

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON JULY 30, 2015 AT 5:00 P.M.

Mayor Kevin Gilmore called the July 30, 2015 meeting of the Ottawa Hills Zoning Commission to order at 5:03 PM. Roll was taken with commission members Katherine O'Connell, Sam Zyndorf, Zac Isaac and Mayor Kevin Gilmore present. Commission member Paul Bishop was absent but expected momentarily. Also present representing the Village of Ottawa Hills were Village Solicitor Sarah McHugh and Village Manager Marc Thompson.

Members of the audience included Chuck and Johanna Riepenhoff, Cheri Lenavitt, Nasrin Afjeh, Nate Geisler, and Yarko Kuk.

Mrs. O'Connell made a motion to approve the minutes of the May 14, 2015 meeting. Mr. Zyndorf seconded the motion which passed unanimously.

Mayor Gilmore then administered the oath to Chuck and Johanna Riepenhoff and Marc Thompson.

The first item on the agenda was a continuation of a variance request at 3432 Darlington Rd. Since this item had been tabled at the previous meeting, Mrs. O'Connell made a motion to remove the item from the table so that it could be considered by the commission. Mr. Isaac seconded motion which passed unanimously.

Mr. Thompson provided a brief report stating that this will be the third meeting at which the request was discussed. The commission had been provided with minutes from the previous two meetings. At the recent meetings, the subject of a deed restriction related to the deck was discussed, as was a change in the existing fencing.

Mr. Bishop entered the meeting at this time.

Mr. Thompson reviewed that the homeowners had received a permit to construct a deck along the side of their home but it was constructed in a manner inconsistent with the issued permit and inconsistent with the zoning code. The deck extended beyond the required setback and extends to the property line. On that deck has been placed a hot tub. Additionally, there is fencing around the hot tub which is in excess of the 48 inch height maximum.

At the previous meeting Mr. Riepenhoff suggested that the fence could be brought into compliance with the fence code immediately. There was also discussion at previous meetings about allowing the deck and hot tub to remain until such time as the Riepenhoff family sold the property. It was discussed that a deed restriction will be put in place so that any future owners would be made aware of the requirement that the deck and hot tub be removed at the time of sale.

Mrs. O'Connell stated that she felt the fence should be brought into compliance as part of any proposal and that the fence compliance should occur immediately. After brief additional discussion Mrs. O'Connell made a motion that a deed restriction be developed, at the owner's expense with the understanding that the existing deck could remain in violation of the zoning code so long as the current owners continue to own the property. The deed restriction would indicate that at the time of sale of the home, the hot tub would be removed

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON JULY 30, 2015 AT 5:00 P.M.

and the deck would be brought into compliance with the zoning code. The motion also included a requirement that the existing fencing would be removed or modified so that any fencing would be at or below 4 feet in height and that all of the fencing materials would be consistent.

Discussion followed regarding the type of fencing, the potential for vegetative screening and the specifics of the deed restriction. Mr. Bishop made a motion to table this issue until the next meeting. Mr. Isaac seconded the motion which passed unanimously. In further discussion it was made clear that the applicants were to develop the proposed deed restriction and have it reviewed by Solicitor McHugh. They are to return at the next meeting of the Zoning Commission with a specific plan regarding fencing that would be consistent with the direction of the Zoning Commission. That plan should indicate that fencing will be not more than 4 feet in height and be consistent in terms of materials and style.

Brief discussion followed regarding the proposed changes to the fence code. As a result of those discussions modifications in the proposed code will further define the method by which the "openness" of the fencing will be determined. Additionally, language will be added to describing the desire of the Zoning Commission to have fencing materials and types be consistent. It was generally agreed that the modifications made to the proposed fence legislation since the previous meeting were acceptable and were improvements. The Zoning Commission asked for one more review prior to making a recommendation to the Village Council.

Attention then turned to a discussion involving the property at 2646 Forestvale Drive recently purchased by the University of Toledo Foundation. Mr. Thompson mentioned that this was the first meeting of the Zoning Commission since the purchase by the University of Toledo Foundation of this property had become widely known. He said that there was no action item on the agenda and this was merely an opportunity for the Zoning Commission to have an informal discussion.

