

PLANNING AND ZONING COMMISSION  
MINUTES OF **TUESDAY, MAY 04, 2021**

Pursuant to notice duly given, the regular meeting of the Planning and Zoning Commission, also sitting as the Board of Zoning Appeals, was called and held on **Tuesday, May 04, 2021 at 5:00 PM** with the Chair presiding in a remote, virtual meeting that was livestreamed to the internet.

Members present: Nancy Sogg; Chair, Scott Broome, Sally Burke, Jim Deacon, Emily Hamilton, Craig Steinbrink, and Sandra Turner.

Members absent: None.

Also present: Karen Schneider, Mayor.  
Chris Courtney, Village Engineer  
Todd Hunt, Law Director.

1. Roll Call.
2. The minutes of **Tuesday, April 06, 2021** regular meeting of the Planning and Zoning Commission were submitted for approval.

Mr. Broome reviewed for the Commission suggested revisions.

A motion was made to approve the minutes as *amended*.

Motion by: S. Turner                      2<sup>nd</sup>: S. Broome

Roll Call:     Ayes: All.  
                  Nays: None.

**Motion Approved**

3. Motion to adjourn the regular meeting of the Planning and Zoning Commission and convene a joint meeting of the Planning & Zoning Commission and the Board of Zoning Appeals.

Motion by: S. Broome                      2<sup>nd</sup>: S. Turner

Roll Call:     Ayes: All.  
                  Nays: None.

**Motion Approved**

4. A lot split and street frontage variance request for the **BOLINGBROOK INVESTMENTS LLC** property at **7915 Fox Hill Drive** was heard. Notice has been given to adjoining property owners. Jason Baylor, Payne and Payne Builders and Kathleen Visconsi, Howard Hanna Realtor attended the virtual meeting through the internet.

Mr. Baylor reviewed the proposed lot split and street frontage variance request for the Board. He indicated the existing lot consists of slightly over 14 acres and fronts along County Line Road and Fox Hill Drive. The current request is to split and create a new 5 acre lot (parcel #1) along County Line Road. The remaining lot (parcel #2), roughly 9 acres, fronts along Fox Hill Drive and does not currently meet the 200' street frontage code requirement and therefor requires a 120.35' lot frontage variance.

Mr. Broome suggested the plat drawing shows a proposed new house location on parcel #2 and would need a drive of approximately 2000' feet if accessed off County Line Road. He asked Mr. Baylor if he had any rough idea of the cost for a drive of that length and if there are any other existing site challenges that would be encountered during construction.

Mr. Baylor indicated an asphalt drive of that length could cost in the range of \$50,000 to \$200,000 depending on the design location and material costs. He also indicated a Village regulated stream currently exists on the property and additional cost would occur in crossing the creek either with a culvert or installing a bridge. He also stated constructing a drive off County Line Road would cause a much greater environmental impact to the property and a variance would need to be granted from the Village for performing work within a riparian setback area.

Mr. Broome stated he felt requiring access to lot #2 off County Line Road would add unnecessary cost and challenges to a new home construction project. He also stated the variance request seems reasonable given the lot already has frontage along Fox Hill Drive that does not currently meet the code requirement.

Mr. Roger Dorer attended the virtual meeting through the internet and was given an opportunity to speak. He indicated he is representing the neighbor Jeff Jacobs at 7855 Fox Hill Drive. He asked if the current underground utility easement for the Jacob's property would remain and be respected.

Mr. Baylor stated the utility easement remains untouched and is not impacted in any way if the variance is granted.

Mr. Broome reviewed the *Variance Worksheet* for the Board.

After further discussion, a motion was made to *approve* a 120.35' street frontage variance request for parcel #2 along Fox Hill Drive as submitted.

Motion by: S. Broome                      2<sup>nd</sup>: J. Deacon

Roll Call:     Ayes: All.  
                  Nays: None.

**Motion Approved**

After further discussion, a motion was made to *approve* the 5 acre lot split, parcel #1, along County Line Road as submitted.

Motion by: C. Steinbrink                      2<sup>nd</sup>: E. Hamilton

Roll Call:     Ayes: All.  
                  Nays: None.

**Motion Approved**

5. Motion to adjourn the joint meeting of the Planning & Zoning Commission and the Board of Zoning Appeals and convene the regular meeting of the **Board of Zoning Appeals**.

Motion by: S. Burke                              2<sup>nd</sup>: S. Turner

Roll Call:     Ayes: All.  
                  Nays: None.

**Motion Approved**

6. A horse paddock size and setback variance request for the **BELL** residence at **2105 Woodstock Road** was heard. Notice has been given to adjoining property owners.  
Mr. & Mrs. Eric Bell, Property Owners attended the virtual meeting through the internet.

