

PLANNING & ZONING COMMISSION MEETING MINUTES

April 2, 2024 - 7:00 pm

Chairman Carbonetti called the meeting to order at 7:00 pm. City Clerk Moller called roll to establish a quorum. Commission members present: Jim Carbonetti, J Albertson, Steve Creviston, Mike Grieshop, Paul Hereley and Elvis Patnaude. Commissioner Ian McCafferty was absent. A quorum was present. Also present were City Administrator Lou Leone, Community Development Director Donovan Day and members of the audience.

Public Comment

Chairman Carbonetti opened the floor to public comment for any item not presently on the agenda. There were no public comments.

Planning and Zoning Commission Minutes of February 6, 2024 – Approved

A motion was made by Commissioner Grieshop, seconded by Commissioner Albertson to accept the minutes of the Planning and Zoning Commission Meeting of February 6, 2024, as presented. All ayes. Motion carried.

Public Hearing – Tomasz Zawierta (Greenway Properties LLC)

Chairman Carbonetti opened the hearing in the petition submitted by Tomasz Zawierta (Greenway Properties LLC), 1901 Baldwin Rd., Inverness, IL 60067. The petitioner is seeking the Commission's consideration for a variation of the required side-yard setback in the R4 Zoning District for properties on 8th St. and Sage Lane in the Turtle Crossing Subdivision.

The City Clerk confirmed that the Notice of Hearing was published per statutory requirements in the Northwest Herald on March 16, 2024. Certified notices were sent to property owners within 250' of the subject property. The Certificate of Publication, completed petition and Staff Report were entered into the record.

Staff Report

Community Development Director Donovan Day reported that tonight's consideration is for Lot 73 on Sage Lane and Lots 4-9 on 8th St. The petitioner moved the lot lines on the other lots for adjoining lots and doesn't need to get a variation; this is permitted pursuant to the Unified Development Ordinance for administrative approval.

Presentation of Evidence by Petitioners

The parties of interest were present. Upon being sworn in, Tomasz Zawierta reviewed the petition and presented testimony to the Planning and Zoning Commission. The petitioner is seeking a variation for a wider setback on each side of the proposed duplexes on Sage Ln. and 8th St.

Upon being sworn in, Al Schmidt was identified as the project engineer. He indicated that setbacks are being requested as the lots are a little too narrow for the units the petitioner is building. The variance requested is 1' on Lot 73 on Sage Ln. and 3' on Lots 4-9 on 8th St.

Discussion/Questions by Planning and Zoning Commissioners

- Commissioner Albertson inquired if the petitioners owned Lots 3 and 10. Mr. Schmidt stated the petitioner does not own Lot 3. Lots 10, 11, 12 & 13 meet setbacks and are already under construction, if not already occupied.
- Commissioner Grieshop confirmed that the petitioner owns Lots 4-13, with dwellings already on Lots 13, 12, 11 & 10. Director Day stated those lots are wide enough and conform. Commissioner Grieshop commented that all the lots conform according to zoning because a 66 x 132 has adequate amount of square feet - 8,712. He then inquired what happened when the client bought the lots; he should have seen the same thing we're looking at. Does he want to build the same dwelling or is he unwilling to change his plan? Tomasz said he would like to build exactly the same houses on the entire street. They're going to look different, different color and different outside, but he would like to

keep the same shape of the house outside so the whole street when finished will look exactly the same. Mr. Zawierta stated he will keep and rent the duplexes, high rent.

- Commissioner Grieshop said that instead of 12' in between each duplex, it would be 9'. He noted that in between two of the buildings already built he saw a big V for drainage and asked if any of the setbacks would affect the drainage plans. Tomasz responded that he is still working on that and will do the final grading when weather will come. Director Day noted that drainage swales were designed with the original subdivision and get reviewed by our engineer to make the sure grading doesn't change.
- Commissioner Albertson inquired if there was a significant reason why the petitioner was deciding to go 3' further south rather than north towards the petitioner's existing properties on 8th St. For all the plans submitted, the variations requested are southbound on the property, why not north on the ones bordering properties that aren't the petitioners on 8th St. for that 3'. The petitioner indicated that it didn't make a difference to him whether it goes north or south.
- Commissioners Albertson and Grieshop expressed concern for whoever owns lot 3 and if the petitioner can move it so setbacks are in normal position and remain as slated between Lot 3 & 4 and then go 3' north. The owner of Lot 3 was in attendance. The petitioner said that wasn't a problem.
- At Commissioner Hereley's inquiry, the petitioner stated he was not building homes on 4th St. He is only building homes on 8th St. and Sage.

There were no further questions from the Planning & Zoning Commission.

