

## MINUTES OF MEETING

### INDIAN HILL PLANNING COMMISSION

August 20, 2019

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, August 20, 2019 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: Christine & Alan Hollatz, 7545 Demar Road  
Gerald Koszycki, Gerald Koszycki & Associates, Inc.  
Fred Fischer, 5875 Towhee Lane  
Dan Cotton, CCI Design, Inc.  
Anne Lemmon, 8155 Shawnee Run Road  
Mitch Smith, 8155 Shawnee Run Road  
Doug Smith, McGill Smith Punshon, Inc.  
Jen & Tom Herzog, 5745 Drewry Farm Lane  
Brian Shaw, 5900 Towhee Lane  
Mike & Katherine Blust, 5940 Rettig Lane  
Graeme Daley, 5940 Towhee Lane

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 July 23, 2019 meeting: Chairman Madden asks for comments or corrections to the July 23, 2019 Planning Commission minutes. There being none, Mr. Rhodenbaugh made a motion to approve the minutes and Findings of Fact. Chairman Madden seconded, and the motion was approved.

**Item Number 2:** Case #19-007: Carter and Stephanie Gaither are requesting Concept Plan review for the reconfiguration of Part Lot 19 Kugler Townsend Subdivision located at 9655 Cunningham Road. The proposal will reconfigure three existing tax parcels which total 13.235 acres into a 7.157-acre lot with the existing home, a 4.013-acre vacant building lot, and a 2.0-acre green area parcel. (This case was tabled at the June 18<sup>th</sup> and July 23<sup>rd</sup> meetings to allow the property owner additional time to work out an amendment to the easement).

The applicant withdrew the request, therefore no action was needed.

**Item Number 3:** Case #19-009: CCI Design, on behalf of owners Thomas and Jennifer Herzog, is requesting a variance to the rear yard setback to construct two additions to the rear of the existing non-conforming home. The subject property is located at 5745 Drewry Farm Lane.

Mr. Dan Cotton, with CCI Design, Inc., comes before the Commission and states that they are requesting approval for two small additions. They would like to add an 8' addition for an eat-in kitchen and a 16' addition for a covered porch attached to the rear of the home.

Mr. Cotton notes that both the house and lot are non-conforming so any changes require a variance. The additions will not worsen the existing non-conforming conditions.

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

- The existing home was constructed in 1970 per the Hamilton County Auditor's website.
- July 30, 1996 – The Planning Commission approved a variance to the rear yard setback for the construction of a two-story addition on the south side of the house, subject to the addition not worsening the existing non-conforming rear yard setback of 80.5'.

Mr. West states that the subject property is located in District "A" – five acre minimum. The lot area is 3.4473 acres per **Section 86 Green Area Development**. The existing home is non-conforming due to not meeting the required front or rear yard setback requirement of 100'. The front yard setback is 92.2' and the rear yard setback is 80.5'.

The applicant is requesting variance approval to construct a 200 SF (24.5' x 8.2') one-story kitchen addition attached to the rear of the home and a 387 SF (32.3' x 12') covered porch addition attached to the rear of the home. The proposed additions do not worsen the existing non-conforming rear yard setback of 80.5'. The kitchen addition is 81.57' to the rear lot line, and the covered porch addition is 80.55' to the rear lot line, where a 100' rear yard setback is required.

The variance application is based on exceptional practical difficulty due to the existing non-conforming home and is complete. **Section 63.1** of the Indian Hill Zoning Ordinance refers to District "A" preventing buildings from being located less than 100' from the rear lot line.

As part of the review of a variance request, the Commission shall review the four variance review criteria factors which were outlined in the Staff Report.

Mr. West notes that the variance request does not worsen the existing non-conforming rear yard setback and will not conflict with the general purpose and intent of the ordinance.

Staff posted the legal notice in the paper and by direct mail 30 days prior to the hearing. Staff received a call from the adjacent property owner at 5755 Drewry Farm Lane who stated that he supported the variance request.

Mr. Rhodenbaugh made a motion to approve the requested variance. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote of the members present.

