

**MARIEMONT PLANNING COMMISSION**  
**REGULAR MEETING HELD AUGUST 18, 2013**

The Mariemont Planning Commission met Wednesday August 18, 2013. Mayor Policastro called the meeting to order at 6:30 p.m. Present were Mrs. Garber, Mr. Miller, Mr. Savage and Mr. Vianello. Also in attendance was the Building Commissioner, Kirk Hodulik.

1. Request from Tim and Julena Bingaman, 6725 Wooster Pike, Mariemont, OH 45227, for a Property Variance to permit a 4'-8" encroachment into the side yard of a corner lot.

*Finding of the Building Commissioner: The zoning code states: "On a corner lot only one street shall be considered as a front line, provided that where the length of a shorter street line is less than 90% of the length of the longer street line, the shorter street line shall be considered the front lot line." Therefore, with the Pleasant Street property line being the narrower of the two property lines along the streets, it is the front yard. The Pleasant street property line is 70 feet wide and the top of the structure is over 20 feet high, thus requiring a minimum 9 feet side yard setback as stipulated in the Zoning Code. The present wall face of the residence structure is set back 19.9 feet from the side lot line. The proposed addition, consisting of an oversized one-car garage at ground level along with a bedroom at the second floor level, will encroach 4'-8" into the side yard. It should be noted that fence lines both on the applicant's property (6725 Wooster Pike) and the adjacent property (3730 Pleasant Street) and the applicant's at grade terrace do not correspond to actual property lines.*

Mr. Bingaman said when they moved in there was a very clear property line at the driveway and the fence. They are in need of a fourth bedroom. They talked with the previous Building Commissioner, Dennis Malone, and hired architect Jack Smith, Remolding Solutions. They thought the plans would work even though it would be tight. They got a shock on the property line when they had the survey done. From his perspective the property line they use would allow for the proposed addition. If it is not allowed they would not be able to do the addition because it would just leave them with a hallway for a bedroom. Wooster Pike is extremely busy and it is hard for them to back their cars out. Having the driveway on Pleasant Street would make it much safer. They had their neighbor, Mary Matter, over to look at the drawings and seemed to think everything looked pretty good. She was going to talk with her husband, Ron Matter, who was out of town. They did not hear anything until the e-mail that went out from Mr. Matter stating their concerns. He believes that the addition will still be good for the Village and that it will add value to his property, provide safety and be an overall win-win situation. He talked with Mr. Matter who had concerns that it might decrease the value of his property with it being closer to his driveway. He said he told Mr. Matter that he did not think his addition would decrease his neighbor's property value. There is some landscaping by the blacktop driveway and then his neighbor's garage. In his opinion it does not encroach on any personal living space. He believes there is a compelling reason to allow for the property variance. He distributed pictures to members of the Planning Commission for their review. They are planning on retaining the large tree. They have been living in the house for two years and have always used the fence as a practical property line. To his knowledge that has been the agreed upon property line for years and years dating way back.

Mrs. Garber said she does not believe the Matter's are good with the proposed plans. They are very concerned. It is not just a garage but a two story addition. She is very familiar with the property and it has not been like that for years and years. At one time it was a little patio that was not encroaching.

Mr. Jack Smith said nowhere within the Matter's house are they able to see the addition. Mrs. Garber said they will be able to see it from the living room and the upstairs bedroom.

Mr. Savage asked if they looked at the possibility of a narrower bedroom with a lesser encroachment. Mr. Bingaman said that it would be too small and would not work for them. At this point they do not have a plan "B". Unless they take down the big tree, which they do not want to do, there are not a whole lot of other options given the dimensions.

Mrs. Garber said we have to think about if the neighbors sell their property and what future homeowners might face if they have to look at a big addition. You cannot assume that the fence will always be there. There is one encroachment on the neighbor's property that the applicant is getting the benefit of.