Public Comment

Chairman Carbonetti opened the floor to public questions/comments either in favor or opposition to the petition. Upon being sworn in, the following individuals addressed the City Council.

Joel Berg, Harvard, IL, addressed the Commission and stated he owns the property at 1503 9th St.

- Mr. Berg asked the petitioner what the percentage was of the front façade transparency of the buildings pursuant to the UDO. Director Day asked the Chairman what this has to do with the variance and if should go back and forth with the petitioner. At Chairman Carbonetti's inquiry, City Administrator Leone indicated that the actual question before the Commission is for a change in the lot lines and noted Mr. Berg is asking a question on a completely different topic. Mr. Berg said he would like to make an offer of proof and pointed out, as a point of order, that to have a staff member make an objection is inappropriate; it's appropriate for the Committee, most appropriately the Chairman or the petitioner as this is an adversarial proceeding where they bear the burden of proof pursuant to the UDO. Under the UDO, Section 8-6,7, there are 5 requirements for all single family dwellings. The relevance is that these buildings don't meet any of that. Mr. Berg referred to the requirements and said the petitioner needs to ask for a lot of variances because these buildings are not legal under the UDO. It is the Commission's position and responsibility to determine what that language is and whether they meet it. Mr. Berg said that is the relevance of his question; he requested to ask it and get an answer. Commissioner Carbonetti advised that had nothing to do with the hearing; it's not what was published. Mr. Berg addressed Chairman Carbonetti and said the problem is, if you rubber stamp this, then City staff has already issued building permits on this where it's unlawful, where variations were required. They're going to turn around build this and they have asked for an insufficient number of variations. If authorized to build this plan, you have authorized everything, including unasked variations. Mr. Berg directed a question to the Chairman, if he wished to rule on it and say the objection is sustained, he would ask the next question. Chairman Carbonetti directed Mr. Berg to ask the next question.
- Mr. Berg asked the petitioner where the drainage is going to be for the remaining 6 units that are going to be built on 66' wide lots on 8th St. and inquired about the swale that literally joins one building line and has running water in it. The petitioner said that was how it was designed; it's running because he cleaned it; that's why it looks like that. If you look at other ditches, they are overgrown so you don't really see what it looks like. Mr. Berg asked the petitioner and engineer if they have done a drainage study to determine what adding this much impervious surface of the kind called for here to an already drainage sensitive area is going to impact that, and if so, what are the

findings. Director Day encouraged the petitioner not to answer any questions which instigated additional discussion on how the meeting was run. Chairman Carbonetti indicated that Director Day was trying to answer the question on the drainage. Director Day stated that the drainwater stormwater plan for this whole subdivision was designed appropriately. It starts over on Sage Ave. where there are a multitude of ditches, several haven't been maintained; the only ones that have been maintained are the ones that Tomasz has maintained to date. The City's upcoming budget authorizes the City engineers to come up with a maintenance plan for those ditches because homeowners haven't been maintaining them. Originally this may have been designed to have a HOA maintain them. In his opinion, to hear water flowing is a plus. The flow that isn't taken into the earth goes into the ditches and flows to the pond to the north.

- At Mr. Berg's inquiry, Director Day said the impervious surface study was done previously when this subdivision was designed. The requirements for each of these lots is stated in the UDO that they can't exceed a certain percentage in impervious surface. Each particular building plan that has been submitted so far to make sure the impervious surface doesn't exceed what the code requires. Mr. Berg pointed out that the subdivision was subdivided in 2005 as R-1 and set up for single family dwellings. He asked how you can use studies that are 19 years old and premised upon the assumption that you're going have single family residences when you're now putting two family residences on the same lot sizes. Director Day commented there are two family residences already in the subdivision on 4th St. There was discussion about previous zoning classifications prior to the adoption of the UDO in 2018.
- Mr. Berg initiated discussion on the garage width and if a variance can be granted for a 40' driveway on a 66' wide lot. Director Day reviewed requirements relative to the driveway, garage and facade. He noted that there is a difference between the diagram and the definition of building line which is what staff uses; the garages are in compliance. There was further discussion with Commission members regarding the conflict; Director Day said this issue hasn't come up before and said that the picture is in error. Staff looked at these as individual addresses, not as a whole unit. The UDO also contains an administrative approval process from staff; administrative, major and minor modifications are permitted.

Jim Platt, 1316 9th St.

- They build houses in Apple Valley and farm behind the subdivision. The petitioner is planning to duplex houses on single family lots which is not the way it was engineered and designed for storm water in 2005. The duplex lots on 7th St. are double driveways with green space in between them. The area the petitioner cleaned up is eroding and going into the detention pond; there is not enough green space to take the water. It's going to flood the streets and the field that they farm.
- Will bring down appraisals on people's houses.
- When they first started building 5 years ago, they had to follow all the rules; when someone comes in from out of town, it's a free for all and they get to do whatever they want and it's not fair.

