

**MARIEMONT ARCHITECTURAL REVIEW BOARD
REGULAR MEETING
JUNE 8, 2017**

Mayor Policastro called the meeting to order at 5:30 p.m. Present were Ms. Stalzer, Mr. Brown, Ms. Schwartz, Mr. Kintner, Mr. Thomas and Mayor Policastro. Also in attendance was Building Administrator Don Keyes.

A request was made from Spinnenweber Builders, 6880 Wooster Pike, Mariemont for approval of a fence at the eastern and northern boundaries of the parking lot bordering Thorndike Road and Millard Rogers Way.

Findings of the Building Commissioner: Mariemont code section 151.005 defines a fence as a structure, which is: "Anything constructed, the use of which requires permanent location in or on the ground or is attached to something having a permanent location on the ground." Code section 151.100 provides the guidelines for fencing. Code section 151:102 (A) (1) states; "Within a space of 25 feet from the intersection of the lot lines at a public right-of-way intersection, that structure shall not exceed three feet in height, and shall be of 50% open construction; - - -"

Mr. Peter O'Shea, attorney for Dr. Lisa Larkin, said Dr. Larkin was unable to attend this evening and asked the Board to not take that as a reflection of how important this matter is to her. Dr. Larkin's position was stated in two letters that were sent to members of the ARB. There are some procedural concerns that she raised and then also substantive real concerns that she is asserting that the board take into account. The one point he wants to emphasize is the importance of precedence and the importance that this precedent will set. If this fence is allowed by Mr. Spinnenweber the ARB would be allowing for anyone to set up a fence that can close off points of access (ingress or egress) for their own personal reasons. For Dr. Larkin in order to get to the small alley way you need to go through her property. The precedent being set is that Dr. Larkin could put up a fence across her property for the very same reasons he believes we will hear tonight. Precedence is particularly important in this context and asked the ARB members to point their attention to the May 10, 2017 ARB notice that was circulated about this particular issue. That notice states in part... "The Findings of the Building Commissioner... It has been common practice within Mariemont when an issue has been brought before the Architectural Review Board or Planning Commission and the issue or item of concern has been approved, then, when an identical item in plan and condition, is brought to the Village for a permit, the permit has been granted based on the earlier approval. In cases where the application is different or is challenged, the ARB or Planning Commission review is then held. Mariemont code section 151.005 defines the property and 151.100 provides the guidelines for fencing". He said the precedent set by the approval of this request could lead to all sorts of fences based on the rationale of this notice. It would in fact allow Dr. Larkin to put a fence up on her property without actually bringing the matter before the ARB. He asked that Dr. Larkin's letters and arguments she makes be added to the record.

Mr. Kevin Detroy, Attorney with Dinsmore & Shohl for Graeter Properties Unlimited, hand delivered a letter dated June 8, 2017 and asked that it be added to the official record in this matter. He was just made aware of this matter two days ago so he lacks some of the background. They believe safety is a big concern and it would be a difficult obstacle if the fence were permitted and if there was a fire in the rear of any of these properties – especially given that they

are historically significant properties. It could pose a very serious problem. There are also concerns about traffic congestion in both the parking lot and surrounding streets. The fact that the landlord is asking for this is very curious to him as he has never heard of that. He said in the packet he received from the Building Administrator there was a letter that appeared to give a legal interpretation of this board's authority/jurisdiction to decide this matter. He can only assume at some point a question was raised whether ARB had the authority to review matters in the historic district beyond historic features. He did review the zoning code and he expressed that he agreed with that interpretation. Any development within the historic district, whether it is historically significant development or reconstruction is within this board's purview.

Mr. Thomas asked if Mr. Detroy knew the percentage of customers who use the front door versus the back door at Graeter's and if deliveries are made using the front door or the back door. Mr. Detroy said he did not know. He does know that the parking in the back of the building is very tight. He cannot see what benefit the property owner would derive from the fences.

