

MINUTES OF MEETING
INDIAN HILL PLANNING COMMISSION

June 20, 2017

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, June 20, 2017 at 7:00 p.m. in the Council Chambers of the Village Administration building.

Members Present: Paul F. Madden
Joseph W. Rhodenbaugh
Rita M. Stolper

Members Absent: Richard C. Wiggers
Abbot A. Thayer

Officials Present: Jonathan D. West, Assistant City Manager

Visitors Present: Jessica Bruscatto, Drawing Department
Beth Brendamour, 6105 Park Road
Doug Brendamour, 6105 Park Road
Tim Burke, 225 West Court Street, Cincinnati
C. Francis Barrett, Barrett & Weber, LPA
Mike Roberts, Graydon Law
Katie Roberts, Graydon Law
Jim Barber, 7700 Chumani Lane
Hal Silverman, Silverman & Company, Inc.
John Hensley, 8735 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 May 23, 2017 meeting: Chairman Madden asks for comments or corrections to the May 23, 2017 Planning Commission minutes and Findings of Fact. Mr. West reviews some minor changes to the Findings of Fact. Mrs. Stolper points out a typo on page 10 of the minutes. Those changes being noted, Mr. Rhodenbaugh made a motion to approve the minutes and Findings of Fact. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

Item Number 2: Case #17-009: Bob Busch, with Drawing Department, is requesting variance approval and authorization to expand a non-conforming home on a non-conforming lot on behalf of the owners, Steve and Sarah Steinman. The applicant is requesting variances to the front and side yard setbacks due to the entire house sitting in front of the required minimum front building setback. The subject property is located at 8905 Shawnee Run Road.

Ms. Jessica Bruscato, with Drawing Department, comes before the Commission on behalf of the applicant and states that she will be presenting the case, as Mr. Busch was unable to attend.

Ms. Bruscato explains that they are requesting a renovation and minor addition to the rear of the home, which sits entirely in front of the required minimum front building setback. The renovation includes a covered potting porch at the rear of the home, a pergola that will be attached to the roof off the kitchen at the rear of the home, and a covered porch which will also be at the rear of the home.

Staff Report: Mr. West reviews the history of the property and previous actions as follows:

- 1869 – The original one room schoolhouse was constructed on a 160' wide by 300' deep lot.
- January 17, 1950 – The Planning Commission allowed the Franklin School to be converted into a residence in its present location, provided additional acreage was acquired to make the net lot area equal to three acres to be consistent with the adjacent District “B” property to the west.
- 1950’s – Additional land was purchased, bringing the property area up to 3.53 gross acres (3.15 net acres).
- July 14, 1961 – A permit to construct an addition was approved.
- July 17, 1970 – The Planning Commission approved a variance to the side yard setback for an addition. A permit was issued on November 17, 1970.
- September 21, 1993 – The Planning Commission approved a variance to the front and side yard setbacks for an addition. A permit was issued on September 22, 1993.
- June 15, 2006 – A permit was issued for an in-ground pool.

Mr. West describes the property as being located in District “A” – five acre minimum and having an existing non-conforming home on a non-conforming lot with a net lot area of approximately 3.15 acres. The original structure on the lot was built in 1869 as the Franklin School and then converted to a single family residence in the 1950’s. The existing home is located 37' from the front right-of-way line where a 100' minimum front yard setback is required and 1.8' to the west side yard line where 25' (or equal to the height of the home within 40') is required. The entire home sits in front of the minimum 100' front building setback line.

Mr. West describes the proposed additions as follows:

1. A new proposed covered potting porch attached to the rear of the home (125 SF) will require a variance to the front yard setback due to the entire house sitting in front of the minimum front building setback and a variance to the west side yard setback of 8.75' where a minimum of 25' is required. The existing home sits 1.8' from the west side yard property line.
2. A proposed pergola attached to the existing roof over the proposed raised terrace attached to the rear of the home will require a variance to the front yard setback due to the entire house sitting in front of the minimum front building setback.
3. A proposed covered porch attached to the rear of the home (24'-8" x 7') will require a variance to the front yard setback due to the entire house sitting in front of the minimum front building setback.

Mr. West notes that the variance application is based on undue hardship and is complete. **Section 63.1** refers to District "A" preventing buildings less than 100' from the required front yard setback and 25' (or equal to the height located within 40' of the side yard line). Staff notes that the applicant is proposing to construct several additions to the rear of the home within the required front yard setback. **Section 81** requires Planning Commission approval to expand a non-conforming home on an existing non-conforming lot.

The request is based upon undue hardship created by the existing non-conforming house on an existing non-conforming lot of record. The variance requested will not worsen the prior non-conforming conditions that existed with the original home and are all located behind the home, out of sight from any adjacent parcel or road.

To help support the Commission's decision to approve or deny the requested variances, Staff has prepared written findings of fact per **Section 101.53 Standards for Variances**.

Mr. West notes that the applicant has met all four variance review criteria; therefore Chairman Madden waives the reading of each.

Mr. West ends his report by stating that Staff posted a legal notice in the paper 30 days prior to the hearing as well as properly notifying the adjacent property owners. Staff has not received any comments regarding the request.

