

Village of Lemont
Planning and Zoning Commission
Regular Meeting of January 18, 2012

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, January 18, 2012, in the second floor Board Room of the Village Hall 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Schubert led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Kwasneski, Maher, Messer, Murphy, Sanderson, Spinelli, Schubert

Absent: None

Village Planner Charity Jones and Village Trustee Ron Stapleton were also present.

C. Approve Minutes

Commissioner Murphy made a motion, seconded by Commissioner Spinelli to approve the minutes of the November 16, 2011 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Schubert welcomed everyone and wished them a Happy New Year.

III. PUBLIC HEARINGS

A. Case #11-14 – 120 Doolin Street. A public hearing for a variation to allow a shed to be located in a corner side yard.

Commissioner Messer made a motion, seconded by Commissioner Murphy to open the public hearing for Case #11-14. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Chairman Schubert asked everyone in the audience to stand and raise his or her right hand. He then administered the oath.

Mrs. Jones stated that the owners of the property are present and have requested a variation to allow a shed in a corner side yard. She stated that typically in the UDO sheds are not allowed in corner side yard, which is the area between the house and street. She stated that the shed is currently in this location and the petitioner did obtain a permit. Upon final inspection by the building department, they discovered that the shed was not in the location where it was permitted.

Mrs. Jones stated that there are three standards, in the UDO for a variation, that need to be met for staff approval. The first is that it is in harmony with the general purpose and intent of the UDO. She said in the staff report there is an analysis of the UDO's purpose and intent. Mrs. Jones stated that one is protecting the character of established residential neighborhoods. She said that this is an established neighborhood and the shed would have minimal impact on the neighborhood. Another component is conserving the value of land and buildings throughout the Village. She stated that the shed is visible to adjacent properties and from the intersection of Roberta and Doolin, but does not have an impact on properties throughout the Village.

Mrs. Jones stated that the second criteria is that the plight of the owner is due to unique circumstances and thus strict enforcement of the UDO would result in practical difficulties or impose exceptional hardships. She said that the applicant suggested that unique circumstances on this site are the unusual setbacks required. Mrs. Jones stated that a typical corner side yard setback would be 25 feet. She said that the applicant's lot is a little irregularly shaped and that theirs is 35 feet. She said that the applicant also had a 25 foot wide pipe line easement that is on the north side of the property. She stated that there are about 200 properties in the Village that are affected by the pipe line easement. Mrs. Jones stated that it is a little unusual to have that setback, but it is not unique to the Village of Lemont. She said that the rear lot line, which is east, has a seven and a half foot public utility easement that is standard for an R-4 zoning district. Mrs. Jones stated that sheds are not typically allowed to be placed in the easement; however upon approval from the Village Grading Technician it can be allowed. She said that the property does have unusually large setbacks on the north and south property lines; however the property itself is approximately 20,000 square feet. This is typically larger than most R-4 properties. Mrs. Jones said that there is enough room still left on the property to put the shed and does not feel that there is practical difficulty or exceptional hardship.

Mrs. Jones said that the third criteria are that the variation will not alter the essential character of the locality and will not be a substantial detriment to adjacent property. She said that the variation would have no impact on the essential character and references back to the UDO's purposes and intent. She stated that because the variation request has failed to meet standard two, staff is not recommending approval.

Commissioner Spinelli asked if staff received any complaints from the neighbors.

Mrs. Jones stated that she received one phone call and it was just a question or an inquiry.

Commissioner Spinelli asked if there was a drawing showing the location of the shed when the permit request first came in.

Mrs. Jones stated that when the permit request came in, the plat that was shown was that the applicant was proposing to place it at 25 feet. Staff approved it as noted and noted the 35 foot setback line. The applicant was told that it would have to be setback at 35 feet.

Commissioner Spinelli stated that when he was out there he measured that it was 15 feet from the sidewalk instead of the 17 feet that is marked on the drawing.

Chairman Schubert asked if the applicants would like to come up and speak.