After further discussion Mr. Miller moved, seconded by Mr. Vianello to table the matter to allow the applicant to work with his designer, Mr. Jack Smith, to develop another set of plans that would not have such a large encroachment. On roll call; five ayes, no nays. Building Commissioner Hodulik said he would be happy to assist.

2. Request from Rick Greiwe of Greiwe Development, LLC & North American Properties, 212 E. Third Street, Suite 300, Cincinnati, OH 45202 in regard to property addresses of 6860 & 6908 Madisonville Road and 6903 & 6905 Murray Avenue for rezoning of properties bound by Madisonville Road and Murray Avenue from zoning district Residence 'B' to zoning district Residence 'D' for proposed Phase IV three-story condominium building consisting of (23) total dwelling units of two bedroom, two bedroom with study, and three bedroom dwelling unit types.

*Finding of the Building Commissioner: Greiwe Development Group intends to request a zone change from Residence "B" to Residence "D" for the subject property. The Residence "D" provision of the zoning code (Village of Mariemont, Ohio Ordinance No. O-6-09) stipulates that the Architectural Review Board shall review the architectural aspects, landscaping, materials and colors and either approve or deny the application. Upon approval of the application, the Architectural Review Board shall issue an Architectural Review Board Certificate of Appropriateness. The approved design will be the basis of approval for the necessary Building Permits. The Certificate of Appropriateness was reviewed for approval on September 16, 2013.*

*Subsequent to the issuance of an Architectural Review Board Certificate of Appropriateness, the Village of Mariemont Planning Commission shall review the application to determine conformance with setbacks, height, density and parking stipulations contained in the Residence "D" ordinance.*

*The Architectural Review Board Certificate of Appropriateness and Planning Commission approval (if granted) will be submitted to Council (together with other documentation required in the Zoning Ordinance) in the form of a Petition for Amendment of the Zoning Code Map.*

*It should be noted, based on the language of the zoning code, the proposed structure on the properties meet all requirements for Residence District 'D' including, but not limited to density (number of dwelling units), building height, building setbacks, and parking.*

Mr. Greiwe said this is Phase IV (which has yet to be named). The units in both Emery Park and Nolen Park are selling tremendously because of the community. This has been a real partnership with the Village. It has been a risk but it has been a safe risk.

Ms. Sari Lehtinen, CR Architects, said the new condominium building will have (23) residential units and a fitness room which will serve the residents. The unit mix will consist of two-bedroom with study and three-bedroom units. Parking is located in the garage, half a level below grade, under the residences. The existing ramp of the adjacent Emery Park garage will be shared with the new building as an access to the garage. It is the developer's intent to locate the transformer for the new building at the bottom of the ramp, next to Emery Park's transformer.

Ms. Garber asked if there was an auditor's plat for this project because she did not see one. Mr. Greiwe said one was submitted to the Building Commissioner. He said they also have a survey. (He provided Mrs. Garber with a copy)

Mayor Policastro said for the record Dan Spinnenweber, Spinnenweber Builders, sent a letter of support for the project.

Ms. Lehtinen went over the zoning requirements necessary for Residence "D". The new condominium building will have (23) units on .89 acres. The allowed density is 39 units per acre and they are proposing a density of 26 units per acre. The allowable building height is 45' from the peak of the highest gable from the average lot grade at the front of the structure. The proposed building height equals the allowable building height. It will have the same architectural language as both Emery Park and Nolen Park. The setbacks per Residence "D" is 10' front yard which will be Madisonville Road. The 10' side yards will be Murray Avenue and the side yard toward Emery Park. The rear yard setback is 30' for a maximum 45' building height (to the building) and 25' rear yard setback for maximum 30' building height (to the balconies).

Mrs. Garber questioned the rear yard setback of 30' and asked for explanation. Ms. Lehtinen said there is a different setback requirement for Residence "D" and provided Mrs. Garber with a copy of the Ordinance.

