission choose to approve the request, it shall be subject to the following conditions:

1. Approval of the re-subdivision is subject to the City of Montgomery approving the plans for a maximum of 22 proposed villa units as shown on the attached preliminary plan.
2. The extension of the easement and private drive/utilities will be for a maximum of 22 proposed villas and gated emergency access to the safety services building only. No access will be provided to Montgomery Road or any other property.
3. Storm Water calculations shall be provided to the Village Engineer for review along with the construction drawings.

Mr. West notes that there is a retention pond on the east side of Lot 6, which is in Indian Hill so the Village Engineer would like to review the calculations to make sure the pond will accommodate the storm water.

Mr. Wiggers notes that he feels granting the easement extension is not in the best interest of the Village. He notes that it will separate Lot 1 from Indian Hill. He feels a better area for the roadway would be along the property line between Indian Hill and Montgomery.

Mr. Wiggers states that the proposed request will also reduce the size of Lots 2 and 3, making them less desirable.

Mr. Wiggers comments that this will also increase traffic going through Indian Hill.

Mr. West clarifies, noting that all six lots already have homes on them which is not shown on the aerial photos that were submitted.

Mrs. Stolper asks if the lots are owned by Twin Lakes.

Mr. Homer replies that they are all owned by Twin Lakes. Residents pay an entrance fee and then a monthly fee and have access to all the services and facilities of Twin Lakes.

Mr. Wiggers states that the plans submitted do not show enough information, as they do not show where the houses are constructed or where the drive is located.

After further discussion, Mr. Thayer made a motion to approve the proposed easement expansion with the three conditions outlined by Staff above. Mr. Rhodenbaugh seconded, and the motion was approved by a roll call vote with Mr. Thayer, Mr. Rhodenbaugh, Mrs. Stolper, and Chairman Madden voting for approval and Mr. Wiggers voting against approval of the request.

Item Number 3: Case #17-005 – Mike Wentz, on behalf of Eric and Allison Kahn, are requesting Planning Commission authorization to construct a new single family residence on a non-conforming lot of record per **Section 81. Lot of Record** of the Indian Hill Zoning Ordinance. The subject property is located at 6175 Park Road.

Mrs. Allison Kahn, currently residing at 8095 Kugler Mill Road, comes before the Commission and introduces herself and her husband Eric, stating that they moved to Indian Hill seven years ago with their three daughters.

Mrs. Kahn notes that she is very involved in the community and loves living in the Village. She notes that prior to purchasing the property she and her husband, along with their architect, Mike Wentz, performed their due diligence on the property to ensure that the subject property was a legal lot in which they could build a home.

Mrs. Kahn explains that they met with Mr. West to discuss ways to situate the home on the property while meeting all setbacks and other zoning requirements. There was also a soil analysis conducted to ensure that a septic system could be placed on the property, and Hamilton County has issued approval for such.

Mr. Mike, Wentz, with Wentz Design, comes before the Commission as the architect for the applicant, and states that he has been a Village resident for twenty years.

Mr. Wentz notes that the five acre lot is very unusually shaped. He met with Mr. West to discuss setbacks and the history of the lot.

Mr. Wentz explains that the house has been situated as far forward as possible in order to not be in the back yards of the neighbors on each side as well as to preserve green space in the rear of the lot. Mr. Wentz notes that the closest neighboring home will be 313' away. The average distance between homes on Park Road is 273', and the average distance between homes on Holly Hill is 244'. Positioning the home as proposed maximizes privacy for the applicant and their neighbors.

Mr. Wentz comments that the proposed home is 9800 square feet, which is very similar in size to the three closest homes.

Staff Report: Mr. West notes that **Section 81. Lot of Record** of the Indian Hill Zoning Ordinance states – On any lot of official record, as defined in Section 3 of this ordinance, at the time of the enactment of this ordinance, even though a smaller area and/or frontage than required by this chapter in the district in which it is located, a one-family dwelling with its customary accessory structures may be authorized by the Planning Commission provided that the owner of the lot does not own any adjacent land and provided that all structures are so designed and located as to conform as closely as possible to the yard and distance from lot line requirements of this ordinance for the district in which the lot is located.

Mr. West describes the property as being located in District “A” – five acre minimum and contains 5.1385 acres and became a non-conforming lot of record due to not meeting the lot frontage as described in detail in the parcel history section of the Staff Report. The parcel has 74.41' of frontage on Holly Hill Road.