Mr. Dennis Wolter, 3804 East Street, said he is a Council Member serving his third term. He said the safety issues are obvious. The big question to him, and he is certain others as well, is what is the reasoning behind this. For all his years on Council Mr. Spinnenweber has always fought long and hard for more parking. Often through variances we made that possible. Now Mr. Spinnenweber is taking away the convenience and the safety of the parking. He is undoing those benefits by putting up the fence. He believes it will have a negative effect on the people who rent the stores. People can go to Kenwood Towne Center and have plenty more parking, stores to shop, theatres with more screens and plenty of egress. He would like that question answered fairly by Mr. Spinnenweber.

Ms. Kim Harley, Office Manager for Spinnenweber Builders, read a quote from Mr. Spinnenweber which said "In recent months the Village has seen fit to authorize parking variances that Spinnenweber Builders Inc. believes will impact its parking lot. More cars are competing for the same amount of street parking spaces and that can only have one result and that is all of those cars are getting pushed into our lot. What we have taken away from every meeting that has ever been involved with parking is that it is our responsibility to police our parking lots. The fencing along with video surveillance cameras (which are available for anyone to view. They have been tracking since before the first meeting) and towing is our only solution that we have for our lot".

Ms. Suzy Weinland, 3812 Indianview, said at the last meeting Spinnenweber Builders indicated that there would be more parking if the fence went up. Ms. Harley explained that the extra parking would go along where the fence would be going and showed pictures/diagrams of what it would look like. Ms. Weinland said to her it seems that the present parking could be reorganized in a better manner without getting rid of the egress that is so important. She too has safety concerns and questions Mr. Spinnenweber's motive for putting up the fence.

Mr. O'Shea said he thought at the last meeting it was said that Mr. Spinnenweber did a traffic study. Ms. Harley said it is simply video. Mr. O'Shea said the addition of the fence does not affect how many parking spaces there are it just limits how you can access the parking spots. Ms. Harley said that was correct and it does not cross anyone's property.

Mr. Thomas asked if there were any examples of safety concerns. Mayor Policastro said the Fire Department is definitely concerned.

Mr. Brown distributed photos to members of the ARB of a fire scene from Mios on the morning of May 31, 2017. They were having difficulty with an exhaust fan. The photos taken were in fact after some of the responders had left the scene. Anderson, Little Miami, Indian Hill/Madeira responded in addition to our department. He saw the activity and circled back and it was just a sea of firetrucks. If this had occurred at 6:15 pm this could have been a disaster for the fire trucks to get in or out. It also could be hard to shuffle cars so they could get their trucks into position. A couple days later he was there in the evening (5:30-6:00 pm) and there was an ambulance behind Dr. Larkin's office. It was evident that there was a medical emergency with one of her patients. The ambulance was stopped and parked directly behind her property – on her property – but it blocked access to Millard Rogers Lane. If the fence goes up it will leave one way to get out of this gigantic parking lot. He sees that as an incredible safety issue.

Mr. Kintner said he was the one who asked at the last meeting the question on why and we are told we have a traffic pattern issue. He has been back there several times during rush hour and he cannot see what the traffic issue is. He believes Dr. Larkin's statement regarding setting a precedent is a valid concern.

Mr. Brown said if motorists were looking to avoid the square why not make the left on West Street and go around. Without pulling into the parking lot you do not know what the parking situation may be. He is not sure he gets the traffic cut through problem.

Mayor Policastro said the theatre can assemble 200-300 people. If there was a rip roaring fire we would have 5 or 6 companies respond. We all want them there shooting water from their tanks. Mr. Brown said if they had to come around and enter off the Madisonville Road. Madeira/Indian Hill use the more efficient route of coming in off of Thorndike. Mayor Policastro said that can cut off 30-40 seconds. He has been accused of being a safety guy many times but he is always going to go with safety – it is too important.

Ms. Schwartz said she also thinks safety is a huge concern. She has been through the area during rush hour and has also lived in the Village since 1980. To her to cut through that area would actually take more time and aesthetically the fence would not be pleasing. It would set a terrible precedent.

Mr. Thomas moved, seconded by Ms. Schwartz to deny the request. On roll call; six ayes, no nays.

The meeting was adjourned at 5:55 p.m.

Respectfully Submitted,

Mr. Charlie Thomas
Secretary