

MINUTES OF MEETING

INDIAN HILL PLANNING COMMISSION

November 19, 2019

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, November 19, 2019 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
Rita M. Stolper

Members Absent: Joseph W. Rhodenbaugh

Officials Present: Jonathan D. West, Assistant City Manager

Visitors Present: Mark Magner, 7445 Old Hickory Lane
John Hoebbel, Drawing Dept.
Mike Wentz, Wentz Design
Gerald Koszycki, Gerald Koszycki & Associates, Inc.
Steve Oughterson, MIHJFD
Shayne Manning, 5825 Given Road
Anne Lemmon, 8155 Shawnee Run Road
Mitch Smith, 8155 Shawnee Run Road
Mark McGrath, 8225 Shawnee Run 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 August 20, 2019 meeting: Chairman Madden asks for comments or corrections to the August 20, 2019 Planning Commission minutes and Findings of Fact. There being none, Mrs. Stolper made a motion to approve the minutes and Findings of Fact. Chairman Madden seconded, and the motion was approved.

Item Number 2: Case #19-017: Anne Lemmon is requesting a variance to the front, rear, and side yard setbacks to construct a second floor bedroom addition over the existing one story kitchen. The existing structure is non-conforming 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 and displays the plan showing a second floor master bedroom addition over the existing one story kitchen. Mr. Koszycki explains that the proposed addition will not worsen the existing non-conforming conditions.

Staff Report: Mr. West notes that the previous actions and property history are outlined in the Staff report which was previously distributed to Commission members.

The house was constructed in 1905. Several permits were issued in the 1950's and 1960's. In August of this year the Planning Commission approved variances to permit the existing non-conforming detached garage to be reconstructed.

Mr. West describes the subject property as being 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, and side yard setback requirements. The existing home is located 8' from the front lot line where 75' is required, 19.3' from the right side yard where 20' (or equal to the height within 40') is required, and 49.7' to the rear lot line where 75' is required.

The applicant is requesting variance approval to construct a new master bedroom above the existing one story kitchen in the SW corner of the existing home. A portion of the addition is proposed to cantilever over the kitchen 1.5' into the rear yard. The cantilevered portion does not worsen the existing non-conforming rear yard setback, and the addition does not worsen the non-conforming side yard setback of 19.3'. The proposed 180 SF master bedroom addition would be located 49.7' from the rear lot line, 51' from the front lot line, and 19.3' from the right side yard. The building height of the addition is 22.5' to the midpoint of the roof, where the existing home is 23.5' to the midpoint of the roof.

The variance application is based on undue hardship due to the existing non-conforming home on a non-conforming lot and is complete. **Section 73.1** of the Indian Hill Zoning Ordinance refers to setbacks for dwellings in District "C" preventing them from being located less than 75' to the front and rear lot line and 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.

Mr. West states that Staff drafted written findings of fact for the four variance review criteria which are detailed in the Staff Report. The request meets all four requirements.

Staff posted the legal notice in the paper and by direct mail 30 days prior to the hearing. Staff did not receive any calls regarding the variance request.

Mr. Thayer made a motion to approve the requested variances. Mr. Wiggers seconded, and the motion was approved by a unanimous voice vote of the members present.

Item Number 3: Case #19-018: Mark and Kristen Magner are requesting a variance to maintain the existing non-conforming setback between the principal structure and

accessory structure to allow for the construction of a covered porch addition and reconfiguration of the existing deck. The subject property is located at 7445 Old Hickory Lane.

Mr. John Hoebbel, with Drawing Dept., comes before the Commission and states that he is the architect representing Mark and Kristen Magner.

Mr. Hoebbel explains that the applicants would like to add a screened porch with an adjacent deck and pergola above. The proposed project will be located in roughly the same location as the existing deck and will not worsen the existing non-conforming setback.

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

- September 19, 1972 – A site clearance permit was issued for a new dwelling.
- July 9, 1980 – A site clearance permit was issued for a swimming pool. Based on aerial photos, it appears the pool house was constructed at this same time and contains all of the pool equipment.
- September 19, 1990 – A site clearance permit was issued for a detached garage.
- June 4, 1993 – A site clearance permit was issued for a bay addition and kitchen remodeling.
- May 29, 1996 – A site clearance permit was issued for an enclosed basketball court. This is the green barn on the site photos (attached). This barn does not meet the setback requirements from the pool house at 13'.
- September 17, 1998 – A site clearance permit was issued for a second story addition.

Mr. West states that the subject property is located in District "B" – three acre minimum. The lot is 3.34 acres and is also known as Lot 6 of Old Hickory Estates Subdivision. There are several accessory structures located on the property including a pool house, barn, and storage shed. The home with attached deck and pool house are non-conforming because they do not meet the required 20' separation between structures.

The applicant is requesting variance approval to construct a 17'x17' screened porch addition and new 12'x15' deck with pergola in approximately the same location as the existing deck. The new screened porch and deck with pergola are proposed to be set back 17' from the pool house, which is the same distance as the existing deck that is to be removed (deck stairs are 12' from pool house); therefore, the proposed improvements would not worsen the existing non-conforming setback.

