

**Village of Lemont**  
**Planning and Zoning Commission**  
Regular Meeting of October 19, 2016

A meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, October 19, 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. He asked everyone to continue to stand and raise his/her right hand. He then administered the oath.

**B. Verify Quorum**

Upon roll call the following were:

Present: Kwasneski, Cunningham, McGleam, Sanderson, Zolecki, Spinelli

Absent: Maher

Village Planner Heather Valone, Village Trustee Ron Stapleton, and Deputy Village Administrator Jeff Stein were also present.

**C. Approval of Minutes from the September 21, 2016 Meeting**

Commissioner Sanderson made a motion, seconded by Commissioner Kwasneski to approve the minutes from the September 21, 2016 meeting with no changes. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Abstain: Cunningham*

*Motion passed*

**II. CHAIRMAN'S COMMENTS**

Chairman Spinelli welcomed Sean Cunningham to the Planning and Zoning Commission.

**III. PUBLIC HEARINGS**

**A. 16-08 645 4<sup>th</sup> Street Variations and Resubdivision**

Chairman Spinelli called for a motion to open the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to open the public hearing for Case 16-08. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Staff Presentation**

Heather Valone, Planner, stated Phil Cullen, the contract purchaser of the subject property, is requesting variations from the UDO. The purpose is to subdivide an existing property into two 61 feet wide and 8,113 square foot single-family lots with 8 ½ feet side yard setback. Staff is recommending approval with conditions.

The subject property is currently zoned R-4. The UDO requires a minimum lot size of 12,500 square feet and a minimum lot width of 90 feet. The subject property is currently improved with a single-family home. To create 4<sup>th</sup> Street the Village purchased the right-of-way (ROW) from the property owners along the street. The majority of the ROW as picture on the overhead is 66 feet wide, which is the standard requirement per the UDO. However, a portion of this property was not purchased at the standard ROW requirement. She showed on the overhead the portion. A section approximately 17 x 27 feet could not be purchased because the existing single family home sits on that portion of the subject property. The primary structure is a nonconforming three unit building. The building has been vacant for more than six months thus the UDO no longer allows it to continue its nonconforming use.

In 2002, the previous owner had subdivided a 1.2 acre property to create three lots. She showed on the overhead the existing lot in 2002 and how it was subdivided. The applicant is requesting variations from the UDO. The UDO requires three standards are met to grant a variation. The first is that the variation is in harmony with the general purpose and intent of the UDO. The proposed variations do not alter the character of the neighborhood and additionally the proposed lots are consistent with the Lemont 2030 Comprehensive Plan which designates this area as infill. The second requirement is that the plight of the owner is due to unique circumstances, and thus strict enforcement of the UDO creates practical difficulties or hardships. The existing home that sits on the property is roughly 40 feet closer to the street than the neighboring property. The subject property is surrounded by existing lots that do not conform to the UDO standards or they exceed them. The proposed lots are consistent with the majority of the neighborhood. Lots in the neighborhood range from 70 to 75 feet in width and anywhere from 9,000 to about 10,000 square feet. There are some outer lot areas that are significantly larger lot sizes of a half acre and lot width of 132 feet.

Mrs. Valone said the last standard for the variation is that it will not alter the essential character of the neighborhood and will not be detrimental to the adjacent properties. The variations do not alter the essential character of the local area as it is proposed to have two single-family homes. The surrounding lots either do not conform to

standard R-4 lot requirements. The proposed lot sizes are smaller than the surrounding properties and the UDO requirements. However, the proposed lots are generally more consistent with the existing lots that are deficient in UDO standards. Additionally, the lots will achieve the goals of the Lemont 2030 Comprehensive Plan. Staff finds that the applicant is demonstrating consistency with all three standards. Although the property will vary slightly from the standard R-4 requirements the proposed variations are more consistent with the surrounding single-family homes that currently do not meet minimum lot widths or standards in the UDO.