Mr. West reviews the history of the parcel as follows:

- 1941 – A house was constructed on the subject property as part of the original Richard Deupree homestead which included the original home at 6305 Park Road (Ann Kranbuhl residence, which changed the address to 9425 Holly Hill in 1977 when the Holly Hill Subdivision was recorded) and several other homes.
- July 1945 – The Village of Indian Hill adopts the Indian Hill Zoning Ordinance.
- February 4, 1947 – Richard Deupree split off 11.877 acres with the house on the subject property and conveyed the property to James Y. Deupree. The lot had 50' of frontage on Park Road, and the existing home and parcel were in conformance with zoning with a Park Road lot frontage. There was an existing driveway which ran from Park Road SW of the house (in front of what is Mr. Brendamour's house today) and served both the current Brendamour house (one of the original homes on the Deupree estate) and the house on the subject property, then followed the alignment of the current driveway on the subject property and then joined up with the driveway that ran from Park Road SE of the subject property that also provided access to the original estate home. That portion of the driveway is today Holly Hill which was platted in 1977.
- January 3, 1962 – Two small slivers of property are split off of the 11.877 acres and transferred to the owners at 6225 Park Road and 6275 Park Road (parcels 0051 and 0053).
- September 14, 1972 – The remaining 10+ acres of land were split into two 5+ acre parcels. The house remained on the portion of land that is the subject property along with a 40' ingress/egress and utility easement out to Park Road on the second 5+ acre tract and a second driveway easement out to Park Road that

was shared with the original home at 6305 Park Road (the driveway later became Holly Hill in 1977). Mr. Frank Tingley, Assistant to the City Manager, approved the lot split deed with a stamp and signature. The house on the subject property was still in conformance with zoning with a Park Road lot frontage. The Assistant to the City Manager did not have the authority to approve a lot split that creates a non-conforming house without Planning Commission approval, therefore it is Staff's opinion that the approval of the lot split justifies that Park Road and the front lot line parallel to Park Road is the lot frontage and front lot line for the subject property.

- 1977 – Holly Hill Subdivision was platted and the access easement to Park Road for the subject property was vacated because Holly Hill was constructed and the right-of-way was dedicated to the Village. The existing 40' ingress/egress and utility easement on the adjacent property still existed for the subject property.
- May 2003 – Tom Kereiakes, Trustee of the Douglas P. Brendamour Children's Trust, acquires the second 5+ acres property and transfers to the Village of Indian Hill a 0.4501 acre green area parcel. Mr. Brendamour had the remaining 4.6119 acre (net) parcel placed in a conservation easement (less the area that included the utility easement out to Park Road). At this same time the property owner of the subject property placed a conservation easement in the back corner of the subject property and also agreed to vacate the 40' ingress/egress easement out to Park Road, but maintained the utility easement for the 6" water line and fire hydrant that serves the subject property.

Staff believes the vacation of the 40' ingress/egress easement may have created the non-conforming lot frontage for the subject property per the definition in the Indian Hill Zoning Ordinance:

LOT LINE, FRONT. In case of an interior lot, the line separating the lot from the street.

- (1) In the case of a corner lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street line as the front lot line, provided that such choice, in the opinion of the Planning Commission, will not be injurious to the existing or desirable development of adjoining properties.
- (2) Wherever a principal building is to be located on a lot, which does not abut upon a street, but which is adjacent to a lot which abuts upon a street, there shall be an unobstructed easement of access at least 40 feet wide. When this situation exists, a front lot line shall be selected which will meet lot frontage requirements, provided that such choice, in the opinion of the Planning Commission, will not be injurious to the existing or desirable future development of adjoining properties.

After the easement was vacated the subject property's only legal access was from Holly Hill. Staff notes that a change to an address or driveway location does not change the front lot line designation. The Planning Commission must approve the change or selection of a front lot line. The subject property has never been before the Planning Commission.

Staff also notes that when the lot was initially created in 1947 and split in 1972, Holly Hill had not been developed; therefore, Park Road or the lot line substantially parallel to Park Road was the only road which could have been classified as the front lot line and lot frontage.

- January 1, 2007 – The home at 6175 Park Road on the subject parcel was destroyed by fire.
- June 22, 2007 – The Village issued site clearance release permit R-5886 for the demolition of the remainder of the house on the subject parcel.