Wesley Tomala, 120 Doolin Street, Lemont stated even though they have 20,000 square feet they can't use the front, side and north side. He said that the neighbor behind them liked where the shed was located currently because it did not block her view of the street or the sun coming in. He stated that the neighbor said that she would be at the meeting but did not show up.

Chairman Schubert asked if any of the Commissioners had any questions.

Commissioner Maher asked what the petitioner was originally proposing.

Mrs. Jones stated that they were originally proposing 25 feet in this spot that the shed was located.

Commissioner Maher asked the petitioner if he was aware of the 35 feet setback when he received the permit from the Village.

Mr. Tomala stated that yes he was aware.

Commissioner Maher asked why he built it at 15 feet instead of 35 requested from the Village.

Mr. Tomala said that he had originally planned on putting it there but his neighbor had an issue with it blocking her view. He said it is a plastic shed and can be moved. He has it in the location right now temporarily until he applied for the variance.

Commissioner Maher asked if there was anything permanent about the structure.

Elizabeth Tomala, 120 Doolin Street, Lemont, stated that there is not and it is easily movable. She said that they had laid out the structure and the neighbor behind them asked if there was any way they could move the shed. The neighbor wanted to see her children at the bus stop on Roberta and Doolin when she looked out her basement window. Mrs. Tomala said that is when they moved it back and applied for the

variance. She said where the shed is currently is an ideal location. She stated that the neighbors liked where it was located because it was hidden by trees and not an eye sore.

Chairman Schubert stated that it would not be a bad thing to push it back for the safety of the neighbor. Instead of sitting out in the middle of the yard it looks more appealing by being tucked into a minor hill with landscape around it.

Mrs. Tomala said where it was originally located all you saw was shed. She stated that were it is located now it makes it more appealing and hidden.

Commissioner Messer asked how it was anchored to the ground.

Mr. Tomala stated that the bottom is gravel and there are long hooks in each corner of the shed.

Commissioner Messer stated that he was concerned about safety and high winds.

Mr. Tomala stated that it is filled with a tractor and other items. He said it has not moved an inch even with storms that have happened. Mr. Tomala stated that if it was going to stay in the spot that it is currently located he would find something permanent to anchor it down.

Commissioner Sanderson asked if there were any complaints on the original location or the new location.

Mrs. Jones stated that they have not received any complaints.

Commissioner Maher asked with the variation would it allow them to build a different type of shed.

Mrs. Jones stated that it would be specific to this footprint. She stated that it would be 10' by 12' and 8 feet high.

Commissioner Maher asked if it could be higher.

Mrs. Jones stated that it could be as high as 15 feet. She said that the Commissioners could make a condition that it can not exceed eight feet high.

Commissioner Maher asked why they choose this corner rather than the northeast corner.

Mr. Tomala stated that the pipe line was there.

Commissioner Maher said what about south of the pipe line easement.

Mr. Tomala stated that it would be directly next to the patio or in the middle of the yard. He said that it would have to be ten feet away from the house, 25 feet away from the pipe line and seven feet from the east side.

Commissioner Murphy asked if a condition could be place that this has to be the original shed that stays there. If a replacement shed has to be put up then a new variance would have to be applied for.

Mrs. Jones stated that the Board could put whatever conditions they wanted. She said you could require same size and height, but not sure on the materials.

Commissioner Murphy said it is screened now. If the petitioners move and those trees are removed, someone could put up a purple shed. This might not fit into the character of the neighborhood or look so appealing in that location. Commissioner Murphy stated that right now she feels that this is an okay thing, but not knowing what conditions could prevail might not be the best thing to do.

Mrs. Jones stated that if the screening is what warrants the variance, the Board can add a condition that screening similar to what exists shall be required. She said then they can attach a photo of the current screening.

Commissioner Kwasneski asked why it took so long for the Building Department to inspect the permit.

Mrs. Jones stated that it was inspected last January of 2011.