Staff is recommending approval with the following three conditions. That the interior side setback are increased to 10 feet. The homes must be constructed with masonry on all first floor elevations. The site plans must be updated to show that the sidewalks and parkway trees will be installed prior to occupancy permits being issued for the proposed homes.

Chairman Spinelli asked if the condition for interior side yard setback applies to all side yards or just between these two new lots.

Mrs. Valone said all side yard setbacks. The existing homes that sit on these properties are generally medium size homes that are surrounded by large private yards. The idea behind the increase side yard setback is that it will shrink the size of the home and have additional yard space and will mimic the surrounding properties.

Chairman Spinelli stated the existing structures that were part of the 2002 subdivision appears that they met the zoning code at that time with 80 foot lots and 15 feet side yards.

Mrs. Valone said that is correct.

Commissioner McGleam asked what the side yard setbacks are on the properties across the street to the west where they lots are 70 feet.

Mrs. Valone stated the majority of the homes have a minimum of 15 feet. However, some of the lots have homes that were constructed prior to the current UDO standards. This is another reason why staff recommended larger interior side yard setbacks.

Chairman Spinelli said the majority of the lots on the west and the other lots which are also 75 feet wide came when 75 feet wide lots were permitted.

Mrs. Valone stated they were platted as part of the subdivision and were recorded lots.

Chairman Spinelli said they are conforming to the zoning code when they were recorded. They don't meet the current code for R-4.

Mrs. Valone stated that is correct.

Chairman Spinelli asked if any of the Commissioners had any questions for staff at this time. None responded. He then asked if the applicant wanted to make a presentation.

### **Applicant Presentation**

Phil Cullen, 12995 Parker Road, stated the subdivision they are talking about at that time there was a 70 foot wide minimum lot size with setbacks at 10 feet. He showed on the overhead the subject property. Some time ago the owner had split the property. He showed pictures on the overhead of all the impervious area on the property. His proposal is to split the property right down the middle at 61 feet. He said he is showing that there is 7,200 square feet of impervious area and it's a 16,200 foot lot so the lot coverage area is at 45%.

Mr. Cullen said he has looked at the properties from McCarthy Road all the way down to the gate at Covington. There are 48 properties along that street with seven properties that are less than 61 feet wide. Another 13 properties are between 62 and 67. So there are about 15% of properties there that have widths less than 61 feet. He stated this information is in their packet. Originally he came in asking for 7 foot side yards but he was not sure what other conditions there were going to be. He has no issue putting brick on the first floor.

He then showed pictures of a house that he recently tore down on Warner Avenue in Lemont. He understands the importance of the side yard setbacks. At the house on Warner, the eve of the neighbor's house is on the lot line. It made it more difficult to take the house down when there are four feet side yard setbacks. It was zoned R-4A which is a little different but he is sensitive to people's needs. With the proposed property the house to the north there is 16 foot side yard setback and the house to the south is about 15 feet so with the 8 foot side yard setbacks he would be close to 25 feet between houses.

Mr. Cullen then showed two conceptual plans for the properties. The footprint he showed is 44 feet wide and 55 feet deep. The impervious area of the house is 3,200 square feet which is 40% of the lot. With both lots the impervious coverage would be less with the two houses. In 2007, they did a subdivision and created a 10 foot easement with a flag lot. There are four flag lots on the street and there are two homes where he does not see a recorded easement. He is planning on dedicating that 27 foot area in the front, tear down the house and move it back. With his conceptual plan his homes will be deeper than 641 4<sup>th</sup> Street but not as deep as 649 4<sup>th</sup> Street. He stated this would conclude his presentation.

Chairman Spinelli said on the two lot exhibit and the four lot exhibit it indicates a concrete pad that is 44 feet by 67 feet. He asked if the petitioner could explain this.

Mr. Cullen stated it is 44 feet from the front, the building setback is the dotted line.