**Item Number 4:** Case #19-012: Christopher Houston, on behalf of owners Chris and Meghan Stephens, have filed a Notice of Appeal per **Section 101.2** of the Village of Indian Hill Zoning Ordinance. The property owners are appealing the zoning violation issued on May 31, 2019 for the construction of an accessory off-street parking area in violation of the required setbacks set forth in the zoning ordinance, **Section 59. A.21**. The subject property is located at 8050 North Clippinger Drive.

The applicant withdrew the request, therefore no action was needed.

**Item Number 5:** Case #19-015: Anne Lemmon is requesting a variance to the front, rear, and side yard setbacks to replace an existing garage with a new garage in the same location. The existing structure is non-conforming and is located on a non-conforming lot of record. The subject property is located at 8155 Shawnee Run Road.

Mr. Gerald Koszycki, with Gerald Koszycki & Associates, Inc., comes before the Commission on behalf of Anne Lemmon. Mr. Koszycki states that they would like to replace the dilapidated garage with a new garage in the same location.

Mr. Koszycki notes that they are also slightly reducing the lot coverage by removing some concrete area and replacing it with gravel and additional landscaping.

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

- The existing home was constructed in 1905 per the Hamilton County Auditor's website, which was prior to the adoption of zoning in 1945.
- May 26, 1955 – A site clearance permit was issued to frame in the lean-to.
- May 9, 1957 – A site clearance permit was issued for remodeling.

- May 17, 1961 – A site clearance permit was issued for an addition to the west side of the house. The Planning Commission approved the request in 1961.
- May 24, 1967 – A site clearance permit was issued for an addition to close in the SW corner of the house. The Planning Commission approved the request as long as the 20' side yard setback was maintained.
- June 21, 2007 – A site clearance permit was issued to replace the front porch.

Mr. West states that the subject property is located in District “C” – one acre minimum. The lot is non-conforming due to the lot area being 0.2716 acres where a 1-acre minimum is required and a lot width/frontage of 100' where a minimum of 150' is required. The existing home and detached garage are non-conforming due to not meeting the required front, rear, or side yard setback requirements. The existing 480 SF detached garage is located 75' from the front lot line where 90' is required, 4' from the right side yard and 8.1' to the rear lot line where the greater of 15 feet or the height of the building is required. The existing garage height is 9'-5" at the midpoint of the roof. Staff notes that the height to side and rear setback requirement was added in 2016.

The applicant is requesting variance approval to construct a new detached garage in the same location as the existing detached garage and to fill in the SW corner to create additional storage area. The proposed garage does not worsen the existing non-conforming setbacks. The proposed 520 SF (26' wide x 20' deep) detached garage would be located 75' from the front lot line, 4' from the left side yard, and 8.1' to the rear lot line. The proposed garage is 12.5' to the midpoint of the roof, which is 3' taller than the existing.

The variance request is based on **Section 73.2** of the Indian Hill Zoning Ordinance which refers to “Other Accessory Structures” in District “C” preventing accessory structures from being located less than 90' to the front lot line and the greater of 15 feet or the height of the building from the side and rear lot lines.

Mr. West notes that the four variance review criteria are outlined in the Staff Report.

The variance request does not worsen the existing non-conforming front, side, or rear yard setbacks and will not conflict with the general purpose and intent of the ordinance. In addition, the existing non-conforming lot coverage is being improved with the proposed plan.

Staff posted the legal notice in the paper and by direct mail 30 days prior to the hearing. Staff received a call from the adjacent property owner at 6425 Shadyglen Road who was inquiring about the request.

Mr. Rhodenbaugh made a motion to approve the requested variance. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote of the members present.

**Item Number 6:** Case #19-016: Brian Folke, on behalf of property owners Frederick and Gail Fischer, is requesting Concept Plan approval to subdivide Lot 3 of Stevens Estate Subdivision. The proposal will split the existing 2.847-acre parcel into two separate parcels to create an additional single family residential building lot. The subject property is located at 5875 Towhee Lane.

Mr. Doug Smith, Civil Site Engineer with McGill Smith Punshon, Inc., comes before the Commission and states that Mr. Folke is requesting approval to create an additional building lot on 2.8 acres.

Mr. Smith explains that there is an existing house on the lot that will remain. They are proposing to cut off the back 1.5 acres to create the additional building lot.

