

MARIEMONT PLANNING COMMISSION
REGULAR MEETING HELD JUNE 17, 2015

The Mariemont Planning Commission met Wednesday June 17, 2015. Mayor Policastro called the meeting to order at 6:00 p.m. Present were Mrs. Garber, Mr. Miller, Ms. Reed and Mr. Vianello. Also in attendance was the Building Commissioner, Kirk Hodulik.

The first request was from Christopher T. Buchert of American Heritage Classic Homes of 1926 N. Fort Thomas Avenue, Fort Thomas, KY 41075, for lot changes of 5' & 12' respectively of lot line changes for parcels 527-0040-0575-00. [PLEASE NOTE: A follow-up Planning Commission submission for lot consolidations with legal descriptions will be forthcoming after Planning Commission's ruling on this application. This will include the former addresses and land associated with 3840, 3842, 3844, & 3846 Beech Street and 3860, 3862, 3864 & 3866 Beech Street, for proposed lot consolidations.]

Finding of the Building Commissioner: The zoning code states per §151.025(H): "In considering zoning appeals and requests, the Commission shall have the power to grant a conditional use variance, to grant subdivision of land or reverse or modify a ruling or decision of the Building Commissioner, in the following respects: (1) Subdivision of land. Subdivision of land may be granted according to provisions in § 151.041 of this Code provided that the proposed subdivision will be consistent with the intent and purpose of this Zoning Code and will not be materially injurious to properties in the immediate vicinity."

Mrs. Garber referenced the general warranty deed that he had before that was revised. The explanation was put in with respect to the lot split showing that the northern five feet of Tract D1 in the prior deed would be added to Tract A&B. This will have to go the approval process with Hamilton County. It will need to be noted on the consolidation plat in the next step. Mrs. Garber verified that what was provided was for the properties north of Elm Street. Mr. Buchert said that was correct.

Mr. Buchert indicated that he had the Mylar plans for the next step. Building Commissioner Hodulik said there would have to be a Planning Commission meeting next month. Mr. Buchert said the next plot site plans will actually clear up what we are discussing tonight.

Mr. Miller moved, seconded by Mr. Vianello based on Section 151.025(3)(b)(2)(c)(d)(e)(f). On roll call; five ayes, no nays.

The second request from Mr. William Gavin Roe, property owner of 7060 Mount Vernon Avenue is requesting a front yard property variance to build a new covered front porch with new staircase in the required front yard.

Finding of the Building Commissioner: The zoning code states per §151.086: The front yard setback in Residence District 'A' requires a minimum 25'-0" setback. The proposed new setback would be 10'-1" and the existing home already is in violation with a 19'-2" setback. (NOTE: This home is located at the end of Mount Vernon Avenue, where the setback relative to the street and ROW looks much farther back than it actually is.)

Building Commissioner Hodulik said the property owners want to put a new front porch on house with steps coming off the front. He said it would not have an impact on anyone. Mrs. Garber commented that it is across from woods. Ms. Reed asked if it would be setting a precedent to allow it to go close to the street. Mrs. Garber said every property is unique. Therefore you look at every property as it pertains to that particular property – including impact on neighbors, etc. She does not see this as a question of precedent setting. Ms. Reed said so many people are putting on front porches that it seems to be becoming a trend.

Mr. Vianello asked what the total amount of variance is being requested. Building Commissioner Hodulik said 14'-3". The minimum setback is 25' and the new setback would be 10'-1" with the front steps at approximately 7'-0". It would still be some distance from the street. Mr. Vianello does not see a

negative impact on anyone. Mrs. Garber asked what the current setback is. She knows that it is supposed to be 25'-0" but understands that it is already in violation. Building Commissioner Hodulik said 19'-2". Mrs. Garber said there would not be room for a sidewalk should the Village want to put one in. There is a retaining wall down below where a sidewalk would be in the right-of-way. You would not put a sidewalk above that anyway.

Mayor Policastro and Ms. Reed both indicated that they would like to look at the property to get a visual picture. Ms. Reed said when she hears the numbers it sounds like a lot - it's a pretty big variance. Building Commissioner Hodulik said if you look at the site plan you can tell how far away it is from the road. It is a fairly substantial distance.