Chairman Spinelli asked if that was intended to be his potential building envelope or just an actual concrete pad like the drawings indicate.

Mr. Cullen said it is not the intent. It is just the box, it is the 61 feet minus the side yard setbacks. The actual buildable area went back a little bit further. Both conceptual plans are 2,400 square feet and he doesn't plan on building anything bigger. The house to the north is 44 feet wide and it has a three car garage with just a door to get in. The difference with going to 10 foot side yards is it will shrink him down to 41 feet. He would never put a house right on the buildable area because if the concrete guy is off then there is going to be some problems. It would be a much better product being built at 44 feet.

Commissioner Sanderson stated they are not approving a PUD, so he does not understand where the hardship is at. He understands the concept and likes it. What it comes down to is that they are granting a variance based on the UDO and based on a hardship.

Mr. Cullen said there isn't any hardships. The UDO states if you didn't create the issue then you have every right to come here for a public hearing.

Commissioner Sanderson stated this is a lot that you can build a house on. The lot can be subdivided, but he is asking for something that is not allowed. He wants to know what the reason that he is asking for this variance.

Mr. Cullen said he is not trying to go in there and fill up that footprint. You build a narrower house with smaller side yards in, then it will look good. If you can't split this then it is not financially feasible to do this.

Commissioner Sanderson asked if staff could repeat the standards for approving a variance.

Mrs. Valone read the standards again.

Chairman Spinelli asked if the Plat of Subdivision could be pulled up. He asked if they could zoom in on the school certificate. He said the certificate there indicates townhomes. He wants to clarify that this is not a townhome development.

Mr. Cullen stated that this is not a townhome development.

Commissioner Zolecki asked if he would do anything different to the first floor if he wasn't asked to put masonry there.

Mr. Cullen said the houses that are next to this property have brick so that is what he was planning. These are conceptual plans but the architect that did one of his houses on Freehauf and the one on Warner will be doing this project.

Chairman Spinelli asked if there were any further questions for the applicant. None responded. He then asked if there were any Village Officials that had any questions or comments. None responded. He then asked if there was anyone in the audience that wanted to come up and speak.

### **Public Comment**

Mrs. Valone stated there is a letter that is in front of each of the Commissioners that was received today via email from a Dave and Laurie Forkel. This letter will become part of the record and asked for the Commissioners to take a moment to read the letter.

Dennis Schubert, 608 4<sup>th</sup> Street, said the Wohead subdivision started in the early 80's. At that time the standards for building was 70 foot lots as far as frontage. At the time, Mr. Wohead had 12 lots, six are 70 feet, one is 76 feet, one is 80 feet, one is 84 feet and three are 88 feet. He not only met the standard but exceeded it. He increased the size of the lot to make it nicer for the area. In 2002 they came before the Commission and they had the opportunity at that particular time to make this four lots at 70 feet a piece and could have been conforming to what was set back in the 80's. It most likely would have gone through with no troubles at all but he choose not to do that. Instead he went with 120 feet and two 80 feet lots. There are two lots to the north of the subject property that are 132 feet wide. There are four lots on the west side of the street that are 132 feet wide. To do this would be setting a precedence that would hinder this whole area. There are other lots that could come in and say they would like to do the same thing. In the past they have had issues with cars coming down Fourth Street from McCarthy Road. There is a gate at the end of the street to prevent extra traffic from coming up. If this goes through there is a potential of adding seven additional homes to the street. He feels that this would be way out-of-line.

Mr. Schubert stated he feels that he lives on the smallest lot on the street and his lot is 21,000 square feet. To go down to 8,133 square feet would be way to small of a variation. The lot size per width would be a 33% variation, 35% for the total lot. Even if you went by the standard that was set in 1986 it would still be 35% less on total size of lot and 13% less on lot width. This is not consistent and would set precedence. He would not like to see any variances. He understands that we would all like to know that we could build on properties and Mr. Cullen does build nice homes. He just feels that building two homes on this size lot is something that he would not like. He asks the Commission to please deny this request by voting no.