Staff has determined that the front lot line is the lot line that is parallel to Park Road (east), the side yards are on the right and left (north and south) sides and continue as side yards until you get to the line that is generally opposite the front lot line, which is the rear yard.

Mr. West notes that when the house on the subject property was built, the only road from which the lot frontage requirement could be calculated was Park Road, as Holly Hill did not yet exist.

Mr. West states that the applicant is proposing to construct a new residence following the same front building line as the original home that burned down in 2007; however, the proposed home will be wider and deeper than the original home. The original home was approximately 3,500 square feet. The proposed two-story home is approximately 9,760 square feet. The proposed front building setback is 105'-1" (100' required) to the front lot line, 31'-2" to the right side, 31'-8" to the left side (25' or equal to the height of the tallest portion of the building within 40' of each side lot line is required; the tallest portion of the proposed house within 40' of each side lot line is 18'), and 165' to the rear yard (100' required). The proposed home meets the required setbacks.

The proposed home will be connected to Indian Hill Water and a Hamilton County Public Health approved septic system design. The home will contain two stories with a five car garage. The exterior of the home will be finished with cement stucco, dimensional shingles, 4" limestone window surrounds, limestone veneer on the chimneys, and a limestone veneer base. The rear of the home includes a covered porch, terrace, and pool.

The fire department is requiring a fire hydrant to be installed within 400' of the proposed structure adjacent to the driveway and has requested that the address be changed to Holly Hill to match the access point.

Staff properly notified all adjacent property owners and has been contacted by several of the neighbors, two of which have submitted written comments which have been emailed to the Planning Commission members. Two other neighbors inquired about the details of the proposed project, but have not submitted comments. In addition, Mrs. Helen Black submitted a letter which was also emailed to the Planning Commission.

Mr. C. Francis Barrett, with Barrett & Weber, LPA, comes before the Commission on behalf of Ms. Ann Kranbuhl, residing at 9425 Holly Hill (previously 6305 Park Road), who is opposed to the request. Mr. Barrett notes that he will make a presentation after his client speaks.

Ms. Kranbuhl makes reference to the letter she submitted to the Commission expressing her opposition to approval of the proposed plan.

Ms. Kranbuhl explains that when she moved to her home in 1977 she had an address of 6305 Park Road. Once Holly Hill became a dedicated street, her address changed to 9425 Holly Hill.

Ms. Kranbuhl provides history on the property that took place prior to the Kahns purchasing the lot. She notes that previously there was a small 3,400 square foot one-story home on the lot that was appropriately sized for its irregular shape. The proposed home is approximately 9,800 square feet, which appears to extend to the limits of every setback.

Ms. Kranbuhl reads the letter from Mrs. Black, who is opposed to the proposed dwelling, as she could not be present at the meeting.

Mr. Doug Brendamour, residing 6105 Park Road, makes reference to the detailed analysis and history of the property that he submitted to Staff and the Commission.

Mr. Brendamour explains that to honor the Deupree family, he did not tear down and rebuild the original home as the needs of his family grew. Instead, he transitioned the home by adding on and creating a modern day historic home that kept the integrity of the original Deupree home.

Mr. Brendamour states that the origination of the subject property began in 1947 when Richard Deupree gifted the 10+ acres to one of his children. This took place after the Village adopted the zoning ordinance in 1945 so there are no pre-existing or grandfathering provisions that apply to the lot.

Mr. Brendamour explains that in 1972 the property was further divided into two five acre sites. The plans for the lot split were improperly stamped as approved by the Assistant City Manager at that time, showing approval by the Planning Commission. The Assistant City Manager is not a voting member of the Planning Commission. There are no documents showing official approval by the Planning Commission for the lot split which created these two non-conforming lots.

Mr. Brendamour states that in 2003 this error was resolved with one of the sites through a settlement involving the Village, adjacent property owners, and the owner of the subject property at that time. Part of the settlement includes provisions that were agreed upon by the parties and were part of the basis of the overall agreement on the second site (subject property). This agreement is explained in a legal document titled "Purchase and Sale Agreement", dated in 2002. Mrs. Brendamour distributes copies of this document to the Commission as Mr. Brendamour explains that this agreement was drafted by the Village legal counsel and is signed by Village officials as well as the other involved parties.

