

VILLAGE OF OAK LAWN

ZONING & PLANNING COMMISSION

Village Hall Auditorium

Monday, March 7, 2022

Meeting Minutes #2022-2

I. ROLL CALL: Meeting called to order at 7:30 p.m.

A. Chairman: Vernon Zumhagen

B. Members: Dave Bennett (*ABS*) Mike Moriarty
Drew Butler Rich Piazza
Tom Duhig (*ABS*) Vernon Zumhagen
Bill Lundy

C. Staff: Jeff Sebek, Director of Engineering, Planning & Development
Tom Condon, Village Attorney
Deanne Adasiak, Recording Secretary

II. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Commissioner Zumhagen.

III. APPROVAL OF PRIOR MEETING MINUTES:

A motion to approve the Regular Meeting Minutes #2022-1 dated February 7, 2022 was made by Commissioner Butler and seconded by Commissioner Piazza.

Roll call: Zumhagen, yes; Piazza, yes; Moriarty, yes; Lundy, abstain; Butler, yes.

Motion passes: 4-0-1.

The Oath was administered by Commissioner Zumhagen.

The Public Hearing opened at 7:34 p.m.

IV. PUBLIC HEARING:

A.) Pet. #2022-6 – Request for a Garage Shed Encroachment into the Easement & a 5’ Garage Rear Yard Variation at 10412 Kenton Avenue, Colleen Khani, Petitioner

Ms. Colleen Khani, 10412 Kenton Avenue, Oak Lawn, Illinois

The petitioner stated that she built the shed over twenty years ago and that recently the utility easement was brought to her attention. The petitioner said she is applying for the variance because of her shed’s encroachment into the easement. She mentioned that she reached out to the utility companies and that she has letters from those utility companies stating that they support the variance. According to the petitioner, the pole in the easement belongs to ComEd.

Commissioner Moriarty mentioned the Village’s right-of-way agreement and asked the petitioner if she is prepared to sign. The petitioner responded yes.

Commissioner Butler referenced one of the renderings in the packet stating that the shed appears to be very close to the fence. He asked whether the photograph was taken on the subject property or in the neighbor’s yard. The petitioner responded that she took the photograph in her neighbor’s yard.

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Commissioner Butler asked whether the shed is on the lot line and explained that it is difficult to tell. The petitioner responded no.

Commissioner Piazza stated that he was at the subject property on Sunday but was unable to gain access. He said the shed is 20 years old and appears to be in poor condition. He asked the petitioner whether she intended to replace the shed. Commissioner Piazza expressed that he would hate to see the roof collapse because it appears to be very old and fragile. The petitioner replied that if the roof were to collapse, she would replace it. The petitioner said she only uses the shed to store her patio furniture.

According to Commissioner Lundy, the Village vacated the alley. Commissioner Lundy said it appears that a number of properties on the block are on the easement. Commissioner Lundy asked if the utilities needed to be accessed and it required the structures on the easement to be knocked down, whether the property owners or the Village would be responsible to rebuild any structures or fences. The petitioner responded that she would be responsible of rebuilding. That is correct, per the Village Attorney.

Commissioner Zumhagen asked the petitioner to clarify that she does not intend to change the structure rather she is only interested in the variation to bring the shed into compliance. The petitioner responded yes.

The Public Hearing was closed at 7:39 p.m.

A motion was made by Commissioner Lundy to approve Pet. #2022-6 – Request for a Garage Shed Encroachment into the Easement & a 5' Garage Rear Yard Variation at 10412 Kenton Avenue, Colleen Khani, Petitioner. The motion was seconded by Commissioner Piazza.

Roll call: Butler, yes; Lundy, yes; Moriarty, yes; Piazza, yes; Zumhagen, yes.

Motion to approve passes: 5-0.

B.) Pet. #2022-7-Request for a Variation to Allow a Basement dwelling Unit in a PUD/R-3 (Multi-Family Planned Unit Development) Zoned District & a parking Variation at 10351 Parkside Avenue, Ahmad Muhammad, Petitioner

The Public Hearing opened at 7:41 p.m.

Mr. Ahmad Muhammad, 10351 Parkside Avenue, Oak Lawn, Illinois

The petitioner explained his request for a variance to allow for a basement apartment and also a parking variation. The petitioner explained that he converted the basement windows into egress windows and created more parking spaces.

Commissioner Lundy asked the petitioner when he purchased the property whether someone was living in the basement. The petitioner responded no. Commissioner Lundy referenced the petitioner's paperwork that mentioned that the petitioner was under the impression that it was a three-story building. The petitioner said he saw a stove and a refrigerator in the basement. Commissioner Lundy asked the petitioner when the sale was complete if it was described as a two-unit building. The petitioner responded that he learned it was a two-unit building after the fact.