Victor Fischer, 664 4<sup>th</sup> Street, said he lives one house south and across the street from the subject property. His property is an acre and he purchased it back in 1969. He agrees with Mr. Schubert that the lot is too small for two homes. A little history on

the house, is that the house used to be a farm house on a gravel and pitch road. The house had an addition put on and it was built over a well. He stated before he could do anything to that property he is going to have to cap a well under that house. If two homes are put on that lot it will completely change the neighborhood. He does not know any 62 foot lots in this area or any flag lots.

Mr. Schubert stated in regards to the flag lot, the home was owned by a couple and it was a flag lot to begin with. The owners were going to build a house in the back for their parent who was ill at the time. There is a curb cut on the south end of the property which would be the access to go back to that flag lot.

Carl Unnerstall, 595 4<sup>th</sup> Street, said he is just north of the 132 feet wide lots. His property is 88 feet wide. Most of the people who moved into the Wohead subdivision were friends. The reason why they moved there were for the large lots. Now because it is profitable for someone they are trying to split a lot. They tried it on a 132 foot lot and the reason why it failed besides everyone voting against it was the Fire Department. They would not be able to get their equipment in the back behind another house. If you have homes that are so close together it can become a fire hazard. Lemont is unique and they don't follow what other towns do and we do what is right for the character of Lemont. The character of Lemont would be to continue to offer its citizens what they originally planned and promised when they moved here. He has lived in Lemont the majority of his life and does not plan on moving. This lot can make money with one home on it. There is a reason why people buy large lots. They like that it gives them their privacy. He understands that money can be made by building two houses but he feels that a profit can be made by just putting one home on the property. People like the exclusivity of the property. There is another house for sale one house away that a woman was interested in it and she was also asking if it could be subdivided. If we allow this one lot to be cut in size then there will be more asking. That is not what they want started here but rather to just maintain what they were promised.

Mr. Schubert stated the property that is two lots north of the subject property did come in for a lot division and was denied. He does not remember what the case number was but does remember the case and that it was denied.

Jane Holt, 632 4<sup>th</sup> Street, said as a mother, that is a blind hill directly in front of the subject property. If a child is riding a bike on the street the driver will not see that child. This was the argument they had when they were trying to put the street through. If we are putting more houses on the block then she feels it is only for the money. She feels that the houses Mr. Cullen is building are beautiful, however there is no need for two of them. She feels there is no need for additional traffic on the street. There are no sidewalks for the kids to ride their bikes and this would create more danger for them. She moved to this area for the bigger lot. She asked to please think of the kid's safety.

Rich Mueggenborg, 12 Country Court, stated he is kiddie corner to the subject property.

Chairman Spinelli said Mr. Mueggenborg arrived after everyone was sworn in. He then asked for him to raise his right hand and sworn him in.

Mr. Mueggenborg stated when he moved into the area, one of the things that sold him on the house was the large lots. His concern is that if a variance is allowed here then there will be more to follow.

Chairman Spinelli asked if there was anyone else who wanted to speak. None responded. He then asked if the applicant wanted to respond to some of the comments made.

Mr. Cullen said he understands people's concerns. It was stated that it is all about money and this is how he makes a living. You buy property in nice areas and it is hard because nobody likes change. This area is designated as Infill in the Comprehensive Plan. He did not write the Comprehensive Plan and when it was written there were public hearings that people could have come to give input. In regards to the Fire Department, they were approved by them and there is a fire hydrant right in front of the property. He appreciated the information on the capped well. When demolition a house you have to apply for permits so if there are any wells on the property he will find them and make sure they are capped.

Mr. Fischer stated he knows for a fact that it was not done because he has lived there since 1969. When the well went, his neighbor next door had worked for the Village and they were hooking up water at night. He had questioned if there was permit and he was told not to worry about it. There is no reason for them to put water in at night. He built the addition on top of that well.

