

Village of Lemont
Planning and Zoning Commission
Regular Meeting of June 15, 2016

A meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, June 15, 2016 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Spinelli called the meeting to order at 6:33 p.m. He then led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Andrysiak, Maher, McGleam, Sanderson, Zolecki, Spinelli

Absent: Kwasneski

Village Planner Heather Valone and Village Trustee Ron Stapleton were also present.

C. Approval of Minutes for the May 18, 2016 Meeting

Commissioner Maher made a motion, seconded by Commissioner Andrysiak to approve the minutes from the May 18, 2016 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Spinelli greeted the audience. He then asked everyone in the audience to please stand and raise his/her right hand. He then administered the oath.

III. PUBLIC HEARINGS

None

IV. ACTION ITEMS

A. 23 E. Logan St. Administrative Decision Appeal

Mrs. Valone stated Ken McClafferty submitted a building permit for 23 E. Logan Street. The property is currently vacant but the applicant is proposing to construct a single-family home on the subject parcel. The proposed driveway from the applicants request would access from east Logan Street. The UDO requires homes in the R-4A district to access via the alley, if an alley provides access. Staff reviewed the building permit and found that the property does have access from an alley. The applicant is appealing the administrative decision by staff to require the property have alley access rather than street access.

There has not been an administrative appeal since at least 2008, so she will provide some background on administrative decisions and appeals. UDO section 17.40.060 describe administrative appeals as made by the Planning and Economic Development Director when there are clear objective approval criteria and UDO standards that require no discretion. An example of something that would require more discretion would be a special use, variation or a PUD. Administrative decisions are interpreting the UDO as it is written and intended. An appeal of an administrative decision is when an applicant is contesting that the UDO was interpreted incorrectly by the Planning and Economic Director. Thus the Planning and Zoning review tonight is limited to reviewing the code as it is interpreted, written, and intended in the UDO.

Mrs. Valone said the subject property is located two lots west of Brown Park along the east portion of Logan Street. An alley runs between Custer and Logan Street with access from Park Place. She showed on the overhead the subject property. The pavement terminates roughly 50 feet east of the subject property. The subject property is located in the R-4A district. The purpose of the zoning district is to regulate the height, building coverage and impervious surface of residential dwelling units in the older established neighborhoods of the Village. Specifically the districts restrictions are intended to prevent the overcrowding of land, to ensure proper living conditions, assure the adequate provision of light, air and open spaces and to foster and preserve the natural character and quality of the existing neighborhood, while providing property owners opportunities for infill development on vacant lots or redevelopment of lots with existing structures. In particular this district is intended to prevent the further proliferation of structures that do not conform to the general height, bulk, and scale of existing structures.

According to UDO 17.07.020.F.2, "if an existing alley provides access to the lot in question, then detached and attached garages shall be accessed from the alley". The UDO defines alley as "a public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street". The standard width of an alley is as depicted in Appendix G detail sheet LS-5 is 16 feet.

Mrs. Valone stated the applicant submitted a building permit for single-family home with an attached garage accessing off of Logan Street on April 14, 2016. Staff denied the permit on April 19th because alley access was required. The permit had multiple items in addition to the driveway access which did not meet the UDO standards

including the proposed maximum square footage of the home. The applicant filed an appeal on May 14th. Per the UDO standard “an appeal to the Planning and Zoning Commission may be taken by any person aggrieved by any order, requirement decision or determination made by an administrative official charged with the enforcement of this ordinance.

The future land use for the subject property as defined in the Lemont 2030 Comprehensive Plan is Infill Residential (IR). The purpose of the IR is to ensure any new development or redevelopment will be consistent with the established character of the surrounding neighborhood. The subject property is one of the last remaining vacant properties along the north block face of E. Logan Street, from Park Place to Brown. The neighboring properties to the west are serviced by detached garages that have driveway access from the alley. The property to the east, 21 E. Logan, was developed in 1968 and the driveway provides access rather than the alley. The driveway was replaced in 2000, however the R-4A standards had not been incorporated into the UDO at that time and thus the property was not subject to the same alley access requirements.