Mr. Brendamour makes reference to Section 1.5 of the "Purchase and Sale Agreement", stating that "The Tuttle property has frontage on Holly Hill, and primary access to the residence on the Tuttle property is via Holly Hill rather than the easement over the property." In this document, the "Tuttle property" is the subject property. In Section 4 of the document it notes that the easement for ingress/egress to Park Road was eliminated.

Mr. Brendamour notes that the site does not meet **Section 37.2 Lot Lines** of the Indian Hill Zoning Ordinance which requires an unobstructed easement of ingress/egress at a minimum of 40' wide. Therefore, there is no access to Park Road for the subject property.

Mr. Brendamour states that the lot also does not meet **Section 55. Rear Dwellings** of the Indian Hill Zoning Ordinance which requires vehicular access to the road it fronts on; therefore, this property could be considered a rear dwelling to 9425 Holly Hill.

Mr. Brendamour conveys that in 2003 his family paid \$262,500 to resolve the issues with these two lots, the Village paid \$150,000, and the Bliss's paid \$37,000. This agreement should not be violated by the Village, especially to the detriment of the Brendamour family who paid the most to resolve this problem that the Village created.

Mr. Brendamour states that his family has relied on this agreement and has invested a substantial amount of money in their property based on the agreement.

Mr. Brendamour makes reference to several handouts distributed to the Commission showing the narrow lot and how a large house with frontage on Park Road would not be in keeping with other properties in the neighborhood, as other properties are properly

dimensioned. Mr. Brendamour expresses that the proposed house is similar in size to theirs; however, their house is on three five acre lots. The proposed lot wraps around into the back yards of neighboring properties, invading their privacy.

Mr. Brendamour argues that the Staff Report incorrectly indicates that the site meets the requirements of **Section 81. Lot of Record** of the Indian Hill Zoning Ordinance, noting that this section makes reference to “any lot of official record, as defined in Section 3 of this ordinance, at the time of the enactment of this ordinance...”. Mr. Brendamour notes that **Section 81** only applies to those lots that were formed prior to the enactment of the ordinance. The subject lot was formed after the enactment of the Indian Hill Zoning Ordinance.

Mr. Barrett notes that he does have some history on the subject property, as he performed legal work on Holly Hill Subdivision in the late 1970's. Mr. Barrett explains that the property has no frontage on Park Road and all of its frontage on Holly Hill, as the exhibits before the Commission show.

Mr. Barrett makes reference to **Section 81. Lot of Record** which states that if there is a lot of record when the zoning ordinance is adopted, that lot is a buildable site. Mr. Barrett explains that this section of the code has no bearing on the case whatsoever because the original lot of record was a much larger area when the zoning ordinance was adopted by the Village in 1945. The plot plan before the Commission shows that the lot is not the same as what existed in 1945. The original lot has been split up.

Mr. Barrett points out that after the lot split was approved by the Village, the 40' ingress/egress easement was vacated. Therefore, the section of the code that the Staff Report relies on is misleading, as it does not apply. There is no easement of access or legal frontage on Park Road.

Mr. Chris Cole, at 9450 Holly Hill, states that he and his family live across the street from the subject property. Mr. Cole comments that the proposed home is too large for where it sits on the property if frontage is permitted on Park Road. Mr. Cole feels that frontage on Holly Hill is more appropriate for the size of the home.

Mrs. Sheila Cole, also residing at 9450 Holly Hill, states that the size of the home is so inappropriate for the irregular shape of the lot. A much smaller home would be much more appropriate for the size and shape of the lot.

Mrs. Cecily Harness, residing at 6425 Park Road, states that she and her family have lived on Park Road for nineteen years. Mrs. Harness comments that her family has a close relationship with the Kahns, as their daughters are close friends.

Mrs. Harness notes that over the years many homes on Park Road have been razed and rebuilt or substantially enlarged, often clearing lots of established trees to make

way for the new construction. While she and her husband both enjoy the charm of the older homes and love the woods, they recognize that neighborhoods need to modernize in order to stay appealing to younger generations. She feels that tasteful renovations and new building improves property values in the area. What the Kahns are proposing is in keeping with other properties on the street and throughout Indian Hill.