Chairman Spinelli said Mr. Cullen will have to investigate that if this case does move forward.

Mr. Cullen stated there is an objection from Mr. Forkel. He showed on the overhead where Mr. Forkel's property is located. He said he is not sure how he gets to his property when there is no frontage to the street. There are four flag lots out there. He showed a summary of lots that he received from the Lemont Township that shows 15% of the lots are less than 61 feet and another 13% are 62 to 67 feet. He looks at all this information before he makes a decision

Chairman Spinelli asked if he had any objections to staff's recommendation of a 10 foot side yard.

Mr. Cullen said he would prefer to discuss that. If there was a concern about the separation between the existing homes then he would do something different. He



wants the 44 foot house so he would make the side yards up against the existing homes 7 feet and then shrink the inside, then the risk is with him.

Chairman Spinelli stated so the response to his question is that he is objecting to the 10 foot side yards.

Mr. Cullen said yes.

Chairman Spinelli stated if this proceeds he would like 15 foot side yards on the south of lot 2 and the north of lot 1 which are adjacent to the existing homes that have a 15 foot side yard. He would then recommend a 10 foot on the interior which is worse than what staff recommended.

Mr. Cullen said at that point he would walk away from the project. He stated they could make their recommendation and the next step would be to take it to the Committee of the Whole.

Chairman Spinelli stated some other recommendations that might be included in a motion is that the drawings must be corrected showing the concrete pad reference removed. Also, the School District Certificate corrected to remove the townhouse reference. Another is that he would like the homes to be constructed as garage right to maximize potential spacing between driveways. The existing home north of this development is garage right and the existing home south is garage right.

Mr. Cullen said that will work with the garage right driveways. He said he has no problem with those conditions.

Chairman Spinelli asked if any of the Commissioners had any further questions for Mr. Cullen. None responded.

Mr. Schubert stated in regards to the flag lots there is a driveway that goes back that is dedicated as a private road that is connecting to Fourth Street. They have Fourth Street addresses and there are two one acre lots.

Mr. Fischer said where he is talking about building these two smaller homes, there is what he would estimate, larger \$700,000 homes on either side. He is planning on having these two brick homes and putting two smaller houses between them. If it was him he would sell and get out of there.

Mr. Cullen stated the house to the north is a rental. It was a foreclosure that was purchased by Invitation Homes and it is 2,400 square feet. The one to the south has a three-car garage and if you look at the footprint it is 2,700 square feet. His houses will be right in the range.

Commissioner McGleam wanted to confirm that the existing house was a 3 unit rental and that variance to allow that has expired because it has been vacant.

Mrs. Valone said that is correct. It was a non-conforming three unit rental building that was vacant for more than six months prior to this application. So it now no longer has that non-conforming use. The only use allowed now would be a single-family home.

Ms. Takarski, 650 4<sup>th</sup> Street, stated she was co-owner of the property and her property is 132 feet wide. She had applied a couple of years ago wanting to subdivide her property into two lots. Their proposal however was denied. She said she is in favor of the applicant. Her house is not in good condition and she would like to do the same thing as the applicant is requesting. She would like to knock down her house and bring something nicer. She is willing to meet all the requirements in regards to side yards setbacks. They are not looking to build huge houses but are looking to remove the old house which is in bad condition and build something nicer. She understands the concerns about having more traffic. She also has two children. She wanted to state that she is in favor of the owner at 645 4<sup>th</sup> Street.

Chairman Spinelli asked if there was anyone else who wanted to speak in regards to this public hearing. None responded. He then asked if any of the Commissioners had any further questions for the applicant. None responded. He then called for a motion to close the public hearing.

