

MINUTES OF MEETING
INDIAN HILL PLANNING COMMISSION
NOVEMBER 20, 2007

The regular meeting of the Indian Hill Planning Commission was held on Tuesday, November 20, 2007 at 7:30 p.m. in the Council Chambers of the Village Administration building.

Members Present: Paul F. Madden
Richard C. Wiggers
David T. Ottenjohn
Jane G. Koppenhoefer
Charles E. Reynolds

Members Absent: None

Officials Present: Michael W. Burns, City Manager
David M. Couch, Assistant City Manager

Visitors Present: Amy Stafford, 9825 Cunningham Road
Jim Stafford, 9825 Cunningham Road
Nick Stevens, 3360 Compton Road
Mike Wentz, 8220 Shawnee Run Road
John Scola, Cincinnati Bell Wireless
Tom Breidenstein, Barrett & Weber
Ryan Newman, 8220 Shawnee Run Road
Bob Conners, 8025 North Clippinger Drive

Chairman Madden called the meeting to order and asked for comments or corrections to the October 16, 2007 Planning Commission minutes. There being none, Mrs. Koppenhoefer made a motion to approve the minutes. Mr. Ottenjohn seconded, and the minutes were approved by a unanimous voice vote.

Item Number 1: Approve the findings of fact for the variance request by Charles J. Kubicki, residing at 9 Creekside Drive. Mr. Madden asked if all members were in favor of accepting the findings of fact. Mr. Reynolds notes that he will be abstaining from this vote since he was unable to attend the October meeting. All others were in favor of accepting the findings of fact, and they were approved as submitted.

Item Number 2: Cincinnati Bell Wireless, LLC is requesting a twenty-four (24) month extension with no modifications to three existing micro-cells located in the right-of-way at 4635 Miami Road, 5535 Miami Road, and 7705 Indian Hill Road.

Mr. Madden asks for anyone planning to speak on behalf of this case, to please stand, raise their right hand, and be sworn in prior to speaking.

Mr. Tom Breidenstein, of Barrett & Weber, comes before the Commission on behalf of Cincinnati Bell Wireless. Mr. Breidenstein notes that he has Mr. John Scola and Mr. Nick Stevens with him, also to represent Cincinnati Bell Wireless. Mr. Breidenstein states that he does not have a presentation, and is relying on the recommendation of Staff for the approval of the twenty-four (24) month extension, allowing the micro-cells to remain in place.

Staff Report: Mr. Couch notes that Cincinnati Bell Wireless is requesting an extension to the length of time for an approved special exception permitting three existing micro-cells located at 4635 Miami Road, 5535 Miami Road, and 7705 Indian Hill Road. There are no modifications or revisions being proposed to the existing micro-cells that are used for wireless personal communications.

Mr. Couch comments that there have been five previous Planning Commission meetings related to micro-cells along the Miami Road corridor. He summarizes each meeting as follows:

- **October 21, 2003** – The Planning Commission tabled the Cincinnati Bell Wireless request to install three micro-cell facilities and directed Village Staff to hire an RF Engineer to review the proposal before rendering a decision. The Commission directed Staff to contact other carriers and gather information that might best serve the Village's problem with dropped calls.
- **December 16, 2003** – Continuation of the October 21, 2003 meeting. After reviewing the information presented by Cincinnati Bell Wireless and the Village's RF Engineer's report, the Commission granted the special exception request for three (3) micro-cell antennas to be located on utility poles at the designated locations. The approval was subject to Staff and the Village's RF Engineer's review. The poles are to be removed after eighteen (18) months, unless the Commission grants an extension.
- **January 20, 2004** – The Village's RF Engineer's preliminary findings were presented regarding the conditional approval by the Commission to permit Cincinnati Bell Wireless to install the three micro-cell towers along the Miami Road corridor. The RF Engineer's review finds that the Planning Commission made a reasonable decision in granting the temporary micro-cells to be installed for an eighteen (18) month period. The engineer's review will continue throughout this eighteen (18) month time frame.

- **November 16, 2004** – Cincinnati Bell Wireless made an informal presentation updating the Commission on test results performed on the three micro-cell locations. It was found that the micro-cells helped provide coverage in some areas, but worsened dropped calls in other areas, and that they are not a permanent solution to coverage problems in the Village. The Commission agreed that further discussion should be postponed until the end of the eighteen (18) months.
- **October 18, 2005** – Cincinnati Bell Wireless requested a twenty-four (24) month time extension permitting the three temporary micro-cells to remain. The extension would allow time for the DAS study to be completed.