Mr. Rick Greiwe, at 9355 Holly Hill, states that he is speaking for both himself and his wife Elaine. Mr. Greiwe notes that he is a developer and understands zoning. He states that there is a huge disservice to the Kahns who want to add to the value of the Village and raise their family and a huge disservice to the Brendamours who signed a legal binding agreement in 2003. Mr. Greiwe comments that years ago Staff should have never approved the lot split, as they did not have the authority to do so. Mr. Greiwe cautions the Commission with their decision, as it could set a precedent.

Mr. Carey Chen, residing at 4675 Walton Creek Road, states that since there was a residence on the subject property previously and since it is zoned residential, the land owner should have the right to build a house on the property.

Mr. Chen notes that there have been many comments concerning the size of the house in proportion to the size and shape of the lot. He cautions the Commission on making a ruling against the proposal based on these comments if it meets all the required setbacks. There are also five other Planning Commission approved cases mentioned in the Staff Report that set a precedence for allowing homes to be built on non-conforming lots.

Mr. Chen adds that there was at least a ten year period where the neighbors were against a house being built on the subject lot. He feels they could have joined together and purchased the lot from the former owner which would have alleviated all these concerns.

Mr. Brendamour states that he did try to purchase the lot from the former owner twice, but they could not come to terms on the price.

Mr. Don Highlands, residing at 9375 Holly Hill, comes before the Commission and asks that the Commission strictly adhere to compliance of the zoning ordinance and to the prior legal agreement that was made with the Brendamours. He feels the size of the home is a concern as well as the height of the second story, as it will impact the privacy in the back yards of other neighboring properties.

Mrs. Harness comments that this lot sat empty for so long and neighbors had a beautiful view of green space. All the while this space was an actual buildable lot. She adds that she feels neighbors just don't want that view to change, but the Kahns have a right to build their home.

Mr. Eric Kahn, currently residing at 8095 Kugler Mill Road, comes before the Commission and states that many things he has heard this evening are not true and are simply opinions.

Mr. Kahn notes that as the property owner, he has gone through all the proper channels and has relied on the advice of Village officials on what is permitted according to the zoning code. Mr. Kahn states that if the Village allows property lines to be re-drawn by a neighbor because they don't want a house to be built on someone else's property then that could be extremely detrimental to all home values in Indian Hill and could set a very bad precedence.

Mr. Kahn comments that the setbacks should determine the size of the house, not the neighbors. He adds that Mr. Brendamour had thirteen years to work with the prior owner to purchase the lot.

Mr. Kahn notes that there is a five acre buffer between his lot and the Brendamour's property. There is over 300' between their proposed home and the Brendamour's home, whereas there is only about 200' between the Brendamour's home and their neighbor to the south. He does not feel privacy is an issue with these lots. Mr. Kahn states that from the Brendamour's viewpoint they will only be able to see the top of the roofline of the middle part of the proposed home, and this will only be visible in the winter. He adds that the two-story part of their home is about the same footprint as the pre-existing house.

Mr. Kahn explains that they purchased this lot because they wanted more privacy, and they have designed the home to ensure privacy for themselves and their neighbors. He notes that there have also been concerns mentioned about seeing the home from Holly Hill. There is a 650' tree line drive with trees ranging from 40' to 80' tall which will definitely block any view of their home.

Mr. Kahn makes reference to statements made about the proposed house being too big and adds that these comments don't make sense, as the Brendamour's house is one of the largest homes in Indian Hill. The proposed home is roughly the same size as Ann Kranbuhl's home at 9425 Holly Hill. Mr. Kahn states that they have followed the zoning regulations and setbacks put in place by the Village, and to not allow someone to build a home within the setbacks because neighbors don't like the size of the home would not be a good precedent to set.

Mr. Kahn notes that comments related to Village officials who are no longer available incorrectly stamping approval on plans and claiming that they did something illegal thirty or forty years ago is hearsay and not viable in a court of law.

Mrs. Beth Brendamour, at 6105 Park Road, comes before the Commission and states that their home is on sixteen acres, not five. Their home was built in 1940 by the

Deuprees who lived there for sixty years. She explains how they became friends with the Deuprees and still keep in touch with them. Mrs. Brendamour also explains how they came to purchase, preserve, and add on to their home.

Mrs. Brendamour makes reference to the "Purchase and Sale Agreement" mentioned earlier by her husband and states that they would have never added on and invested so much in their property if they didn't think the legal agreements they had with the Village would protect them.

Mrs. Brendamour notes that they are very involved in the community and have hosted several events at their home.