Mr. Bishop stated that he had read the zoning ordinance for the single-family uses and a number of concerns developed related to the University of Toledo property. Those concerns included increase in traffic, potential adverse impact on neighboring property owners, the absence of prior knowledge on the part of the Village, and the relatively dense nature of housing in the neighborhood. He was particularly concerned because it seemed possible that there could be as many as 50 events per year at this site.

Mr. Bishop also noted that there are properties for sale in the area and he was concerned that activity at the UT property could be detrimental to nearby property values.

Mark O'Connor entered the meeting at this time.

Mr. Zyndorf indicated that he was concerned that the purchase by the University of Toledo Foundation was driven either by ignorance or arrogance particularly since no prior contact was made with the Village or the Zoning Commission regarding the proposed use of the home. He also wondered if a violation of the zoning code had occurred yet and asked if any formal complaints had been received.

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON JULY 30, 2015 AT 5:00 P.M.

Mrs. Afjeh interrupted by asking what might constitute a violation of the zoning code.

Mrs. O'Connell said that she had some concerns particularly related to additional traffic generation. She indicated that the University has indicated a desire to work with the village and the neighbors in order to resolve any outstanding concerns. She said she hoped that an agreeable solution could be negotiated among the interested parties.

Mr. Isaac said that the residential integrity of the neighborhood was being challenged and he would like to see a schedule of events for the next six months. He suggested that it might be appropriate for representative the Village to sit down with the president or whoever would be appropriate in an effort to solve what we perceive as a big problem. He mentioned that there certainly are many characteristics of an institutional use.

Mayor Gilmore said that the University has expressed their intention to seek tax-exempt status for the property adding to the adverse impact on the neighbors and supporting the concept that it is an institutional and not a single family use.

Solicitor McHugh provided a detailed review of how institutions can apply for tax-exempt status under the provisions of the Ohio Revised Code.

Nate Geisler of Forestvale Drive said he was concerned about unintended consequences of the university's actions. He said that the new president seems to be a wonderful person but she will not be here forever. Her successor may not have the same level of concern for the neighbors as she does. He also mentioned that there is one home for sale on Forestvale and another sold almost immediately after the UT purchase occurred. He also expressed concern that the property would generate no property tax income unlike all the other properties on the street and that the adjacent neighbors were being hurt.

Mr. Geisler continued by stating that he was concerned about a possible downward spiral in property values and could not identify how any of the neighbors, the Village or the school system benefits from this purchase and the increase in activity.

Mr. Geisler also stated that the adverse publicity and the ill will created by the University may actually hurt fundraising activities, which seems to be a significant role of the President of the University. He said that real constraints are needed.

Mrs. Lenavitt expressed concern about the banner which is in place stating that it makes the UT property look much more commercial and institutional rather than residential.

Additional discussion followed with the Zoning Commission expressing concern about the purchase of the property by the University of Toledo and the residential nature of the neighborhood and the potential adverse impact that the University will have on the neighbors, property values and quality-of-life enjoyed by residents in the immediate vicinity.

Attention then turned to the property at 2524 Inlands Court and a variance that had been granted at the most recent meeting related to the swimming pool at that location. A condition of that variance was that the Village be named by the homeowner's property insurance as an

MINUTES OF THE MEETING OF THE ZONING COMMISSION OF THE VILLAGE OF OTTAWA HILLS, OHIO HELD IN THE COUNCIL CHAMBERS ON JULY 30, 2015 AT 5:00 P.M.

additional insured. It was subsequently learned that the insurance carrier would not name the Village as an additional insured because the Village did not have a financial interest in the property.

Discussion followed regarding the nature of the variance and the relative importance of the Village being named as an additional insured. Mrs. O'Connell stated that upon further consideration she would not in vote favor of the variance if presented with the request again.

It was generally agreed that the absence of the Village being named as an additional insured was not particular consequential and would not impact the variance.

It was agreed that the hour was getting late and that the Hasty Plat deed restrictions could be considered at the next meeting.

Therefore, the meeting of the Zoning Commission was adjourned at 6:15 PM.



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Kevin M. Gilmore