Mr. Vianello moved, seconded by Mayor Policastro to grant the variance based on Section 151.025(3)(b)(2)(c)(d)(e)(f).

Mrs. Garber asked if the vacant property next to it is a buildable lot. Building Commissioner Hodulik said it is not.

Ms. Janet Zack, 3701 Pocahontas Avenue, asked what the pros and cons would be for granting this variance. It is already setback 6' or so more than it should. She wants to know how this is going to affect the surrounding neighbors. Why do we have a lot line policy in place? Mr. Vianello asked if she was opposed to the request. Ms. Zack said she was here to ask questions. Mrs. Garber said she believes Ms. Zack's point is the applicant wants to have this big porch, which would be lovely, but is it necessary for them to extend it to the extent that they are. They are already 6'-0" over and now they want another 9'-1". She believes it could be done without being given such a huge variance. Building Commissioner Hodulik disagreed saying the present front porch is 4'-0" deep that has a side stair to get you down to the yard. The main part of the porch is really less than 6" deeper than that. To make the porch useable to put furniture out to sit on it - he believes it would have to be at least this size. Mayor Policastro said it tucked back in an area where you probably would sit on the porch.

Mr. Garber moved, seconded by Ms. Reed to table the request to allow for the Planning Commission members time to view the property (due to the fact that some members were not aware of the request prior to this meeting). On roll call; five ayes, no nays.

The third request from Ean Siemer of ES Remodel LLC of 885 Zan Court, Cincinnati, Ohio 45226 for 4101 Rowan Hill Drive, Mariemont, OH 45227 for a side yard property variance to place an AC unit in the required side yard.

*Finding of the Building Commissioner: The zoning code states per §151.087(E) Permitted Obstruction in Required Yards: "A required yard or court shall, at all times and in every part, be unobstructed by any permanent or temporary man-made object from its lowest point to the sky. However, the following obstructions shall be permitted (E) Heating, ventilating, refrigerating, condensing, or air-conditioning equipment, or combinations thereof may be placed in any side yard but **may not be placed closer to the side yard property line than the required side yard setback**, and provided that there be no more than two such obstructions and that no such obstruction shall extend more than three feet above the ground.*

Ms. Debbie Catalanotto, ES Remodel, said they are remodeling the property to sell. Given the nature of the structure because of how it was built over the years the only option to put in an AC unit is the side of the house. The back of the house is not an option due to the structure of the house. The south side of the house sits on Cambridge on Rowan Hill where an existing old stone patio exists, aesthetically it would not be eye appealing. It would be better to place it on the west side of the house where it would not be seen. ES Remodel has reached out to the Woman's Art Club and had several conversations with Board Member Rick Koehler. An agreement was made that the Woman's Art Club would be okay with the unit being placed on the west side of the property provided that there was a three sided solid wood fence no less than 6'-0" tall to enclose the AC condenser. They would also like to be reassured by the Planning

Commission that his proviso will run with the land, so that any future homeowners cannot remove this structure.

Mr. Rick Koehler distributed a letter from the Woman's Art Club of Cincinnati outlining their support of the variance as requested, with the proviso that a three sided solid wood fence be designed and built to enclose the condenser on the three open sides, to reduce the noise impact from that unit. It should be no less than 6'-0" tall.

Mr. Miller moved, seconded by Ms. Reed to allow the request for the variance based on Section 151.025(3)(b)(2)(c)(d)(e)(f) conditioned that a three sided solid wood 6'-0" fence be installed around the condenser to reduce the noise impact, and this would remain in effect as long as the condenser is in place for future homeowners. On roll call; five ayes, no nays.

The fourth request from Richard A. Paolo, Attorney at Law with Aronoff, Rosen & Hunt, LPA on behalf of David A. Myers and Diana M. Myers, Trustees (owners) of 15330 Texaco Street, Paramount, CA 90723, for the four family apartment building property located at 3750 West Street (aka 6801 Wooster Pike), for conversion of the apartment building to a condominium building and therefore apartment units to condominium units. [PLEASE NOTE: *This is a follow-up to the April 27, 2015 Planning Commission Meeting.*]

Finding of the Building Commissioner: Per the Ohio Revised Code for Condominium Conversions, and specifically §152.06 Planning Commission Approval has certain requirements and timelines in the approval process. (NOTE: For Planning Commission members, the Mariemont Code of Ordinances, Chapter 152: Condominium Conversions was deleted in its entirety per Mariemont Ordinance O-4-02.)