Chairman Schubert asked if anyone else would like to come up and speak. None responded. He then asked if any of the Commissioners had any further questions. None responded.

Commissioner Spinelli made a motion, seconded by Commissioner Maher to close the public hearing for Case #11-14. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Spinelli made a motion, seconded by Commissioner Maher to recommend approval for Case #11-14 with the following conditions:

1. Current landscaping must be maintained for screening. If for any reason the landscaping is no longer there it would have to be replaced with similar size and nature.
2. Replacement shed needs to come back for new variance.

Chairman Schubert then read the Findings of Facts.

- a. The requested variation will have no impact to the Village as a whole and the impact to the adjacent properties will be negligible, since the shed is well screened

by mature landscaping and the topography of the subject site. *All Commissioners agreed.*

- b. The variation request will not injure the public health, safety and general welfare since the shed was constructed in accordance with Building Department requirements. *All Commissioners agreed.*
- c. The plight of the owner is due to the unique setbacks for the subject site, which make it difficult to place a shed on the site in accordance with the requirements of the UDO.

Commissioner Maher stated that he did not agree.

Chairman Schubert agreed with Commissioner Maher. He said that it really does not comply with that, but the conditions that were stated by the owners were different. The other two were yes, but C is a no. Chairman Schubert asked if Commissioner Maher wanted to add something for the plight of the owner.

Commissioner Maher stated that his problem is that there are definitely spots throughout the backyard where the shed can go that meet the requirements. He stated that the northeast corner meets the requirement that isn't on the side yard, it doesn't go on the easement, and it is far enough from the house. He stated that he doesn't think that there is a way he can change the wording for letter C. He stated that there is plenty of room in the northeast corner where it will not obstruct the neighbor's view and be able to meet the Village's requirements. Also, it will not be so close to the street. He said that this is his opinion on C. Commissioner Maher stated that the point of the setbacks is so the shed is not visible from the streets. He said that this is only hidden by two trees and is in the front, which is their side yard. He stated that there is room elsewhere.

A roll call vote was taken:

Ayes: Kwasneski, Sanderson, Spinelli, Schubert

Nays: Maher, Messer, Murphy

Motion passed

- B. Case #12-01 – 307 Freehauf Street.** A public hearing for a variation to allow a new garage in the R-4A zoning district to be accessed from the street rather than an existing alley.

Commissioner Kwasneski made a motion, seconded by Commissioner Murphy to open the public hearing for Case #12-01. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones stated that the variation for this case was to allow a garage and driveway to access from Freehauf Street. She stated that the property is located in the R-4A district, which is single-family preservation and infill district. It covers most of the older neighborhoods in Lemont. She said that the UDO states for an R-4A district "if an existing alley provides access to the lot in question then detached and attached garages

shall be accessed from the alley.” Mrs. Jones stated that applicant is constructing a new home on the property and prior to this construction there was a previous house on the property. That home did have a driveway that did access off of Freehauf Street. Mrs. Jones said that when the applicant came in for a building permit, it showed use of the existing curb cut for the new garage. She said the Economic Development Director, Jim Brown, was fine with either using the existing curb cut or using the alley. Mrs. Jones stated that the property does have a detached garage that is accessed thru the alley which was there prior to the new home construction.

Mrs. Jones said the first standard for the variation is that it is in harmony with the general purpose and intent of the UDO. She then read through the four components that are consistent with this variation. Mrs. Jones stated as far as the component that states protecting the character of established residential neighborhoods, this block is not a pristine example of the traditional R-4A district. She said there are a couple of other homes on the North side that have driveways in the front that also have alley access. On the South side across from the subject site they do not have alley access at all and have driveways accessing of Freehauf Street. Mrs. Jones stated that because of those characteristics and the fact that the property already had a driveway coming off of Freehauf before the construction of the new home; it should not have any impact to the character of the neighborhood. She said that she would caution, for the future, any increase in the total number of curb cuts in the R-4A would be a substantial detriment to the character of the neighborhood.