Mr. Bell reviewed the proposed variance request for the Board. He indicated they are hoping to house 4 miniature horses on the property. Mini horses range from 26" tall to 36" tall and weight approximately 185 pounds, far less than the typical horse. The horses would be for private use and their own personal enjoyment only, not open to the public or for any public use. He also indicated they may have 1 horse trained as a therapy animal and take it to patients who can benefit from that type of service.

Mr. Bell stated he is proposing to provide 10,000 square feet of paddock area per horse or a total of 40,000 square feet, far less than what is required under the Villages current stable ordinance. His plan is to remove the existing tennis court and locate the paddock 100' from the existing house which will require the granting of 50' variance. He stated the smaller paddock area allows for more

existing trees to remain, providing more screening to the neighboring properties and by moving the paddock closer to their house, increases the distance to the surrounding properties. All other setback requirements can be met. He also stated they have enough property to meet the Village's ordinance for full size horses; they want to clear as little land as possible, much less of an environmental impact on the property and less site disturbance to the neighbors.

Mr. Hunt asked Mr. Bell if he had received an email from Mr. Biggert containing a letter from Mr. Fisher, Attorney who is representing a neighbor.

Mr. Bell indicated he had not received the letter but he did receive a phone call from Mr. Fisher and discussed the neighbor's concerns.

Mrs. Hamilton asked if it is a state requirement to have a house located 150' from a barn.

Mrs. Sogg indicated that would be a Board of Health issue.

Mr. Courtney stated he had submitted an email to the Board containing a list of engineering requirements that will need to be submitted if the variance is considered and advances beyond this stage. He reviewed the list of requirements for the Board.

Mr. Bell stated he was not aware of the 150' state requirement between a house and a barn but did want to clarify they are not intending to move the barn closer to the house, only the paddock area. He also stated they are hoping to have a small gravel fenced area between the barn and the house for the horses in order to prevent the horses from eating too much, mini-horses have a tendency to gorge themselves. Also, shifting the paddock area closer to the house locates it further away from the neighbors.

Mrs. Turner asked Mr. Bell to clarify a comment in the submitted request indicating they would like to "show" the horses. Is it their intent to show the animals at events such as the July 4<sup>th</sup> parade or professional showing for competition which could involve breeding and more of a business operation?

Mr. Bell indicated they have no intention of competing. They would be willing to participate in events such as the parade if there is a desire for that.

Mrs. Bell stated they are not planning on showing, they are strictly for pleasure. She also stated they are considering possibly breeding one animal and then possibly return the baby to the breeder. Any breeding would be in the future because all the horses they are purchasing would be yearlings.

Mr. Bell stated at no time would they have more than 4 mini horses.

Mrs. Sogg asked if the intent is to remove the existing hard surface tennis court and replace it with a more environmentally friendly permeable surface and potentially improving drainage and runoff into the stream.

Mr. Bell replied yes, the tennis court is being removed. A professional will be involved and will make sure they meet every requirement that pertains to the project.

Mrs. Sogg indicated the Board of Health will get involved and oversee how the manure is dealt with.

Mr. Broome asked if they have a manure management plan.

Mr. Bell indicated there are private services to contract with that will haul the manure away on a weekly or monthly basis depending on the amount of waste produced. By controlling the amount of grazing, the mini horses produce far less waste. Another option they have been looking into is composting the manure. There are ways to compost manure that eliminates any odor.

Mr. Broome asked Mr. Hunt if the Board could require a waste management plan as a condition of granting the variance.

Mr. Hunt replied yes, the Board could require a management plan as a condition of the approval. He also stated it would not be necessary to stipulate all the code requirements in an approval because all the current conditions of the code have to be met.

Mr. Deacon asked Mr. Courtney to comment on a statement in Mr. Fisher's letter stating the stormwater runoff from the paddock area could contaminate the intermittent stream and ground water.

Mr. Courtney replied the concern has already been raised on this issue; the current plans do not contain enough information to fully assess and determine that. Any future plans will need to provide the required information and will be determined at a later date if the project moves forward. The County Board of Health will be involved to help determine if any water contamination is possible.

Mrs. Turner asked about the potential noise from the horses.

Mr. Bell indicated because the horses are smaller, almost the size of a large dog, the noise is much less.

Mrs. Bell indicated the only thing that could cause more noise is a stallion on the property. They do not intend to house any males on the property.

Mr. Steinbrink stated his concerns on the property as it relates to the future use and what the next homeowner might want to do in terms of wanting a dozen of

these mini horses or more and the unintended consequences and affects related to this type of use.

Mr. Bell replied the one standard of the current ordinance that they did not vary from is the 1 acre per horse requirement, this lets the amount of horses allowed on the property to the same 4. Only the paddock size is being reduced from what is required in the ordinance. He suggested maybe in time to write a specific new ordinance that deals with miniature horses.