Ms. Lehtinen said the required resident parking is (2) spaces for units with two or more bedrooms. It will provide (46) secured parking spaces in the garage and ¼ space per dwelling unit of the required guest parking which equals (5) spaces. In addition to the (5) guest parking spaces in the garage there will be (5) additional parking spaces on the street along Murray Avenue. The ramp to the garage will be shared with residents of Emery Park. The special feature of the building will be the large windows assembly at the point of the building where Madisonville Road and Murray Avenue convene and will be visible when entering the Village. It will be sort of a light beacon. Other vertical windows will be featured on the facades to differentiate Phase IV building form Emery Park and Nolen Park.

Mr. Greiwe said there will still be room along Murray Avenue for a future bike path. Instead of the present gravel they are planning on constructing the parking area on Murray with some

sort of paver material. They are planning on planting more trees. All the big specimen trees they will be able to keep. He said most of the surrounding two/four family homes have been renovated and are now too expensive to purchase. There are a few issues that are being worked out internally with the Condo Association and any community issues will be addressed in the Development Agreement. There was some concern regarding the shared driveway with Emery Park. Mr. Greiwe distributed statistics on the number of personal cars, visitor cars and residents who work regular hours every week. It showed that 20-50% of the residents were out of town for a period of time. In addition, he distributed a project summary for the new proposed building of condo unit bedroom types. From the numbers Mr. Greiwe estimated (15) people will be trying to get out using the ramp between 8:00 a.m. and 9:00 a.m. Mr. Greiwe does not anticipate any sort of congestion with both building units using the same garage entrance. He does not want to effect his ability to sell any of the units or shoot himself in the foot by destroying the value of the building. Several options were presented to the Condominium Association Board for parking and the preferred option was the shared driveway with Emery Park because it was the most logical. Greiwe Development/North American Properties is going to host several workshops for the residents so they can voice their opinions about the different options. According to the Ohio State statute and the condo documents the Condominium Association Board can enter into easements without owner approval. Mr. Greiwe met with the resident who was concerned about safety, congestion and how it might affect her property values. Mr. Greiwe is trying to demonstrate that having the green space will make her unit more valuable.

Mrs. Garber said the figures Mr. Greiwe presented are for the current residents but we do not know who is going to live there in the future and asked how many parking spaces are available for people living in Emery Park. Mr. Greiwe said there are (72) parking spaces. The target market for Mariemont is approximately \$50,000-\$60,000 more than other areas because of the parking and top construction. Mr. Griwe could not sell any one bedroom bedrooms, nor has he been able to attract young professionals. This is an empty nester/senior market. The easement, which has been recorded, states it will be a permanent easement that will allow people living in the building to use the ramp and to take advantage of the path for the energy transformer. The maintenance and capital replacements will be shared between both buildings.

Mr. Jeff Long, Secretary for the Condominium Association Board, said the majority of the members are not up to date on this. The Board may have put the cart before the horse. It looked attractive and he voted to approve the design. His neighbor, Ms. Northrop, came to him and voiced some concern about density with the shared driveway. She had a valid concern regarding what would happen in the long term. We are going to go back to the owners because they should have a say as to what we need to do. If we need to modify the driveway they will look at all the options. In the meantime, he would recommend approving the existing situation and internally the Board can get with the owners. If we have to modify the plan they would come back before the Planning Commission if need be.

Mrs. Garber said they have to make sure they have legal access for the parking. Mr. Greiwe said the only way to do this to get bank financing etc. is to own the land. We own the property and will determine internally what the residents want to happen. Mrs. Garber said she wanted to make sure that he would be able to get a recorded legal deed.

Mr. Vianello asked if the two lane ramp is wide enough to be sufficient from a safety standpoint if there was a mishap with the transformer for access. Mr. Greiwe said there are standpipes in the stairwell and he does not see it being an issue. The ramp is 24' wide.