**Staff Report:** Mr. West reviews the property history as follows:

- 1956: The house was built at 5875 Towhee Lane.
- 1971: A site clearance was issued for an addition.
- 1977: A site clearance was issued for a garage.
- 1986: A site clearance was issued for a second floor addition.
- 1989: A site clearance was issued for a garage.
- 1991: A site clearance was issued for an addition and deck.
- 8/1/1997: An agreement for the maintenance of the private drive was recorded.
- 1998: A site clearance was issued for an addition, wall, and an inground pool.
- 2008: A site clearance was issued for interior remodel of the kitchen.

Mr. West refers to the Indian Hill Subdivision Ordinance, **Section 6. Specific Procedures, 6.1 – Concept Plan, 6.1.1 Purpose** – The purpose of the concept plan is to provide the Village with sufficient information to evaluate a proposed minor subdivision ... at an early stage in the process so as to allow such alterations in plans as may be necessary prior to the applicant incurring large expenditures in the preparation of formal plats. The applicant shall provide written statements from MSD ..., indicating whether or not sanitary sewers are available to serve the proposed subdivision.

Mr. West describes the properties as being located in District “C” – one acre minimum with the following setback standards:

- Minimum lot frontage width: 150 Ft.
- Minimum front yard depth: 75 Ft.
- Minimum rear yard depth: 75 Ft.

- Minimum side yard width: Equal to the height of the building within 40 Ft. of the side yard, but not less than 20 Ft.

The gross acreage of the property to be subdivided is 2.847 acres. Lot 1 with the existing house and barn will be 1.302 acres. Lot 2 with the proposed new home will be 1.545 acres. Both parcels will be served by the proposed extension of Towhee Lane (private). The property will be served by public sewers and Indian Hill water.

The portion of the property proposed to be developed is mostly finished mowed lawn and the remaining is young canopy forest. The existing home on Lot 1 is proposed to remain.

The Concept Plan calls for creating two (2) single family home building lots. Per **Section 13.2 Lot Standards**, side lot lines shall be perpendicular to the front lot line. The dividing lot line between Lots 1 and 2 shall be revised to be perpendicular from the east lot line. The lot line is currently made up of three line segments, it shall be revised to be a single lot line perpendicular to the east lot line. The 75' front building setback will be from the revised perpendicular south lot line. Existing sanitary sewer and water service to Lot 1 as well as any existing utilities shall be shown on the drawing. There is an existing catch basin in the center of Lot 2 that needs to be relocated or removed. The engineer shall provide these details along with storm water calculations as part of the construction plan review stage.

The existing pond is proposed to remain in an easement (not part of the resource protection area). If shared maintenance of the pond is proposed, a joint maintenance agreement shall be approved by both property owners and recorded.

The private drive is proposed to be extended to serve the property to the east as part of a previously approved plan to reconfigure existing lots of record. This plan proposes to construct a hammerhead turnaround per the fire department requirements and have access to proposed Lot 2 from the end of the hammerhead. Towhee Lane (private) from Demar Road to the proposed extension will be required to be upgraded to an 18' wide pavement section per the fire department and the Indian Hill Subdivision Ordinance. The existing private drive width varies from 10' to 15'.

Storm water calculations will be reviewed as part of the construction plan review phase. Details of the existing catch basin and storm system will be reviewed as well.

The applicant has submitted a letter from MSD stating that the request for public sewers has been processed and approved subject to several standard conditions outlined in the letter. The drawings shall be updated to show the existing sewer lateral for Lot 1 across proposed Lot 2 and placed in an easement.

Utilities are available at the property. All utility extensions shall be placed underground.

The developer has provided the existing recorded “Agreement for Maintenance of Private Drive”. This document also covers additional residences to be constructed. The Resource Protection Analysis has been submitted and meets the required standards per **Section 14. Natural Resource Protection Standards** of the Village of Indian Hill Subdivision Ordinance. The proposed plan will protect young canopy forest and steep slopes on the north, west, and around the existing pond on Lot 1.