Mr. Hunt stated the Board could limit the number of horses to 4 as part of granting the variance.

Mrs. Sogg stated the granting of the variance could require a waste management plan and limit the number of mini horses to 4.

Mr. Bell stated they would agree with the stated stipulations.

Mrs. Sogg opened up the meeting for comments from the neighbors.

Mrs. Veronica Slavin 1977 Woodstock Road asked to speak. She stated they had received the certified notice from the Village. They are concerned on the negative impact on their property values as a result of the use. They feel it will cause diminished property value. She continued by expressing her concern of manure being on the property. Also, stated her concern with pests, environmental impact related to stormwater runoff and contamination of the groundwater. The Slavins share a well with the Morris's next door.

Mrs. Betsi Morris 1987 Woodstock Road asked to speak. She expressed her concerns with the environmental impact on the area and any contamination of their water well.

Mr. Courtney restated most of the required information for permitting purposes has yet to be submitted and as the project progresses it will be submitted and reviewed.

Mr. Broome reviewed the *Variance Worksheet* for the Board.

After further discussion, a motion was made to *approve* a 40,000 square foot area variance on the paddock and a 50' setback variance from the existing house to the paddock as requested contingent on the following:

1. The number of miniature horses housed on the property shall be limited to 1 mini-horse per 10,000 square feet of paddock, no more than 4 total.
2. All information as stated in the May 4, 2021 email from Chris Courtney, Village Engineer shall be submitted to the Village Engineer and Building Official for review prior to permitting.

3. A waste management plan related to the handling of manure shall be submitted to the Village for review.

Mr. Thomas Slavin 1977 Woodstock Road asked to speak. He stated, in his opinion, this use of the neighboring property is going to cause some unintended consequences from the leaching of the manure and urine into their watershed and their drinking water. If this happens there will be legal consequences that will not stop, they cannot afford the risk of the contamination to their water well.

Motion by: S. Broome                      2<sup>nd</sup>: C. Steinbrink

Roll Call:     Ayes: Broome, Burke, Sogg, Steinbrink, Turner.  
                  Nays: Deacon, Hamilton.

### **Motion Approved**

7. A sport court rear yard setback variance request for the **PETER** residence at **941 Chestnut Run** was heard. Notice has been given to adjoining property owners.

Mr. Thomas Peter, Property Owner attended the virtual meeting through the internet.

Mrs. Sogg asked Mr. Hunt if members of the Zoning Board who are also Board members of the Gates Mills Land Conservancy should recuse themselves from the discussion.

Mr. Hunt recommended those members also sitting on the GMLC Board should recuse themselves.

Mrs. Turner and Mr. Broome recused themselves from the discussion.

Mr. Peter reviewed the proposed variance request for the Board. He indicated the request is a 35' rear setback variance for a new pickle ball court. The concrete court has already been installed, he was not aware a permit and setback was required for this type of court. He indicated the court is located in the best spot for the property because of the hillside and required less trees to be removed causing the least impact to the neighboring properties.

Mr. Courtney asked if he knew where his rear lot line is located.

Mr. Peter stated he did know where the property line is located from a previous survey and stakes are currently in place locating the rear line.

Mr. Courtney recommended a detailed and accurate site plan be developed and submitted for review and approval. Additional items such as stormwater runoff and stormwater management needs to be looked at and considered so the work does not cause slope, stability, or runoff problems.

Mr. Hunt agreed a detailed plan should be submitted in order to be accurate in granting a variance.

Mrs. Sogg opened the meeting to comments from the audience.

Mrs. Linda Olejko representing the Gates Mills Land Conservancy asked to speak. She stated the GMLC is not in favor of the variance request. She stated encroachments onto the property have already happened with trees being cut and debris placed on the property.

Mr. Peter stated he would have any debris from the landscaper removed.

Ms. Lucy Chamberlain from 7840 Sherman Road asked to speak. She stated she was also against the granting of a variance. She expressed her concerns with the environmental impact from the court and the work already completed. Would like to see the required permit process be upheld and stormwater management be considered.

Mr. Steinbrink stated it appears the code also requires a screening plan be submitted for review and approval by the Villages Architectural Board.

Mr. Peter indicated he would submit the necessary information as required.

After further discussion, a motion was made to *table* the variance request until the June meeting pending a different location is considered for the court and a detailed and accurate site plan is submitted, including a screening plan, for review by the Village Engineer.

Motion by: C. Steinbrink                      2<sup>nd</sup>: S. Burke

Roll Call:     Ayes: All.  
                  Nays: None.

### **Motion Approved**

There being no further business the meeting was adjourned at **6:48 P.M.**

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Nancy Sogg, Chair

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David Biggert, Secretary