

**MARIEMONT PLANNING COMMISSION**  
**REGULAR MEETING HELD FEBRUARY 20, 2019**

The Mariemont Planning Commission met Wednesday February 20, 2019. Mr. Vianello called the meeting to order at 6:04 p.m. Present were Mr. Brown, Ms. Reed and Mayor Policastro. Also, in attendance was the Building Administrator Don Keyes.

Mayor Policastro moved, seconded by Mr. Brown to accept the minutes as written for August 30, 2018 and January 23, 2019. On roll call; four ayes, no nays.

The first request was from Joyce Monger of 3921 East Street, Mariemont, OH 45227 to subdivide parcel 527-0020-0023-00 from its current size and shape into two smaller and different shaped parcels.

*Finding of the Building Commissioner:* The parcels 0023 and 0024, shown on the CAGIS map have been consolidated into one parcel at some time in the past. Those parcels were lot numbers 13 and 14 when Mariemont was planned. The current house is on lot 13, which is planned to be expanded to the East to allow a proper setback for the house as it currently sits on the property. An additional section is planned to be added (actually retained with the current property) to allow the current driveway to provide access to the garage. These changes allow a remaining rectangle large enough for a lot in Mariemont. The minimum lot size being 6750 square feet and this lot would be 7370 square feet. While the address of the property is 3921 East Street, the situation for the house is as if it were built with a Murray Ave. address. So the front yard faces the area that would be an extension of Murray. The East Street address was taken for convenience, which is allowable under these circumstances. The newly created lot would have similar circumstances, since the long direction of the lot, permitting an adequate front and rear yard, is facing the Murray Ave. extension. This new lot would likely also take an East Street address for convenience.

Mr. Keyes said the current lot is on 13 however, the house was built before the lot existed. For us to say the lot is on 13 is a circumstance that was created by the Town Planner. It is not a circumstance of the person who built the house. On the property lot that exists there is not enough front yard for it to be on East Street. But there is enough front yard for it to face Murray Avenue. It needs the other lot in order to have a front yard for East Street.

Ms. Reed asked where the new driveway would be. Mr. Keyes said he is not certain but believes the intension is to use a portion of the old driveway. We are talking about the lot and he cannot speculate on what the house will look like. The reason he said it would have to face Murray is because that would be the only way by code it could have an adequate front yard, rear yard and side yard setback. An East Street address would not provide a buildable lot.

Ms. Monger said she wanted the Planning Commission members to be aware of the fact that she already has permission from the Village to subdivide the lot in a different way. Therefore, she could build a really unattractive house on the lot that she has permission currently. Her main goal is to make sure that everything she does fits the community, the street and the neighborhood. She has loved in the Village for a long time and when she did additions to her home that was her goal as well. She believes that Murray Avenue is a paper street and it is her understanding based on conversations with others is that it would be a legitimate address.

Mr. Vianello asked when and by whom did she receive permission from the Village. Ms. Monger said it was the Planning Commission. The Building Administrator found the documents

because she had misplaced hers but it was approximately 5-10 years ago. She distributed drawings of what was approved at that time. She does not believe it is an attractive use for the property and her main concern is to be sure that fits with the neighborhood and community. She believes she is behaving in a manner that is appropriate.

Mayor Policastro said the survey shows 2005 but he does not remember this matter coming before the Planning Commission. Ms. Monger said the old plans show for a house to be tall and skinny and she does not think it would fit the neighborhood as well as something that would be low and would allow the current house to look over. She does not have definite plans yet. She is going to be doing all of the work. Ms. Reed said from concerns she has heard if residents knew what was going in it would make a big difference. Ms. Monger said she understands that and is happy to share that information at some point but she cannot go too far into the project financially until she is ready.

Mr. Brown said he was confused on how the new house would be oriented on the new lot. Ms. Monger said the new lot will be oriented with it facing Murray Avenue. The front door would be facing Murray Avenue with a rear entry garage.

Ms. Reed said there are many houses that have their front doors facing a paper street such as south Pocahontas. Mr. Brown said the photos of the house seem to show that the front oriented toward East Street. Ms. Monger said no that actually there are pillars that were the front gate that are on the paper street which show the house was oriented towards Murray Avenue.