Mrs. Jones stated as far as the second standard, the applicant suggests that the unique circumstance is that the property previously had a driveway with access off Freehauf Street. She said that one factor that staff is suppose to take into consideration in determining whether there is practical difficulties or potential hardships is whether the hardships and difficulties were self-created. She stated that the difficulty is that the garage doesn't really line up with the existing curb cut. The owner did have the opportunity to design the home to the existing curb cut and did not. Mrs. Jones said that the approved building permit did show that the applicant could make use of the existing curb cut. She stated that she did not find that there was a practical difficulty.

Mrs. Jones said as far as the last standard, she felt that there would not be any impact to the adjacent properties. She said because it failed to meet standard two, she would not recommend approval.

Chairman Schubert asked if the applicant would like to come up and speak.

John Antonopoulos, 15419 E. 127th Street, Lemont, stated that he was the attorney for the applicant. He said that he agreed with the staff report except for one exception. He said that if you looked at the drawing, it showed that the existing driveway is in the center of two lots. He stated that the home his client was going to construct, it would be impossible to build a house with a garage in front to be in the center of the lot. Mr. Antonopoulos said that the plight of the owner is that the existing curb cut is at the center of the lot. He stated that he dropped off a letter to Mrs. Jones listing some things

to take into consideration. He said that each of the Board members should have a copy of that letter. Mr. Antonopoulos said that the existing home that was built on this property was the first house built on Freehauf Street. It was built on two lots in the 1940's. The previously home was a single-family home with an attached and detached garage. He stated that another factor is that the sanitary sewer would be under the curved driveway. If it is a straight driveway then it would not be under the driveway and would not be under the concrete of the parkway. Mr. Antonopoulos stated that there are approximately 23 homes on the north side of Freehauf, about 60%, which have curb access driveways. He said there is a safety issue if it was a curve driveway. He said that there are neighbors present that are in favor of having a straight driveway and have received no complaints.

Commissioner Spinelli asked if the variation was approved for a straight driveway, would the homeowner be replacing the entire curb as necessary, including getting rid of the original depression.

Mr. Antonopoulos said that they would.

Commissioner Sanderson asked how did it get this far. He asked if there was an approved plan showing this curve with engineering drawings. He asked if the existing sewer tap was in the spot it was now or is a new tap.

Mr. Antonopoulos said he never knew where the sewer connection was until they dug in the street and found out where it was.

Commissioner Sanderson asked if the existing sewer was underneath the existing driveway.

Mrs. Jones stated that today was the first time she heard about the sewer issue.

Wayne Lucht, applicant, 6554 S. Austin, Bedford Park, stated that the existing sewer did run parallel to the driveway, but when you add the curve; the driveway would cross over it. He said that the curve actually created the problem.

Commissioner Sanderson stated that he does not understand how it got this far. He said that he would recommend approval of a straight driveway. He said he would not want the curve driveway either.

Mr. Lucht stated that he was originally fine with the curved driveway, but two things changed his mind. One being that the neighbors questioned the driveway and two the sewer issue.

Chairman Schubert asked the Board if they had any more questions for the applicant. He then asked if anyone in the audience would like to come up and speak.

Phil Cullen, 1346 Cypress Drive, Lemont stated that two years ago he purchased a non-conforming two unit just west of Mr. Lucht's property. He stated that there was a curb cut that he did take out. He said that he did follow the R-4A requirements which aren't always the easiest thing to do. Mr. Cullen stated that he could not imagine putting a garage in the middle of a house. He said that he spoke with Mr. Lucht and expressed concern about having the driveway with a curve. He stated that he agreed with Commissioner Sanderson that it should have been addressed at the beginning.

Tim Waugh, 304 Freehauf Street, stated that he lives across the street from the property. He said if the Board holds him to the original curb cut, then there will be no front lawn. He said that it will be all driveway. He stated it does not make any sense to have two thirds of your front lawn to be driveway. Mr. Waugh stated that they should move the driveway for more curb appeal.