After brief discussion, Mr. Rhodenbaugh made a motion to approve the request as submitted. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

Item Number 3: Case #17-010: Michael Rosing is requesting Planning Commission authorization to build a new single family residence on a non-conforming lot of record per **Section 81** of the Indian Hill Zoning Ordinance. The subject property is a vacant lot located at 5650 Pamlico Lane, Lot 1 of Wiechers Subdivision.

Mr. Hal Silverman introduces himself as the President of Hal Homes and comments that he will be presenting the case, as the applicant is out of the country.

Mr. Silverman states that the applicant has contracted with his company to build a two-story home on the vacant lot at 5650 Pamlico Lane.

Staff Report: Mr. West reviews the history of the property and previous actions by the Planning Commission as follows:

- March 16, 1954 – The Planning Commission approved the final plat of Wiechers Subdivision.
- March 18, 1954 – Staff approved Site Clearance Release Permit #844 for the construction of a new single family dwelling.
- November 1975 – Staff approved Site Clearance Release Permit #3884 for the construction of an accessory structure.
- 2006 – The existing home was razed.
- July 21, 2015 – The Planning Commission approved a new dwelling on a non-conforming lot of record on the subject property for Marino Custom Homes. The home was never constructed.
- May 25, 2017 – Michael Rosing purchased the property from Marino Custom Homes.

Mr. West states that the property is located in District “C” – minimum one acre and contains 1.009 acres. The property has a non-conforming frontage of 102', where a minimum of 150' is required.

When the final plat was approved in 1954, the Indian Hill Zoning Ordinance only required 100' of frontage. The lot met the requirements and was a conforming lot when the subdivision was approved and recorded. The lot frontage increased from 100' to 150' for District “C” on April 6, 1970 by Ordinance No. 7-70.

The applicant is proposing to construct a new single family residence 76' from the front right of way line (75' minimum is required), 144' from the rear lot line (75' minimum is

required), 26' from the north side yard, and 36.5' from the south side yard (20' minimum or equal to the height within 40' is required). The tallest portion of the home within 40' of each side yard is 20' (meets requirements).

The home will be connected to Indian Hill Water and Hamilton County Sewer. The two-story home will include five bedrooms with a three car side entry garage. The first floor will contain 2762 SF, and the second floor will contain 931 SF for a total square footage of 3693 SF. The basement has an option to be partially finished for a fifth bedroom and full bath.

Staff finds that the applicant meets the required setbacks, and that the lot was conforming when the subdivision plat was approved in 1954.

Staff properly notified all adjacent property owners and did not receive any calls, questions, or comments.

After brief discussion regarding drainage, Mr. Rhodenbaugh made a motion to approve the request as submitted. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

Item Number 4: Case #17-011: Hensley Custom Homes is requesting Planning Commission approval for a resource protection area swap on Lot 37 of Twin Fences at Peterloon Farm, Phase 2A.

Mr. John Hensley, of Hensley Custom Homes, states that he will be building a new two-story 6718 SF home on Lot 37.

Mr. Hensley states that the proposal gives the Village .0567 acres in exchange for .0244 acres. The swap of land is requested due to the topography of the lot, resource protected areas, and layout of the home.

Staff Report: Mr. West states that the final plat for Twin Fences at Peterloon Farm, Phase 2A was approved by the Planning Commission on November 17, 2015.

Mr. West notes that the applicant has stated that the resource swap is being requested for the following reasons:

- a. Due to the topography of Lot 37, it is necessary for the garage to be located on the right side (the high side of the lot).
- b. In order to maintain the topography and the mature canopy, they are requesting a swap of .0041 acres of mature canopy located in the driveway in exchange for .0207 acres of mature canopy on the left side of the driveway.

- c. Per the garage and driveway layout at the parking pad, they are requesting a swap of .0203 acres in exchange for .0287 acres (combination of young growth, mature growth, and previously approved clearable land).

Mr. West reviews the breakdown of the resource protection swap areas as follows:

Area lost = 0.0244 acres

Area gained = 0.0567 acres

Mature canopy lost = 0.0053 acres

Mature canopy gained = 0.0207 acres

Young canopy lost = 0.0152 acres

Young canopy gained = 0.0158 acres

Clearable land lost = 0.0039 acres

Clearable land gained = 0.0202 acres

Staff notes that previously the Planning Commission has been favorable to these types of requests when:

1. The Village ends up with more resource protected area, and
2. The Village receives higher quality resource protected area land.

Mr. West states that both of the above apply to the proposed request.

Mr. West reviews the resource protection area maps, elevation drawings of the home, site and aerial photos, and positioning of the home in relation to challenges with the topography of the lot.

After further discussion, Mr. Rhodenbaugh made a motion to approve the request. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

Item Number 5: Other Business: Discussion on zoning code text amendments and House Bill 523 – Medical Marijuana Land Uses.

The Planning Commission discussed prohibiting medical marijuana land uses and banning cultivators, processors, and dispensaries in the Village, as recommended by Council's Law Committee.

After additional questions arose, the Planning Commission decided to continue discussion at the next meeting pending receipt of information requested from the Law Director.

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

Respectfully submitted,

Paul F. Madden, Chairman

ATTEST:

Jonathan D. West, Secretary Pro-tem