

## MINUTES OF MEETING

### INDIAN HILL PLANNING COMMISSION

April 18, 2017

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, April 18, 2017 at 7:00 p.m. in the Council Chambers of the Village Administration building.

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

Members Absent: Paul F. Madden

Officials Present: Jonathan D. West, Assistant City Manager

Visitors Present: Cynthia Williams, Cynthia Williams Architect  
Donald McGraw, 8380 Shawnee Run Road

In the absence of Chairman Madden, Mr. Wiggers 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 for the March 21, 2017 meeting: Mr. Wiggers asks for comments or corrections to the March 21, 2017 Planning Commission minutes. There being none, Mr. Thayer made a motion to approve the minutes. Mr. Rhodenbaugh seconded, and the motion was approved by a unanimous voice vote.

**Item Number 2:** Case #17-005: Mike Wentz, on behalf of Eric and Allison Kahn, is 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.

The case was tabled at the March 21, 2017 meeting. There is a request by the Village Legal Counsel to table the item to allow additional time to review the information submitted. Staff and the Village Legal Counsel would like to schedule a special meeting on Tuesday, May 23, 2017 at 7:00 p.m.

Mr. Thayer made a motion to table the item until the special meeting on May 23, 2017. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

**Item Number 3:** Case #17-006: Cynthia Williams, architect on behalf of the owners Donald McGraw and Alicia Bridgeland, is requesting a variance for the expansion of a non-conforming home on a non-conforming lot of record for the construction of a one-

story addition to the rear of the existing home. The applicant is requesting a variance to the side yard setback. The property is located at 8380 Shawnee Run Road.

Ms. Cynthia Williams, with Cynthia Williams Architect, comes before the Commission on behalf of the applicants and states that the original two-story structure was built in 1860 and has had numerous additions over the years. The existing home is non-conforming on a non-conforming lot. Due to the height of the structure, the side yard setback is 25'-9". The current structure violates the required setback, being only 21'-4". The applicants would like to expand the kitchen and family room to the rear of the property. In doing so, the east side yard setback would be reduced to 20'. Ms. Williams points out that if the two-story portion of the house were not there, it would meet the required setback of 20'.

**Staff Report:** Mr. West states that the subject property is located in District "C" – one acre minimum (lot area is 1.6499 acres) and is a non-conforming lot of record. The lot frontage is 130', and the required minimum frontage is 150'. The existing home is non-conforming with an existing east side yard setback of 21'-4" where 25'-9" is required (zoning ordinance requires the greater of 20' or equal to the height of the building within 40' of the side yard). The height of the portion of the existing home that was constructed in 1860 is 25'-9".

The original home was constructed in 1860. There have been several additions to the home over the years, including 1957, 1966, and 1968 (there was no description for each addition in the records). The barn was added in 2007, and a garage addition was completed in 2013.

The Planning Commission denied a variance request on September 17, 1968 for a 16' extension of the house to the east, bringing it to 7'-4" to the east side lot line. It was the consensus of the Commission in 1968 that a condition of hardship did not exist because the proposed addition could be located on the rear of the house.

The front, left, and rear yard setbacks meet the requirements of the zoning ordinance. The existing right (east) side yard setback is non-conforming at 21'-4" where the zoning ordinance requires each side yard to be "Equal to the height of the tallest portion of the building located within 40 feet of each side yard line, but not less than 20 feet". Therefore, the minimum required side yard setback is 25'-9", which is the tallest portion of the building located within 40 feet of the east side yard lot line.

The proposed one-story addition will meet the existing side yard setback of 21'-4" where the addition meets the existing home, and the addition will be set back 20' from the side yard at the back corner. This is due to the existing home being slightly angled, so that the home gets closer to the side yard from the front to the back.

Mr. West notes that the lower level will either be a crawl space or basement.

The 25'-4" x 27'-5" one-story addition will provide a new, re-located kitchen and family room on the first floor. The old kitchen area will be remodeled to become a butler's pantry and powder room. The existing one-story addition on the rear of the home, screened in porch, and patio between the existing house and garage will be removed, and the addition will connect the two structures. The addition is approximately 700 square feet.

There are no changes proposed to the second floor.

The height of the proposed one-story addition is 16'-4". The Indian Hill Zoning Ordinance, **Section 36.1** defines the Height of Building as "The vertical distance measured from the established street grade or the average finished grade at the building line, whichever is higher, to the mean level between the eaves and the highest point of the roof."

Staff finds the request is based upon undue hardship and exceptional practical difficulty created by the non-conforming lot frontage and existing non-conforming side yard setback of the existing home constructed in 1860.

The variance requested will worsen the existing non-conforming conditions that exist as it relates to the height vs. side yard setback ratio (25'-9" required, 21'-4" existing), however; the proposed one-story addition is within the footprint of the extended building lines of the house and still meets the minimum required side yard setback of 20'. If this one-story addition were a stand-alone structure, it would meet the required setbacks of the Indian Hill Zoning Ordinance. The proposed variance requested from the existing non-conforming side yard setback is 16". The proposed variance from the required side yard setback is 5'-9". In order to construct an addition to the rear of the home without worsening the existing non-conforming side yard setback, the proposed addition would have to be offset 16" from the existing one-story portion located on the back of the home.

The Commission shall not grant a variance as authorized in **Section 101.52** unless it shall, in each case, make written findings of fact directly based upon the particular evidence presented to it which support written conclusions that the request meets the four review criteria listed in the Staff Report. Staff finds that the request meets conditions 1, 3, and 4, but does not meet condition 2 because the proposed addition worsens the existing non-conforming condition. If the proposed addition was offset by 16" it would meet all four variance review criteria.

Mr. West summarizes the request as follows:

- Approval to expand an existing non-conforming home on a non-conforming lot of record and a variance to the non-conforming east side yard of 5'-9". A 25'-9" side yard setback is required, while a 21'-4" side yard setback is existing, and a 20' side yard setback is proposed for the addition.

Mr. West comments that Staff properly notified adjacent property owners. Staff reviewed the request with Mr. Sanders who is the adjacent property owner to the east. Mr. Sanders has no concerns with the proposed addition.

Mr. Donald McGraw, residing at 8380 Shawnee Run Road, notes that in 1968 the owners attempted to expand to the east. The request was not approved due to having the option to expand to the rear which is what they are requesting now.

Mr. Thayer asks if the addition could be offset by 16" so that it would not worsen the existing non-conforming side yard setback.

Mr. McGraw replies that it will still be non-conforming.

Ms. Williams adds that making the 16" offset is difficult due to the garage being on the other side.

Mr. Rhodenbaugh asks if the Commission has ever approved a case where the non-conforming condition is worsened.

Mr. West replies that he is not aware of the Commission doing so.

The Commission agrees that they should not set a precedent for worsening a non-conforming condition.

After brief discussion, Mr. Thayer made a motion to approve the request subject to not making the current non-conforming conditions worse. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

**Item Number 4:** Other Business: Discussion on zoning code text amendments – Mr. West notes that this discussion will be postponed since Chairman Madden is not in attendance.

Mr. West presented a revision to the plans for the Davis property at 7727 Shawnee Run Road.

After brief discussion, the Planning Commission decided that the revision should be reviewed before the Commission during a public meeting.

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

Respectfully submitted,

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Richard C. Wiggers, Chairman Pro-tem

ATTEST:

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Jonathan D. West, Secretary Pro-tem