Commissioner Kwasneski made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 16-08. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Plan Commission Discussion**

Chairman Spinelli said his biggest concern is the 32% variation on the lot widths. He is not as concerned about the square footage of the lots because this lot is shorter than all of the adjacent properties so that is not controllable. It is still a 35% variation from the current code. The lot width reduction from a 90 to a 61 is a 32% variation which is too much in his opinion. He understands staff's report and Mr. Cullen's presentation. It is only a 13% variation from the majority of the lots in the area which are 70 feet wide but they can't base their decision on the majority of those lots. His opinion is a 32% is a significant change and not a minor change. What happened in the past when this lot was subdivided into three lots, he is not sure if the owner didn't have information, but the property could have been divided into 70 foot lots. Or if the zoning code was 80 feet he could have asked for a variance to 70 feet. At least then we would have lots that matched other lots and it would have been closer to the zoning code. The 32% is an unprecedented change or variation to the zoning code.

Commissioner Sanderson asked if someone can buy the property and make it into a house the way that it is.

Mrs. Valone stated yes they could either remodel it or knock it down and make it into one single-family home.

Commissioner Sanderson said either you can go up or down 4,000 square feet. He does not see how you can grant the variance other than it will spur the redevelopment of this house in disrepair. It could bring two houses now or they could wait and ultimately one day someone will put a new house on there.

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

**Plan Commissioner Recommendation**

Commissioner Sanderson made a motion, seconded by Commissioner Kwasneski to recommend to the Mayor and Board of Trustees approval of Case 16-08, 645 4<sup>th</sup> Street Variations and Resubdivision, with staff recommendations. A roll call vote was taken:

*Ayes: None*

*Nays: Sanderson, Kwasneski, McGleam, Zolecki, Cunningham, Spinelli*

*Motion denied*

Commissioner Kwasneski made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for Case 16-08 as prepared by staff. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

**IV. ACTION ITEMS**

None

**V. GENERAL DISCUSSION**

**A. Update from Village Board**

Mrs. Valone said in regards to the UDO Amendments, the Committee of the Whole reviewed them the same week as the PZC continuance. They will go before the Village Board for approval on October 24<sup>th</sup>. She did discuss with the Village Ecologist the increased grading control standards and the standards for acceptance.

Chairman Spinelli asked if there were any updates in regards to the fence permit at Walter and Wend.

Mrs. Valone stated the Building Department has noted that their building permit has expired and they have not applied for a final. It is now up to the Code Official to issue a ticket or a warning.

Chairman Spinelli asked if there was any further information in regards to the shed in Smith Farms.

Mrs. Valone said their permit expired and they did not apply for a final inspection. They had ignored the warnings that were issued and have now been issued a citation for not completing a building permit within the expiration time and additionally for construction of a shed that did not meet approved plans. The court date is coming up.

Chairman Spinelli asked if in the UDO there were any restrictions with the number of vehicles or ATV's that can be stored in plain sight on a driveway.

Mrs. Valone stated for passenger vehicles there is none but ATV's would have to be in an enclosed building.

Chairman Spinelli asked if they could have Code Enforcement also verify the vehicles being stored on the same property that has the shed issue. There is also a public hearing sign that has not come down. He will have to notify her later where he saw it. He asked if there was any further discussion for increasing fees so the Village can just go and take down these signs.

Mrs. Valone stated there are other Villages that choose to be responsible for all of the public notice, including the mailings; however, it may not be in the Village's best interest to be the one responsible. Staff can definitely look at it, but the problem is that it is still private property.

Discussion continued in regards to removing public notice signs.

Mrs. Valone said next month there might be two large applications so they might cap it if they are going to be coming before the Commission. She asked if the Commissioners can let her know about their attendance for the meeting in December.

## **VI. AUDIENCE PARTICIPATION**

None

## **VII. ADJOURNMENT**

Chairman Spinelli called for a motion to adjourn the meeting.

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

*Ayes: All*

*Nays: None*

*Motion passed*

*Minutes prepared by Peggy Halper*