Ms. Monger said she has worked closely with Mr. Keyes to make sure before she came to this meeting that she was meeting all of the requirements and setbacks. Mr. Vianello asked if she is going to give a right-of-way to the current driveway. Ms. Monger said no. The current house will have the stretch that comes out East Street now will stay where the driveway is. The new structure has some options. She can certainly share a driveway. She intends to have a new driveway right so her driveway would be right next to theirs. It is 20' wide which is enough space for them to have a driveway. You would enter from the back of the house. Mr. Vianello said he has concerns about the math and asked what size home she is planning on building. Ms. Monger said she will build a home that fits the requirements of the Village. Mr. Keyes said the setbacks for the property are for the front yard 25' or whatever 51% of houses on the street are. The backyard requirement is 30' 30% of which can be used by a garage. The side yard is approximately 7'-8' depending on how tall the house is. Ms. Reed said technically Ms. Monger could build a 4,000 sq. ft. house on one story. Ms. Monger said she is not planning on doing that but she could. She said that the new house is the house she will be living in.

Mayor Policastro said before we make any decision we need to know what the house is going to look like. Ms. Monger said that would be the next step. She does not believe at this juncture she needs to make a decision on what she is going to be doing with it.

Ms. Reed thought there was new legislation that all new construction had to be reviewed. Mr. Keyes said there is the ability to review new house plans but it is not part of the ARB. It is actually something the Building Administrator is supposed to do.

Ms. Reed said there was a situation that she was involved with last year where there was a house that someone wanted to tear down. There was a lot of push back from neighbors and the homeowner was going to get a lawyer. The homeowner ended up selling the home. The Village cannot change the house to historic just because they want to. Mr. Brown said he is not sure that is accurate. It is within the purview of Council to declare a house historic with or without the

owner's permission. Ms. Reed said there are property rights. Mr. Vianello said everyone feels that they have the right to do what they want with their property.

Mr. Vianello said he believes we need to talk with the Village Solicitor regarding the previous approval by the Planning Commission. We have an obligation to investigate it and protect the Village. Ms. Monger said for clarification what was previously approved by the Planning Commission was not instituted. She can institute them by taking the documents to the Court House without coming back before the Planning Commission but that is not her plan.

Ms. Suzanne Bischoff, 4004 Lytle Woods Drive, said the Village has faced this before with an unsatisfactory home built at the corner of Mariemont and Pleasant. It is important what Ms. Monger wants to put there. She understands that she may have the right to do something but don't allow the new house to be built up to ¼ inch of height requirements and lot lines. She believes it is significant that Ms. Monger plans to live in the house. Ms. Monger said her plan is to live in the current house while the new house is being built and then move into the new house. She will landscape appropriately for both homes and then sell the original home. She is not going to add or improve the existing home. Ms. Bischoff said she is more encouraged if Ms. Monger is going to be living there. She said she would like to know that the builder is not going to take down every tree. The trees help make the neighborhood. The older trees are a treasure.

Ms. Jeanne Boone, 6972 Thorndike, said she is the adjacent property owner. She understands the full plan and personally loves the old house and the front yard with the trees. She is not looking forward to the back of the house facing her. She thinks it will look awkward and will lower property values. Everyone on the street has been there 20 plus years, are good neighbors and all get along. She is not thrilled about this proposition because it is an historic house and because of its beautiful landscape. She is fearful that several of the large trees will have to come down.

Ms. Rachel Votaw, 3914 East Street, said she lives across the street and her concern is that it is a beautiful historic house. The thought of having something blocking the historic house is troubling to her. It is a house that brings a lot of charm and beauty to the cul-de-sac. A lot of people walk down the street and comment on the house. In addition, she is also worried about losing trees.

Mr. Bob Van Stone, 4050 Lytle Woods, said it makes a lot of sense to have at least an architectural sketch, not a detailed plan, to see the size etc. so it can be evaluated to see how many trees may be damaged and may die five/seven years later. There should be some sort of schematic of where the driveway will be and where placement on the lot will be. Mr. Vianello agreed that the Planning Commission needs more specification.

Mayor Policastro said the Village has a Heritage Tree Ordinance. Ms. Reed said when you are doing construction it does not matter where the heritage tree is. Ms. Monger said a tree can come down if it is involved in the construction and it will be harmed. She is not doing anything or asking for anything that is not within the legal boundary. She reminded the Committee of Mr. Vianello's comment that property owners want to make decisions about their property. Mr. Vianello said Planning Commission understands that and hopes Ms. Monger understands there are other mitigating factors and understands other perspective. Ms. Monger said she believes her property is charming as well, but it does not mean that things don't change and go on. She would like to know what she is doing too but her hands are tied by this meeting. If she has to spend a whole lot more money it will change things.