Below is a breakdown and totals of the resource analysis as shown on the Concept Plan:

**Natural Resources**

Floodplain & Kope (100% protected):	0.00 acres
Slopes 20% or Greater (80% protected):	0.24 acres
Mature Canopy Forest (70% protected):	0.00 acres
<u>Young Canopy Forest (40% protected):</u>	<u>0.46 acres</u>
<b>Total required to be protected</b>	<b>0.70 acres</b>

Note: Some resources overlap (Ex: 20% Slopes and Young Canopy Forest)

Total amount of resources to be protected: **0.74 acres**

**Review of Village Departments**

- Police Department – No Comments
- Fire Department – The existing water pressure is sufficient for fire protection and domestic water supply. The private drive will need to be 18' wide with construction capable of supporting over 60,000 lbs. A vertical clearance of 11' minimum is required along the drive.
- Public Works Department – The private drive shall meet the minimum specifications of the Indian Hill Subdivision Ordinance and construction specifications. All existing utilities, including the storm sewers, shall be shown on the plat.
- Water Works Department – Must meet Indian Hill Water Works specifications.
- Health Department – N/A. Will be tied into public sanitary sewer.
- MSD – MSD has approved the request for connection to the existing public sewer.
- Village Engineer – The Engineering Review Report dated August 13, 2019 was included in the Planning Commission packets.

Staff and the Village Engineer have reviewed the proposed Concept Plan and the private drive. We find the proposed plan will meet the Village of Indian Hill Subdivision Ordinance, **Section 6.1 Concept Plan Approval** and **Section 14 Natural Resource**

Protection Standards subject to the items outlined in the Staff Report and the Village Engineer report.

Staff has properly notified all adjacent property owners through first class mail and has received a call from one adjacent property owner on Rettig Lane with concerns of having a home constructed adjacent to them.

Per **Section 6.1.5 Planning Commission Review and Action**. ...The Planning Commission shall...approve, conditionally approve or disapprove the Concept Plan.

Should the Planning Commission choose to conditionally approve the request, Staff would recommend that the approval be subject to the information contained in the Staff Report, the Engineering Review Report, as well as the comments provided by the various Village departments and any additional comments that are discussed during the public hearing.

Mrs. Katherine Blust, residing at 5940 Rettig Lane, comes before the Commission and states that she feels having a house built so close to her home will negatively affect her property value. Although the request fulfills all the requirements, she feels adding another house will make an already overly populated area of Indian Hill even worse. She notes that the rural character of Indian Hill is unique, and that with the recent addition of more homes in this area, it's beginning to look like Montgomery.

Chairman Madden explains that legally all the requirements have been met for the request to be approved.

Mrs. Blust asks about the trees behind her house. Mr. West replies that the trees on the property behind her home are to remain in the resource protected area and will be left in their natural state.

Mr. Michael Blust, also at 5940 Rettig Lane, inquires about what is allowed to be done in resource protected areas. Mr. West replies that resource protected areas have to be left in their natural state and cannot be disturbed, with the exception of removing invasive species such as honeysuckle.

Mr. Graeme Daley, residing at 5940 Towhee Lane, states that his project is Phase 1. He notes that he has had conversations with Brian Folke and they plan to work closely together, especially since both projects are coming off the extended private drive.

Mr. Daley explains that through his conversations with Mr. Folke, he knows that privacy is also important to him, as it is to Mrs. Blust. He feels every effort will be made to maintain privacy for the homeowners affected by the development of the area.

Mr. Brian Shaw, residing at 5900 Towhee Lane, inquires about the widening of the lane and asks where on the plan it shows where the additional space will be taken from.

Mr. West replies that at this stage it is not yet shown on the plans.  
Mr. Shaw asks that consideration be given to widening the lane on both sides.

Mr. West explains that the frontage of Mr. Shaw's property is mostly on the section that Mr. Daley is already extending as part of his project.

Mr. Daley adds that he believes that the drive will only be widened about a foot on Mr. Shaw's side and then about 4-5' on the other side.

After brief discussion, Mr. Rhodenbaugh made a motion to approve the Concept Plan subject to the items outlined in the Staff Report and the Village Engineer's report. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote of the members present.

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

Respectfully submitted,

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Paul F. Madden, Chairman

ATTEST:

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Jonathan D. West, Secretary Pro-tem