The subject property was originally part of one large lot improved with one single-family home. The lot was comprised of the subject property and the neighboring property to the west. The original home from the larger lot is situated on 15 E. Logan. When the property was one large lot there was a single driveway that accessed it. Sometime between 2007 and 2008 this driveway was removed and replaced with only a service walk however, the driveway apron remains. In 2008 the owner of the property at the time subdivided the lot into two lots. The lot to the west, 15 E. Logan, constructed a detached garage in 2011 after the subdivision. At that time the alley was paved only 12 feet past 15 E. Logan, west lot line. 15 E. Logan thus extended the alley across the entire lot to the property line it shares with 23 E. Logan. Although the alley was not paved across the entire lot, staff found that the alley did provide access to the property.

The permit application for 23 E. Logan was reviewed for alley access from the survey provided by the applicant. The survey indicates that the alley is paved to the property line between 15 and 23 E. Logan Street. As the subject property was not separated from the paved alley by another property or any distance, staff found that the alley does provide access to the subject property. Though the alley is not paved across the entire rear lot line, the alley is only required to be extended along the subject property not across other private properties. The applicant submitted a cost estimate for the proposed alley access. The Village Engineer evaluated the estimate. The estimate to have the alley extended so access is from the alley is roughly \$4,200. This does not create an economic hardship as the increased cost is not significant over what the cost would be for a normal driveway. Additionally, an economic hardship is not a justification to overturn an administrative decision.

Mrs. Valone said the applicant has provided a secondary reason as to why he does not want to provide an alley access. He feels it will aggravate the drainage issues that

exist in the rear of the lot and alley. The Village Engineer reviewed the area and finds that the pavement will not aggravate the drainage issues nor improve them. However, as this is an administrative appeal the drainage issue is not a justification to overturn an administrative appeal.

Staff remains convinced that the existing alley, paved to the west lot line, does provide access. The interpretation is consistent with past precedent, as evidenced by the requirement for 15 E. Logan Street to access from the alley. Staff also believes this interpretation is consistent with the general purpose and intent of the R-4A district and the IR future land. The UDO requirements for the R-4A district are vastly different than the normal R-4 district. The UDO regulates more aspects of development in the R-4A district. The purpose of the zoning district and the regulations are to protect the unique characteristics of these neighborhoods. The two most visible restrictions are size of homes and driveway access. Additionally, the majority of the homes along the north block face of E Logan Street from Park Place to Brown Park have driveways that access the alley. The cost to alter the drive and utilize the alley does not create an economic hardship for the applicant. Thus, staff is recommending denial of the appeal.

Chairman Spinelli asked if any of the Commissioners had questions for staff at this time.

Commissioner Andrysiak asked if there was a plat of subdivision for the houses that are there currently. He said he wanted to know how the alley was established and who is responsible to take care of the alley.

Mrs. Valone stated it is a public alley as it is defined on their survey and was established a long time ago.

Commissioner Andrysiak said he had gone out to view the property. Based on the ordinances he would have made the same decision as staff and denied the application. However, after looking at the property he wonders if the property was vacated and the Village vacated the alley, half of the alley would go to the property to the north and half to the south. With this though we are asking the developer to pay for paving the whole alley which does not seem fair. When talking about precedence, at one time when the house to the north was built someone felt it was better for them to access from the street. When he looked at the houses on this block 70% of them have driveways that go out to the street. Most of them have connection to the alley but there is no room to turn around in the alley. He stated in regards to water runoff, the lot next to it is like a foot higher. When water is not in motion there is not too much of a problem, but if it is coming down that hill there could be a problem with erosion. There are berms that are built there already. If you disrupt that back end then it will disrupt the water flow and the neighbors are going to be complaining. There may not be a problem in the summer but in the winter when that snow is pushed all the way down to the end then you will flood the neighbors out. If it is his decision he would allow a driveway from the front.