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Commissioner Piazza stated that he visited the property and photographed the basement windows. He mentioned that two sets of the basement windows remain glass block. The petitioner explained that the glass block windows are located in a hallway and a bathroom. Commissioner Piazza asked whether both glass block windows are located on the north side of the building. The petitioner responded yes. Commissioner Piazza asked where the petitioner added parking. The petitioner explained that he removed a deck to make room for more parking. Commissioner Piazza asked if the deck was located on the east side of the property. The petitioner responded yes. Commissioner Piazza asked about the number of parking spaces. The petitioner responded six (6). Commissioner Piazza asked the petitioner if he is living at the property. The petitioner responded yes. Commissioner Piazza asked whether tenants are currently residing on the first and second floors. The petitioner responded yes.

Commissioner Moriarty asked the petitioner when he purchased the property. The petitioner replied six years ago. Commissioner Moriarty asked the petitioner whether the property was advertised as a two-unit building by the real estate agent. The petitioner replied that he assumed it was a three-unit building.

Commissioner Zumhagen pointed out that the property only has two gas and electrical meters. He went on to say that there are two front doors and two mailboxes on the property. Commissioner Zumhagen stated that he was unable to locate any real estate listings describing the subject property as a three-unit building. Commissioner Zumhagen informed the petitioner that he would be unable to charge utilities if he had a basement tenant. The petitioner mentioned that the water is connected to the first floor. Commissioner Zumhagen responded that the water hookup to the first floor is permissible. Commissioner Zumhagen explained to the petitioner that a basement in any dwelling cannot be used for a separate rented apartment nor shall it contain any sleeping or cooking quarters unless used by the family living above. Commissioner Zumhagen asked the petitioner if he made any other changes to the property aside from the new windows. No, said the petitioner. Commissioner Zumhagen asked the petitioner if he knows the property's square footage. The petitioner responded that he does not know.

Mr. Sebek reiterated the section of the Village Ordinance that states that no basement in any dwelling shall be used for sleeping or cooking unless used by the family living above. Mr. Sebek also mentioned that the building code requires at least two exit points from the basement unit. He stated that escape windows are not a recognized method of egress for a multi-family dwelling. The basement window, according to the petitioner, is large enough for a body to pass through. Commissioner Zumhagen mentioned the size of the window well. He stated that a person would have to make a 90-degree turn to get out of the window and would require a great deal of agility. Commissioner Zumhagen expressed that he believes the windows are quite small.

Commissioner Zumhagen mentioned that he did not get to see the inside of the apartment building. He asked the petitioner whether the stairwell leads to both doors. The petitioner replied only one door. Commissioner Zumhagen asked whether the basement has a door that separates it from the stairwell. According to the petitioner, the first-floor apartment has a hallway with a door that separates it from the rest of the building. Commissioner Zumhagen stated that he is having difficulty conceptualizing it. He said it would have been more helpful if there were more drawings or photos of the stairway areas. He asked whether there is a stairwell leading to the basement's back door. The petitioner explained that there is a hallway and that all tenants access the back door through the hallway.

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Commissioner Lundy asked staff whether a person who uses the basement area as an "apartment" must be a family member of the first-floor apartment occupant. Mr. Sebek stated that a basement is not a legal third unit, but rather something that would be accessible from the first floor. He said if it is an owner-occupied building, the basement is usually available to the owner. He went on to say if the first floor is rented, the basement should only be used by the family who lives on the first floor. According to Village Counsel, the basement is an accessory to the first-floor apartment. He restated that the basement cannot be a third unit. Village Counsel reaffirmed that Village Code prohibits using the basement for sleeping quarters unless it is part of an ancillary/accessory use to the first floor.

Ms. Kathy Hunter, 10355 Parkside, Oak Lawn, Illinois

Ms. Hunter stated that she was invited to this meeting and that she is concerned about how the basement apartment will affect property taxes or property values in the area if it is approved. She mentioned that the area is in a flood zone and that flood insurance is extremely expensive. She went on to say that she pays \$16,000 for flood insurance despite the fact that they do not have flooding problems. She asked whether a basement dwelling would be permitted in a flood zone. Ms. Hunter stated that they have been fighting to have this area removed from the flood plain, and she questioned whether the Village is aware of any positive developments that may occur in the future given that they are considering allowing a basement apartment.