Staff recommends that the request be granted due to the delay in the DAS installation. The Village has a contract agreement with the Extenet Company to install the DAS and have it substantially completed by June 30, 2008. However, the Extenet Company has not come to terms with other carriers, and there is some question if they will be able to fulfill the agreement with the Village.

Mr. Reynolds made a motion to grant the twenty-four (24) month extension for the micro-cells. Mr. Ottenjohn seconded, and the motion was approved by a unanimous voice vote.

Item Number 3: Mr. James Stafford, of 9825 Cunningham Road, is requesting a variance approval to install an entryway gate and columns exceeding the Indian Hill Zoning Ordinance maximum height limit of six (6) feet.

Mr. Madden asks for anyone planning to speak on behalf of this case, to please stand, raise their right hand, and be sworn in prior to speaking.

Mr. Michael Wentz, the architect for the Stafford's, comes before the Commission and requests approval for a variance to the height of an entry gate, height of the columns, and the length of the wall. Mr. Wentz notes that the home is a historic residence, being constructed in 1928.

Mr. Wentz explains that the proposed gate is approximately 16' wide and 8' high at the center posts. The height of the columns is approximately 10'5" to the peak. The proposed columns are capped with slate to match the existing residence. The length of the proposed 6' high entry wall is 65', with approximately 32.5' being on each side of the gate. The length of the wall was determined and designed to curve around a mature oak tree to the left of the entryway. Light fixtures will be placed on the columns and will match the existing light fixtures on the house. The new entryway lighting will be in accordance with the Indian Hill Zoning Ordinance.

The columns are about three feet square and will be attached to the 6' wall to support the weight of the iron gate. The gate and wall have been designed to be in perfect context with the existing residence.

Staff Report: Mr. Couch reports that the Stafford's are requesting a variance related to the maximum height of an entryway gate and columns. The property is located in District "A" – five acre, and has a lot area of approximately seven acres. The home and lot both conform to the Indian Hill Zoning Ordinance. The home is one of Indian Hill's historical treasures, being constructed in 1928.

The existing driveway will remain at the same location. The proposed entry gate is approximately 7' high and will be attached to brick columns that are 10'5" high. The proposed 6' high entry wall has a combined total length of 65'. All three elements of the proposed entryway are in conflict with the Indian Hill Zoning Ordinance per **Section 59.8** Entryways to Property, and specifically 59.81 and 59.82.

Section 59.81 states "Entryway fences and walls may be constructed, erected, installed, or placed on the sides of a driveway, but the combined length of these entryway fences and walls shall not be more than twenty (20) percent of a minimum required front yard, or exceed a combined total of fifty (50) feet and in the case of non-conforming lot frontages shall not exceed more than twenty (20) percent of the existing non-conforming lot frontage. For example, a required frontage of one hundred fifty (150) feet would be allowed a maximum combined total of thirty (30) feet (15 feet on each side of the driveway) to be used for such entryway. Entryway walls need not be forty (40) percent open construction and shall not exceed six (6) feet in height at the highest point".

Section 59.82 states "Gates included as an element of, or connected to entryways, shall be permitted at a height not to exceed six (6) feet. The dimensions of such gates shall not be included in the calculated length of the entryway".

The variance request is based on an exceptional practical difficulty and undue hardship created by the attempt to preserve the architectural design and character of the historical home. The entryway gate and wall will also provide some security and unwanted traffic from entering the Stafford's driveway.

The height of the gate and columns are designed to be proportionate with the height of the house, which is close to 40' in height. The proposed entry wall meets the maximum height limit for entryways, but the length of the wall exceeds the 20% minimum required front yard for District "A", which is 250'. In this particular case, a combined total of 50' would be allowable. The building materials used for the entryway and wall are identical to the design and pattern of the brick used around the front and back of the house.

Light fixtures are shown on each column and are designed to replicate exterior fixtures that exist on the house.

Staff finds that the owner and architect have placed a great emphasis on preserving the historical character and architecture of the historical home. The proposed entryway gate and columns are proportionate to the height of the historical home, and are consistent with other entryways located in District "A".