Commissioner Maher stated they are not here tonight to hear a variance request. The only thing they are voting on is if staff made a right decision based off of the UDO. If the answer is yes then the applicant would have to come back in for a variance.

Commissioner Andrysiak said he feels that a driveway coming off the front is a better deal. So maybe then they need to look at the interpretation of the word “access”.

Commissioner Sanderson stated at the beginning of his comment he had stated that he agreed with staff’s recommendation for denial.

Commissioner Andrysiak said he feels that the driveway access from the front would be better.

Chairman Spinelli stated that may be, but the UDO requires lots in the R-4A district that have alley access are required to access the alley for a driveway. That is what they are determining as to whether staff interpreted the ordinance properly. If the applicant does not like their decision he has the ability to ask for a variance.

Commissioner Andrysiak apologized that he misunderstood.

Commissioner McGleam asked if it has to be an improved alley.

Mrs. Valone said it does not have to be an improved alley.

Commissioner Zolecki stated they are not approving a variance, but what they are referencing is that they would have to extend the alley on the actual property itself.

Commissioner Sanderson said if it was a development and they had to extend a street then they would extend the whole street.

Commissioner Zolecki asked about Commissioner Andrysiak’s reference to 70% of the lots having front street access.

Mrs. Valone stated she thinks he was looking at the whole block. What staff limited their review to was limited to a portion of this block. The park gives a significant break to the whole block. If you compared the homes on one side of the block to the other side of the block it is a huge change. The alley significantly changes the character of this area. She is not sure why the alley was not continued on the other side of Brown Park.

Discussion continued in regards to the 70% calculation.

Mrs. Valone said there is a definition of “alley” in the staff report.

Chairman Spinelli asked if there were any more questions for staff. None responded. He then asked if the applicant wanted to come up and make a presentation.

Ken McClafferty, applicant, stated for financial hardship the Village Engineer came up with about \$4,000. They had provided numbers and the alley in the back they had come up with \$10,000 with an additional \$5,000 for a retaining wall that would have to go up between the garage and the house due to the elevation. It is their interpretation that an alley has to have an entrance and an exit. When you look at Warner which is R-4A, they wanted the people and waste management to use the alleys. All those garages on the alley are not even facing the alley so when people back out they are going further into the alley. So they would have to pave further into the alley. There are sandbags at the end of the alley because the property to the north is getting water. There will be less impervious surface if they have to access the alley.

Chairman Spinelli said they are here because there is an appeal of the administrative decision. They are here to determine whether staff interpreted and applied the ordinance properly. They cannot take hardship into consideration because they are not hearing a variance request. If it is determined tonight that they agree with staff then their next recourse would be to come back and ask for a variance. He cannot speak for his fellow Commissioners as to whether a variance would be approved, but until they are asked to rule on such a request they can only vote on what is being presented tonight.

Mr. McClafferty stated they are putting in more concrete and asphalt.

Chairman Spinelli said that may be a very valid argument for a variance request. Staff's decision was based on the R-4A zoning district and it clearly states in the code that a lot that has alley access is required to access the alley.

Mr. McClafferty asked even if it is a dead end alley.

Chairman Spinelli stated whether it dead ends or not it is still a dedicated right-of-way. The Commission can only vote on the appeal and not hardships as to why he might not agree with the appeal.

Mr. McClafferty said he thought they would take into consideration the hardships. His argument was in regards to staff's interpretation of what an alley was.

Commissioner Andrysiak asked if this would go before the Village Board.

Mrs. Valone stated with the appeal request the Commission's decision is final. If he comes in for a variation then he would go before the Planning and Zoning, Committee of the Whole, and then Village Board.

Mr. McClafferty asked how long that process is.

Mrs. Valone said it is roughly a 90 day process.

Chairman Spinelli asked if there was anyone else in the audience that wanted to make a comment or ask questions. None responded. He then asked if there was any more questions or comments from the Commissioners.