Mr. Greiwe said he is going to put in the development agreement for temporary permission to use the public easement on Murray for staging and construction worker parking from both Duke Energy and the Village. The other concern is the geotechnical piercing problem. They became aware of this during the construction with Nolen Park. People claim that the piercing work was causing cracks in their homes on Nolen Circle. They had insurance representatives go and determine that the cracks in the plaster were as old as the house. They are going to hire a professional company to survey the foundation and wall cracks in the adjacent homes (or ones they think they might have some liability) before they start the geotechnical piercing process. During the five days they are going to do this process they are going to house Ms. Bowman at the Mariemont Inn. She has put up with a lot over the construction of Emery Park.

Ms. Carole Bowman, 6907 Murray Avenue, said several years ago Mr. Greiwe approached the four owners of the four duplex buildings on Murray east of Plainville Road. He offered \$245,000 to each of the home owners and they signed the contract. Months later the contract ran out and he withdrew his offer. Later he came back and offered us \$200,000 each. We all said no. He subsequently bought all of the four unit apartments on Miami Avenue, tore them down and built Jordan Park. Next, he purchased one two-family at West and Thorndike and two four-family apartments on Madisonville Road. He then built Emery Park condominiums on that property. These condos are virtually in her backyard. All of the homeowners in the Murray Avenue dwellings had to endure the consequences of being adjacent to the building of this large project. It was a test to be sure. The pile drivers literally shook our houses and cracks formed that were not there before. The dust and noise were unending as you can well imagine with all of the machinery shifting back and forth. In addition, the unending beeping of the equipment as they went back and forth millions of times over and over made for a very unpleasant experience. Now, Mr. Greiwe has come to tell her that he has purchased the two-family next door and the one next to that to build a (23) unit condominium with \$400,000 to \$600,000 units. He will be building these 30' from her and her tenant's bedroom. The tenant has indicated that she will probably not stay because of the known disturbance and noise that they endured in the building of Emery Park. In addition to this approaching building, the 2-unit house next to her has been purchased and turned into a single family priced to sell at \$399,000. Mr. Greiwe thinks that all of this transition should make her property more valuable but she feels that is questionable. Her tenant leaving will cause a shortfall in her income which is an unacceptable situation as she is retired and counts on that income. The certainty of more structural damage to her building is a given with the closer proximity of the proposed project. There must be some resolution to her situation to benefit her, a homeowner and a 50-year resident of the Village. She has lived in (6) room townhouse on Oak and Murray, Denny Place and Albert Place before purchasing the duplex on Murray so that her mother could return from Florida after her father passed away. She has been in the duplex for 20 years and is now faced with this disturbing development. Her feelings are that Mr. Greiwe and his group must make some compensation to her for the situation he has placed her in. Going up against Mr. Greiwe and his backers, 5/3 Bank and Western & Southern poses one monumental task. This is a question of fairness and culpability to another human being. She is now 77 years old and had hoped to stay in Mariemont but is now faced with this dilemma and intrusion in her life. She needs help for a solution. She wants discussion from Mr. Greiwe to have him understand her situation from her perspective. She said she wishes she were pleased. She does not think she will mind it being there but to go through all the construction again is a huge negative. She was hopeful that Mr. Greiwe will purchase her home while it is still reasonable. Mr. Greiwe said he is not buying any more in the area because the rest of the properties are too expensive. The buildings are attractive and everything Mr. Greiwe has done has been very nice.

Mr. Vianello asked the projected loss income if Ms. Bowman's tenant leaves. Ms. Bowman said \$1000 per month. Mr. Greiwe said he will help her find a tenant and actually believes he knows someone who would be quite interested. Mayor Policastro said he had someone call him saying Mr. Greiwe had promised to clean the windows. Mr. Greiwe said it would be done.

Mr. Miller moved, seconded by Mr. Savage to approve the zone change as requested. On roll call; five ayes, no nays.

The meeting adjourned at 8:00 p.m.

Respectfully Submitted,

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Mrs. Val Garber  
Secretary