Robert Felker, 1313 Sage Ln.

- His major concern is they totally demolished the "moat". At least three times a year, he gets flooding over the curb, sometimes up to the sidewalk from drainage from 4th St. and Northfield Ave. Now that there's construction going on, there's no bottom to the moat anymore; there's ruts and they're driving bobcats and unloading wood chips into it. There are places that water can't drain at all. It's going to become a mosquito haven. He asked that the City take a look at it.

Sarah Berg, 508 Old Orchard Ln.

- She disagreed with the determination that the width of the garage is not exceeding 60% of the building line under Section 8.3.H.4; from their calculations, it's about 75% of the façade.
- The other issue relates to Chapter 19.15.F.1.C, which reads as follows: *Parking in a driveway shall be permitted in the required front and rear yard setbacks for one- and two-family dwellings, providing all other requirements of the Harvard Zoning Ordinance are complied with. Except as provided herein at no point behind the line parallel to the City street and 50 feet from the right of way may the driveway width exceed 24 feet or 33 percent of the lot width, whichever is less.* At this point,

a 40' driveway would exceed that; on a 66' lot, 1/3 would be 22'. If they got a 9' administrative variance per the UDO, they could only do 31' for a driveway.

Joel Berg, Harvard, IL

- The R4 District created something totally new in the City which was putting a two-family dwelling unit on a 66' lot. Variations are supposed to consider the character of the neighborhood in the zoning district. He referenced the duplexes on Blaine St. which are on 66' lots in the R4 District; the properly existent two family dwelling units and the ones envisioned by the UDO are the ones you see on 4th St. and Blaine St., with one car garages and two-bedroom units. That's how you can put a two-family unit onto a one-family lot because it doesn't really use more than a one family unit would use. That is the point of the R-4 Two Family Dwelling zoning.
- The UDO that was enacted in 2018, requires certain things, including the 15% transparency.
- Townhouses on 9th St. are on 1½ or 2 full lots; compare footprint of the proposed buildings with the buildings directly behind it.
- The petitioners have asked for a variance and they bear the burden of proof. The approval standards are outlined in the UDO Section 14.4.E, 1-3, which reads as follows;

E. Approval Standards

The recommendation of the Planning and Zoning Commission and the decision of the City Council must make the following findings to support a ruling in favor of a variation:

- 1. The strict application of the terms of this Ordinance will result in undue hardship unless the specific relief requested is granted.*
- 2. The particular physical surroundings, shape or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.*
- 3. The plight of the owner is due to unique circumstances inherent to the subject property and not from the personal situation of the owner and has not been created by any person presently having a proprietary interest in the property in question.*

Mr. Berg commented that all three standards must be met to grant the variation. The petitioners cannot meet any of the approval standards: there is not an undue hardship unless the relief is granted, there are not any conditions that impose a particular hardship upon the owner and the plight of the owner is not due to unique circumstances. If granted, future developers will request the same thing.

Xiangsheng Hu, DXJ Real Estate

- Owns property to the north.
- Compare the lots on 7th St. which are big lots and the duplex lots on 6th St. with the proposed lots.
- Make sure the drainage goes through with no flooding and consider the value of existing property owners.

Michelle Platt, 1316 9th St.

- They are the other builder in Turtle Crossing. They own 3 lots on 8th St. and another 14 lots out there. Their objective was to create a family oriented neighborhood. She is worried that the duplexes will bring down property values and the demeanor of the neighborhood, with rentals and people coming and going, and say they don't take care of the place.

Additional Comments/Questions from Commission

There were none.

Vote on Petition

A motion was made by Commissioner Hereley, seconded by Commissioner Creviston to deny the petition for setback variations as presented. Roll call vote: Albertson, aye; Creviston, aye; Grieshop, aye; Hereley, aye; Carbonetti, aye and Patnaude, aye. Motion to deny the petition was approved six to zero.

The Planning & Zoning Commission's recommendation will come before the City Council on April 23, 2024 at 7 pm. The meeting will be held in the Community Hall, 201 W. Diggins St.

A motion was made by Commissioner Grieshop, seconded by Commissioner Albertson to close the hearing. All ayes. Motion carried.

Hearing closed at 7:56 pm.

Clerk's Report

No report.

Chairman's Report

No report.

At 7:58 pm, a motion was made by Commissioner Hereley, seconded by Commissioner Creviston to adjourn the meeting. All ayes. Motion carried.

Respectfully submitted:
Lori Moller, City Clerk

April 12, 2024