Commissioner McGleam asked if the Village had a program to build alleys.

Trustee Stapleton stated there is a program for resurfacing. He feels the reason why this alley didn't go any further was because there were no more garages after that.

Commissioner McGleam asked if the Village had standards when a developer is asked to construct an alley.

Mrs. Valone said they are in the UDO and are accessible via online.

Chairman Spinelli asked since the lot to the east, adjacent to Brown Park, has access from the street, would the applicant have to extend the alley all the way to their property line.

Mrs. Valone stated they would only have to extend it to where their alley access would be. So it would depend on where they had placed the garage.

Commissioner Maher asked if the lot to the east had a dedicated easement for an alley behind that house.

Mrs. Valone said she did pull their plat and they do have a dedicated alley there.

Commissioner Maher asked if they had an engineering standard for dual entry points for an alley

Mrs. Valone stated they do not have anything for either way. There is requirements for thickness and width of an alley.

Commissioner McGleam asked if the Village takes over maintenance of it after it is developed.

Mrs. Valone stated yes.

Commissioner Andrysiak asked what would happen if they agreed with the applicant.

Mrs. Valone said then they would not have to construct an alley and then that changes how staff enforces this policy. So if they had someone else who had an alley that did not come across the entirety rear lot then that would change how they would interpret this requirement.

Chairman Spinelli stated it is like Commissioner Sanderson stated that if a developer was coming in they would have to build a street meeting Village standards up to their property.

Discussion continued in regards to if it was a variance request.

Chairman Spinelli asked if there were any further questions or comments. None responded. He then called for a motion for recommendation.

Commissioner Maher made a motion, seconded by Commission Andrysiak to approve the administrative appeal for 23 E. Logan Street. A roll call vote was taken:

Ayes: Andrysiak

Nays: Maher, Zolecki, Sanderson, McGleam, Spinelli

Motion denied

V. GENERAL DISCUSSION

A. Update from Village Board

Mrs. Valone said Fox Meadows did not make it to the June 13th meeting. The COW had required them to reduce to 27 lots. They submitted the rest of the plans with 27 lots but their landscape plan showed 28 lots. Since then they have submitted the corrected plans and should be on the June 27th agenda. Since the Paradise Park annexation agreement does include all of the plans for Paradise Park they will have to amend that agreement so it will be a public hearing.

Chairman Spinelli asked if they did comply with the Planning and Zoning conditions.

Mrs. Valone stated at the COW they did not comply with them but they have since.

Mrs. Valone said for the 480 5th Street variations, it had sparked a lot of discussion not only for this Commission but also for the Village Board. The Board is doing an analysis to understand not just this area, but what other areas in the Village are not serviced properly by utilities. The applicant had requested to wait to hear how that analysis turns out before he goes before the Village Board. It might be discussed at the July COW. Since the Planning and Zoning Commission did not recommend approval the applicant would need a super majority to have it passed by the Village Board.

Mrs. Valone stated the UDO Amendments were approved on the June 13th. Equestrian Meadows did comply with all the Commission's conditions and should be going before the Board on June 27th for approval.

Commissioner Andrysiak asked what was going on with the Ozinga property.

Mrs. Valone said Ozinga, without a permit, had paved a significant portion of their site. They claim that in their lease they were to clean up the berm on the outside so they added that in along with their concrete pad. They did not apply for a permit with the Village or MWRD. So they needed to come in and apply for a site development and they had indicated that they wanted to increase their stock pile materials. That is not permitted without a special use. So they have two processes going.

Trustee Stapleton stated the new Dunkin Donuts is open and Hamilton's Pub is now under new ownership.

VI. AUDIENCE PARTICIPATION

None

VII. ADJOURNMENT

Chairman Spinelli asked if there were any more questions or comments. None responded. He then called for a motion to adjourn.

Commissioner Sanderson made a motion, seconded by Commissioner McGleam to adjourn the meeting. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Minutes prepared by Peggy Halper