Staff also finds that the length of the entryway wall is in conflict with **Section 59.81** of the Indian Hill Zoning Ordinance and recommends that the combined total length of the wall not exceed 50'.

The request does meet the Village's Land Use Objectives and Policies, in particular, policy #3 which states "Encourage and accommodate private efforts to preserve and restore buildings and sites of historical or cultural significance".

In closing, Staff recommends that the entryway gate and columns be approved, but the length of the wall be shortened to a maximum combined length of 50', or 25' on each side.

Mr. Couch notes that Staff did not receive any comments or calls from adjacent property owners related to this proposal.

Mrs. Koppenhoefer asks how the gate will operate. Mr. Stafford replies that the gate is remote operated with a hydraulic motor.

Mr. Madden asks about the lighting being used at the entryway. Mr. Wentz replies that the lighting will be low voltage. The intent is only to illuminate the entry drive for safety concerns.

Mr. Reynolds expresses that he does not feel comfortable approving a variance based on the information and reasoning provided.

Mr. Burns comments that the fence/wall and entryway ordinance is relatively new. When it was drafted, it was envisioned that the Commission would get some variance requests based upon exceptional circumstances. The argument here is that this is an exceptional circumstance because it is within the scale of the home to build the proposed entryway gate, columns, and wall.

Mrs. Koppenhoefer inquires about the main reason for installing the gated entryway. Mr. Stafford replies that he is in the jewelry business and feels the gated entryway is needed for security reasons. He notes that he has had home invasions before. He

states that people drive up his driveway to the back parking lots, turn around, site see, etc. on a daily basis.

Mr. Reynolds asks if the gate will automatically open when a car approaches. Mr. Stafford replies that there will be a keypad at the entrance, and anyone visiting the property will have to stop and ask to come in. Police and fire emergency vehicles will have the code as soon as the gate is installed. Family members or anyone else with access to the home will have a remote to open the gate.

Mr. Reynolds comments that he feels the gate and columns could be lower and still address the security issues mentioned. Mr. Wentz replies that would be true for vehicles. However, he feels that it would not look appropriate if the gate and columns were lowered.

Mr. Wiggers states that he feels that the whole gate, columns, and wall are massive, being as long as some ranch houses. He also has issues with the height of the columns and wall.

Mr. Wentz mentions that the proposed wall replicates an existing wall on the property with the exception of the existing wall being 6'6" and the proposed wall being 6'.

Mr. Madden states that he does have a problem with the massiveness of the columns and the length of the wall. He feels there is no need for the wall to exceed 25' on each side of the gate.

After some discussion concerning the height of the wall, Mr. Stafford states that he cannot go any lower than 6' in height for the wall. He comments that they have a terrible deer issue, incurring between fifteen and twenty thousand dollars in damage every year. They have also installed deer fencing to attempt to help control the problem.

Mr. Reynolds states that the Commission has to find exceptional practical difficulty in order to approve a variance, and he cannot find that in this case.

Mr. Burns mentions that he feels the Commission does need to revisit the code as it relates to the height of entryway columns. There may be some error in not identifying columns as a separate entity to the entryways.

Mr. Ottenjohn states that he understands Mr. Reynolds's point concerning exceptional practical difficulty, but the other alternative is undue hardship. Mr. Ottenjohn comments that he feels that because this is a historic structure, to make this project work well, he feels there is an undue hardship.

After further discussion, Mr. Ottenjohn made a motion to approve the variance with the following conditions:

- The iron gate shall not exceed a height of eight (8) feet.
- The six (6) foot high brick entry wall shall not exceed fifty (50) feet in length or twenty-five (25) feet on each side of the entryway.
- The two brick support columns for the gate shall not exceed a height of eight (8) feet, six (6) inches.

Mrs. Koppenhoefer seconded, and the motion was approved by a three (3) to two (2) vote. Mr. Reynolds and Mr. Wiggers expressed opposition to granting the variance.

There being no further business to come before the Commission, Mrs. Koppenhoefer made a motion to adjourn. Mr. Wiggers seconded, and the motion was approved by a unanimous voice vote.

Respectfully submitted,

Paul F. Madden, Chairman

ATTEST:

Michael W. Burns, Secretary