Carl Wilkes, 223 Freehauf Street, stated that his property was the last one built on Freehauf Street. He said Freehauf has parking on the north side of the street and it can be difficult backing out with parked cars and traffic coming through. He stated it makes more sense to be able to back straight out then to have to back out on a curve.

Bill Clinton, 304 Lintz Street, Lemont, stated that he has lived in the Village since about 1985. He said that he had not objections to the driveway being moved over. He stated that it would stay more uniformed with the neighborhood.

Dottie Waugh, 304 Freehauf Street, stated that she agreed with all the comments that were made.

Commissioner Maher asked if the zoning for the curb cut could be clarified.

Mrs. Jones said that the zoning requires if you have access to an alley it should be accessed from an alley. She said in this circumstance because there was an existing driveway the planning department stated that the applicant can use what was there. She stated that by moving it you would be creating a new nonconformity, something that doesn't comply with the zoning. She said the Village tries to be flexible by allowing use of the existing curb cut.

Commissioner Maher stated that this wasn't something that came before the Board for variance previously.

Mrs. Jones stated no.

Commissioner Maher asked if the code clearly states that they can use the existing curb cuts to do a driveway.

Mrs. Jones stated that it does not state one way or the other.

Commissioner Sanderson stated that if the applicant new that he wanted the straight driveway at the beginning he should asked for it before the process of the building permit. He said that would have been the right process, so the Board would not have to be here having to potentially tell the applicant that he has to keep the curve driveway.

Mrs. Jones stated that if he wanted the straight drive he would have to have the variance. She said she feels it was made clear to the applicant to use the existing curb cut or don't have a driveway off Freehauf.

Commissioner Maher said he wanted to clarify that the Ordinance does not say use the existing cut or use the alley access.

Mrs. Jones stated that the Ordinance says if an existing alley provides access to the lot in question then detached and attached garages shall be accessed from the alley.

Commissioner Murphy asked if the intent was to eliminate access from the front.

Mrs. Jones stated the intention in the R-4A is that if there is alley access, then that is what should be used so the front is free of driveways. She said that in the R-4A the lots are narrow across and deep.

Commissioner Murphy said that she understands that concept; however what it is stating is if there is an existing curb cut then you can reuse it. She stated that these are examples of tear down areas, and there will be more. She said it could have been eliminated if the ordinance stated that if there is no curb cut then you do not get one, however if there is an existing curb cut, you can move it, but you can not add another one.

Discussion continued on the wording of the ordinance and possibly changing the ordinance.

Chairman Schubert asked if there was anyone else who would like to speak in regards to this case. None responded.

Commissioner Maher made a motion, seconded by Commissioner Sanderson to close the public hearing for Case #12-01. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Messer made a motion, seconded by Commissioner Murphy to recommend approval for Case #12-01 with the following recommendations:

1. Homeowner must replace original curb cuts.

Chairman Schubert then read the Findings of Facts.

- a. The requested variation will have no impact to the Village as a whole and the impact to the adjacent properties will be negligible, since the property already had a curb cut driveway with access from Freehauf Street. *All Commissioners agreed.*
- b. The variation request will not injure the public health, safety and general welfare because the new driveway will be required to be constructed in accordance with all current Village standards. *All Commissioners agreed.*
- c. The plight of the owner is due to unique circumstances because the previous home on the lot had a driveway with access from Freehauf Street and the new home's garage doors do not line up with existing curb cut. *All Commissioners agreed.*

A roll call vote was taken:

Ayes: Kwasneski, Maher, Messer, Murphy, Sanderson, Spinelli, Schubert

Nays: None

Motion passed

IV. STAFF REPORT

Mrs. Jones stated that next month they would be taking a look at the Active Transportation Plan. She stated that they received the draft from the Active Transportation Alliance.

V. ADJOURNMENT

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

Ayes: All

Nays: None

Motion passed