Mr. Joe Stoner, 6924 Miami Bluff Drive, President of Mariemont Preservation Foundation, read the email he sent to members of the Planning Commission: "Good Afternoon All, According to Mariemont Ordinance 151.041(B)(1) any subdivision of an existing parcel of land must be approved by the Planning Commission. Why was the commissioner's valuable time used to rubber stamp a proposal merely because it meets the minimum square footage? A computer could do that. The Commission's purpose must be to exercise human judgement and consider mitigating factors. Although the 3921 East Street property with its heritage trees is not in the Historic District, the 1890's house is historic enough that Mariemont's designer, John Nolen, had a photograph of it in his notebook and did not want it torn down as were many other structures in the building of Mariemont. This unique beautiful property, historic even in John Nolen's time, should not be destroyed merely because it would be "legal" to do so. That is not the Mariemont way. Please deny this subdivision request and consider referring it to the ARB which has protected properties outside of the established Historic District before. Thanks, Joe Stoner, President, Mariemont Preservation Foundation". He understands the current occupant's desire with property rights but there are also rights of the Village as a whole. Through progress slowly things are being eaten away. Everyone cannot do what they want just because they own property. The Village has no protection should someone wish to tear the house down. Ms. Reed said if the Planning Commission does not approve this Ms. Monger could tear the house down.

Mr. Rob Bartlett, 3611 Mound Way, said for the record he is a member of Council. He believes we should involve the Village Solicitor. He would caution the Planning Commission members as they are representing the Village and we need to make sure we are following the law. It sounds like Ms. Monger is trying to work with everyone. If it is true that she has a previous agreement from the Planning Commission that she can execute but she prefers not to and work with the Planning Commission to do something different that is better makes sense. He encouraged the Planning Commission to work with her and make sure from a legal standpoint we are not crossing any lines.

Ms. Bischoff asked if the request was granted could it be required that Ms. Monger submit the house for historic registry so it could never be torn down. Mr. Vianello said the Planning Commission could make a recommendation. He believes the Village has a right to say this building is now part of the historical register and get it approved. Mayor Policastro said the Village has conducive law on the books.

Mr. Dennis Wolter, 3804 East Street, said the missing piece to the puzzle is the graphic concept of the approximate size and style of the home. That is not an expensive thing for an architectural firm to prepare if they have the right plot to work with. It will also help Ms. Monger look at different options. He suggested tabling the matter until Planning Commission can gather more data.

Mr. Bruce Trapnell, 3906 East Street, said what he is hearing is the division of Ms. Monger's three lots into two lots, not tearing down the old house. The message he has heard is there is a strong interest in preserving the look and feel of the neighborhood. He came to the Village because of the charm and because it is a community. We are talking about a property and he does not think building a house within confines of the right measures or setback is a problem. He has heard that Ms. Monger has a strong interest in preserving the area as she will too still be living in the area.

Mr. Vianello said the Planning Commission can table the matter, have Ms. Monger provide schematics before the members agree to split the lots. The Planning Commission should also have an opinion from the Village Solicitor.

Mr. Brown read Code Section 151.002(A) Land Usage. It states “The purpose of this chapter is to maintain a high standard of community development and the principles of town planning, to protect and preserve property, to promote the stability of property values, and to protect real estate and natural features and other distinctive characteristics of the site from impairment or destruction of value for the general community welfare.” To Mr. Stone’s point what is the Planning Commission doing here if we are merely here to basically rubber stamp what is considered to be a legal rights issue. He is not certain why the members convened. Ms. Reed said she does not believe Planning Commission is going to rubber stamp it. Mr. Brown said Code Section 151.002(A)(B)(6) states “To conserve, protect, and enhance the historic resources of the Village”. He asked if this was a historic resource of the Village. He contends that it is. It may not have an official designation but it is historic – it is over 130 years old. He believes John Nolen took pains to place it within three separate parcels to maintain a certain lot size and aesthetics that would be incumbent upon a house of this type. There are other considerations to be considered other than a legal right to do something.

Mr. Vianello said he is inclined to require a schematic that helps the Village protect exactly what Mr. Brown has said and give the residents that leave nearby an idea of what may or may not change. It was agreed that the Village Solicitor needs to be contacted about the previous ruling.

Mr. Vianello moved, seconded by Mr. Brown to table the matter on splitting the lots until there is a schematic that is indicative of an architectural concept of what will go in there and the Village Solicitor will be contacted regarding the earlier Planning Commission ruling. If it does exist how does that impact this decision? On roll call; four ayes, no nays.

The meeting adjourned at 6:55 p.m.

Respectfully Submitted,

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Ms. Shelly Reed, Secretary  
Secretary