The variance application is based on undue hardship due to the existing non-conforming setback between the pool house and deck. **Section 56** of the zoning ordinance states:

“56. Location of Accessory Structures - Accessory structures shall conform to the following regulations:

56.1 ...

56.2 ...

56.3 Unless an integral part of a dwelling, an accessory structure, ..., shall be distant not less than twenty (20) feet from every other structure on the same lot.”

The existing pool house and deck are 17' apart. This does not include the steps that come from the deck which are 12' from the pool house. The pool and pool house were built in 1980. Based on aerial photos the deck and stairs existed at that time in the same configuration.

Mr. West states that Staff drafted written findings of fact for the four variance review criteria which are detailed in the Staff Report. Mr. West notes that the request meets all four requirements.

Staff posted the legal notice in the paper and by direct mail 30 days prior to the hearing. Staff did not receive any calls regarding the variance request.

Chairman Madden explains that in past cases involving non-conforming conditions if an applicant is proposing (for example) to modify or add to an existing structure without worsening the condition, it has been allowed. However, in this case the applicant is completely removing the deck. Chairman Madden expresses concern with allowing the applicant to remove the existing deck and build a new one without stipulating that the current conditions cannot be worsened.

The applicant, Mr. Mark Magner, addresses the Commission and explains that they tend to grill out often which is a major reason why they configured the new deck with pergola as proposed. They are trying to avoid unsafe conditions by positioning the grill farther from the house.

Mr. Wiggers notes that he does not have a problem with the deck being replaced within the same footprint as what currently exists. However, he does have an issue with the corner of the enclosed screened porch (Mr. Wiggers refers to the exhibit).

Mrs. Stolper points out that the proposed screened porch and deck with pergola reconfiguration is less non-conforming and contains less area than the existing deck.

After further discussion and review of the plans, Mr. Thayer made a motion to approve the requested variance. Mrs. Stolper seconded, and the motion was approved by a 3 to 1 roll call vote with Mr. Thayer, Mrs. Stolper, and Chairman Madden voting in favor of approval and Mr. Wiggers voting against approval of the requested variance.

Item Number 4: Case #19-019: Mike Wentz is requesting a variance to the front setback to construct a second floor addition over the existing one-story portion of the existing home. The existing structure is non-conforming located on a non-conforming lot of record. The subject property is located at 8220 Shawnee Run Road.

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

- The existing home was constructed in 1918 per the Hamilton County Auditor's website, prior to the adoption of zoning in 1945.
- September 10, 1952 – A site clearance permit was issued for an “addition to garage”.
- May 14, 1954 – A site clearance permit was issued for an “alteration”.
- November 22, 1977 – The Planning Commission approved a variance to the front yard setback and non-conforming lot area for a one-story addition to the rear of the home.
- November 23, 1977 – A site clearance permit was issued for an “addition to add a family room and laundry room to the rear of the residence”.
- September 10, 2003 – A site clearance permit was issued for a “3rd floor renovation and dormer”.
- November 16, 2017 – A site clearance permit was issued for a “detached garage”.

Mr. West describes the property as being located on the north side of Shawnee Run Road between Adams Avenue and Drake Road and is in District “C” – one acre minimum. The lot is non-conforming due to the lot area being 0.604 acres where a 1-acre minimum is required and has a lot width/frontage of 101.58' where a minimum of 150' is required (was 100' in 1945 and changed to 150' in 1970). The existing home (built in 1918) is non-conforming due to not meeting the required front yard setback requirement. The existing home is located 35' from the right-of-way line where 75' is required.

The applicant is requesting variance approval to construct a 26'-4" x 18'-9" second-floor addition in the rear of the home over the existing one-story portion of the existing home. The proposed addition does not worsen the existing non-conforming front yard setback. The addition will be 66.5' from the right-of-way line (variance of 8.5'). The front of the existing home is 35' from the right-of-way line. The addition will be 148' from the rear lot line (75' required), 30' from the right side lot line and 43'-7" to the left side lot line (20' or equal to height within 40' of side lot line is required). The building height (measured to midpoint of roof) is approximately 24'.

The variance application is based on exceptional practical difficulty due to the existing non-conforming home on a non-conforming lot and is complete. **Section 73.1** of the

Indian Hill Zoning Ordinance refers to setbacks for dwellings in District "C" preventing them from being located less than 75' to the front lot line.

Mr. West states that Staff drafted written findings of fact for the four variance review criteria which are detailed in the Staff Report. Mr. West notes that the request meets all four requirements.

Staff posted the legal notice in the paper and by direct mail 30 days prior to the hearing. Staff did not receive any calls regarding the variance request.

Mr. Wentz notes that they currently do not have a master bathroom upstairs, which is part of the proposed plan. He adds that this is a modest addition directly above an existing structure.

Mr. Thayer 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 5: Discussion on the demo of the Fire Chief's house at 6465 Shawnee Run Road.

There was a brief discussion on the demo of the Fire Chief's house, located at 6465 Shawnee Run Road. The Planning Commission will not require the fire district to come back before the Commission, subject to meeting with the adjacent neighbor to discuss any possible concerns.

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