Mr. Paolo said he has been in contact with Building Commissioner Hodulik and Solicitor McTigue who all agree that state law does control on this instance and in particular in reference to the ordinance being repealed in 2002. Most of the discussion we had at the Planning Commission meeting in April 2015 centered on Chapter 152 of the Mariemont Code of Ordinances. He did attempt to provide a brief letter of explanation as to those items that did not pertain to Chapter 152. Under Chapter 53.11 ORC the only distinguishing characteristic between a conversion and a regular condominium is the notice provisions to the existing residences. He believes those were provided at the meeting in April 2015. He did provide Mayor Policastro with a full set of copies of the notices provided. He verified with his client that the property has been vacant since September 2014.

Mrs. Garber said regarding Chapter 152, that the Planning Commission was unaware it had been repealed - does not allow for waiver while the ORC does allow for waivers. Planning Commission felt constrained by the fact that we had to go by the Mariemont code. We were not as interested last meeting if they had the waivers because we said you could not do that but since ORC provides for waivers if you had them then we really did not have to worry about the notices. She found the whole procedure confusing the way it was done.

Mr. Paolo said the property is being held in a naked trust meaning there is no written trust agreement by the current owner. It is recognized by state statute. The notices were all hand delivered by Mr. Myers with the waivers attached. All were given proper notice according to state statute. The corrections were made per Mrs. Garber's request. The declarations cannot be filed until we have approval. The survey is reviewed for accuracy and detail conformance with state statute. The survey has not yet been signed pending approval. It will be reviewed in detail prior to acceptance of the condominium itself. Once that review process is complete, only then can the declaration be filed at the county recorder's office.

Mrs. Garber stated that some of the confusion is a result of the inconsistencies with the documents provided to the Planning Commission. Her understanding from going over Mr. Paolo's responses are: It is the existing building with the four units that are in there with the par values now added. There will not be any additional properties added. The code does require on some of these exhibits that there are be some assumptions and basis that are set forth and there are just kind of numbers on some of these just as a

reference. (Exhibit C Disclosure). Mr. Paolo said the way that they arrive at a tax estimate is by going on the county auditor's website where there is a tab which is a tax calculator. If you enter the purchase price of what the property will be it will calculate the estimated taxes inclusive of all reductions. But what it does not give you is zoning classification. What he suspects is apartments and condominiums are valued differently. They did not know the distinction on the tax millage between apartments and condominiums in the Village of Mariemont.

Mayor Policastro said one of the problems he is having in that area is parking. There is limited parking overnight. Mr. Paolo said the parking spots are not currently marked. The garage itself will have a minimum of one spot per unit. There probably is enough for two spots per unit. The reason that there is not delineation of what each unit gets is because that will be done when the purchaser acquires the unit. It is his recommendation not to attach a specific unit to a parking space until it is known the specific circumstances of the individual.

Building Commissioner Hodulik said there are (2) two car garages but the one garage bay is deep enough that you could park two cars in tandem. There is also a large loop driveway which Mr. Myers did get a permit to resurface. Mr. Vianello said people park on the street for convenience. Ms. Reed said typically a real estate listing will list the number of parking spaces available. Mrs. Garber asked if there was guest parking on the property. Mr. Paolo said no not that he was aware of.

Mr. Miller moved, seconded by Ms. Garber moved to grant the four family apartment building property located at 3750 West Street (aka 6801 Wooster Pike), for conversion of the apartment building to a condominium building and therefore apartment units to condominium units. On roll call; five ayes, no nays.

Mr. Vianello moved, seconded by Ms. Reed to accept the minutes as written for April 27, 2015. On roll call; five ayes, no nays.

The meeting adjourned at 7:00 p.m.

Respectfully Submitted,

Mr. Jerry Vianello, Secretary
Secretary