Mrs. Brendamour comments that the subject property is such an unusual shape that it's almost like a string of one acre lots. Allowing a sprawling structure to be built that stretches across the property as it does places undue burden on the adjacent property owners.

Mr. Jeff Consolino, residing at 8860 Old Indian Hill Road, comes before the Commission and states that he is a friend of the Kahns. Mr. Consolino comments that he feels very bad for the Kahns. They have done their due diligence and complied with the zoning regulations, but have been subjected to many comments by those in attendance that are not exactly in the character of what you would expect in the Village. He feels that many allegations have been made which serve the interest of others without regard for the rights of the Kahns.

Mr. Kahn suggests that the Commission question why Mr. Brendamour is trying so hard to have the frontage moved to Holly Hill. The intent is not to have the Kahns build a smaller home, but to not have a home built there at all. Mr. Kahn expresses that thirteen years ago somehow the Brendamours were able to orchestrate getting the Village to contribute \$150,000 of taxpayer money toward getting an additional five acre buffer for their property, and he feels they are trying to do the same thing again which would set a horrible precedent.

Mr. Brendamour comments that the Village contributed \$150,000 of taxpayer money because they know they caused the problem, and so they worked to resolve the issue.

Mr. Rhodenbaugh refers to a plat of the property when it was 10 acres (before Holly Hill existed) and asks Mr. Barrett where the frontage was for the lot. Mr. Barrett replies that at that time the frontage for the 10 acres was on Park Road. Mr. Barrett adds that since then the conditions have changed, and the frontage to Park Road was eliminated. He adds that the section of the code concerning "Lot of Record" has no bearing on this case.

Mrs. Stolper asks if there were any conditions concerning the property and frontage when the deed was recorded for the purchase through the Kereiakes Trust.

Mr. West clarifies that the "Purchase and Sale Agreement" is related to a separate parcel, not the subject parcel.

After a brief discussion, Mr. Brendamour notes that the release of the easement to Park Road for the subject property is part of the Quick Claim Deed executed in 2003.

Mrs. Stolper states that she feels the subject property fronts on Holly Hill, not Park Road because the easement to Park Road was vacated.

Further discussion followed concerning Mr. Rhodenbaugh's question above. Mr. Barrett notes that on the plat dated in 2003 Holly Hill did exist.

Mr. West explains that Mr. Rhodenbaugh's question refers to when the lot was split and it didn't have the 40' wide title frontage on Park Road. The ingress/egress utility easement was created to allow the subject property to still have frontage. The frontage was on Park Road, as Holly Hill did not exist.

Mr. Barrett states that the 40' easement was vacated in 2003, and Holly Hill did exist at that time.

Chairman Madden notes that when the 100 acre Deupree property was divided and the first home was constructed, the drive looped around and came back to Park Road. As lots were cut off the 100 acre property, the subject property never changed. The area around the lot changed, but this particular lot never changed; therefore it still faces Park Road.

Mr. Thayer suggests that the Village receive further clarification from Village Counsel prior to making a decision on the case.

Mr. Wiggers agrees that a report from the Village Counsel is needed prior to the Commission making a decision on the case.

Mr. Rhodenbaugh would like the legal opinion of Village Counsel on why vacating the right-of-way did not change the frontage. The main question the Commission needs clarification on is where the lot has frontage.

Under the circumstances, the applicant asks to have the request tabled until the April 18, 2017 Planning Commission meeting.

Mr. Thayer made a motion to approve the tabling of the request. Mr. Wiggers seconded, and the motion was approved by a unanimous voice vote.

Item Number 4: Other Business – Discussion on Zoning Code Text Amendments: The Planning Commission reviewed a draft text amendment to the Indian Hill Zoning Ordinance that would require an accessory structure to be set back from the side and rear property lines “the greater of the minimum required or equal to the height of the building”, setting forth additional review criteria for special exceptions and variances to include a review of the “consistency of the architectural character and building materials”, and to require that site clearance release permits be reviewed and approved in accordance with the plans presented and approved by the Planning Commission. No action was taken.

There being no further business to come before the Commission, Mr. Thayer made a motion to adjourn. Mr. Wiggers seconded, and the motion was approved by a unanimous voice vote.

Respectfully submitted,

Paul F. Madden, Chairman

ATTEST:

Jonathan D. West, Secretary Pro-tem