Commissioner Zumhagen informed Ms. Hunter that the flood plain is not being considered here and that it is unrelated to this variation. Village Counsel stated that he has no information on the flood plain but that the basement is currently permissible to use as living quarters for the unit directly above it. He said it does not change whether or not it can be used as living space rather this is a request to allow for a separate rented unit. Ms. Hunter commented that this building is not zoned for an apartment. Commissioner Zumhagen responded that the building *is* zoned for an apartment. He explained that what is not permitted in Oak Lawn is a garden apartment, or sub-grade apartments. He said the request tonight is to allow for this building to have an apartment in a sub-graded area.

Ms. Sue Peters, 10354 Central, Oak Lawn, Illinois

Ms. Peters asked why she had been notified about this meeting. Commissioner Zumhagen explained that it is a legal requirement for the Village to notify residents within a certain radius of a subject property about a variance so the neighbors have an opportunity to express a hardship or support of the variance.

The Public Hearing closed at 7:58 p.m.

A motion was made by Commissioner Moriarty to deny Pet. #2022-7 - Request for a Variation to Allow a Basement dwelling Unit in a PUD/R-3 (Multi-Family Planned Unit Development) Zoned District & a parking Variation at 10351 Parkside Avenue, Ahmad Muhammad, Petitioner. The motion was seconded by Commissioner Butler.

Roll call: Zumhagen, yes; Piazza, yes; Moriarty, yes; Lundy, yes; Butler, yes.

Motion to deny passes: 5-0.

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C.) Sub #2022-08 – Arlen’s Resubdivision No. 1 @ 4801 W. 87th Street, Heights Venture Architecture, LLP, Petitioner

The Public Hearing opened at 8:01 p.m.

Mr. Eric Abeln, AIA, NCARB of Heights Venture Architects, 1100 Oak Crest Drive, North Aurora, Illinois

The petitioner stated that this is a straightforward subdivision and that it is related to the site plan that was approved by the Village Commission on February 22nd. He pointed out that this is a one-acre lot on the southwest corner of 87th Street and Cicero. He said as far as the subdivision, they are in accordance with Village Ordinances Chapter 3, 3-5-3 (Design Standards). He added that per Section 5-3-3-2, this is a Class 5 Lot. He said the dimensions of the lot are 231 linear feet along Cicero with a depth of 206'. He said it will result in a 1.09-acre lot. In terms of the subdivision, he reiterated that it is a straightforward submittal.

Commissioner Butler asked the petitioner if resubdivision is for the Panda Express restaurant. The petitioner replied yes. Commissioner Zumhagen commented that it is not only for the Panda Express but for the entire development. The petitioner said that is correct. Commissioner Butler asked if this subdivision is carved out for the Panda Express. The petitioner replied yes.

Commissioner Lundy asked the petitioner if Panda Express has a signed contract to occupy the space. The petitioner said yes, and added that Panda Express has an executed contract with Robin Realty, the owner of the overall development.

The Public Hearing closed at 8:03 p.m.

A motion was made by Commissioner Lundy to approve Sub. #2022-8 – Arlen’s Resubdivision No. 1 @ 4801 W. 87th Street, Heights Venture Architecture, LLP, Petitioner. The motion was seconded by Commissioner Moriarty.

Roll call: Butler, yes; Lundy, yes; Moriarty, yes; Piazza, yes; Zumhagen, yes.

Motion passes: 5-0.

V. OTHER BUSINESS:

A.) Chairman:

Commissioner Zumhagen said he recognizes staff transition and that the Board packets have been assembled differently this past year. He asked the other Commissioners what they believe add value to the packets. Commissioner Zumhagen mentioned the obvious paperwork including the legal requirements, site plans, and petition application. He stated that he always values the staff write-up because it provides context and history. Commissioner Zumhagen said there was a lot of extra paperwork in the packet this time, such as the property tax information for all of the neighboring “noticed” properties, as well as copies of the actual notices themselves. He said he personally does not find that information valuable and believes it would save staff on resources.

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Commissioner Moriarty said he was confused by the additional paperwork and was trying to figure out why it was included in the packet. Mr. Sebek said he will inform Don McKenna. Commissioner Zumhagen commented that he always appreciated the map that included the properties notified for a petition. He stated that it is very useful because he can refer to the map when residents comment that they were or were not notified. Commissioner Zumhagen expressed that while he appreciates the packet information, he felt it was important to mention the paperwork that added no value.

Commissioner Lundy commented that while he does appreciate the staff memo, he disagreed that Kevin included a staff recommendation to approve or deny a petition. He said he does not believe staff's recommendation should sway this Commission.

B.) Members: *None*.

C.) Staff: *None*.

VI. ADJOURNMENT:

A motion to adjourn was made by Commissioner Moriarty and seconded by Commissioner Butler.

Voice vote: All in favor, aye.

Motion carries.

The meeting adjourned 8:10 p.m.