

PLANNING AND ZONING COMMISSION
MINUTES OF **TUESDAY, MAY 03, 2022**

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 03, 2022 at 5:00 PM** in the Council Chambers of the Town Hall.

Members present: Craig Steinbrink; Chair, Scott Broome, Jim Deacon, Chip AuWerter, and Jeannine Voinovich.

Members absent: Emily Hamilton and Nancy Sogg.

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

1. Roll call.
2. The minutes of **Tuesday, April 05, 2022** regular meeting of the Planning and Zoning Commission were submitted for approval.

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

Motion by: S. Broome 2nd: C. AuWerter

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

3. A request to alter a detached non-conforming structure for the **TRIVISONNO** residence at **1810 County Line Road** was heard. Kevin Macfarlane, Payne & Payne Builders; Eric Payne, Payne & Payne Builders were present.

Mr. Deacon recused himself from the discussion as an adjoining property owner.

Mr. Payne explained the additional documents that have been submitted per the Commissions request. He indicated a current market value of the cottage, documentation someone has been living in the building within the past 2 years, and a construction estimate for the proposed new renovation has been submitted.

Mr. AuWerter stated he struggles with the current ordinance and some of the information submitted. The existing cottage building is on the same property as

the main house, so he is unsure if comparison appraisal values on stand-alone structure relate to what is being considered.

Mr. Seth Dragomer, Real Estate Agent stated the appraisal value submitted equals that of similar buildings of this type.

Mr. Payne stated the appraisal value shows the building undervalued in comparison to the building replacement cost.

Mr. Hunt indicated he experienced a similar situation in Hudson. No appraiser is willing to submit a current fair market value report for liability reasons. He also suggested the information is currently the only evidence present for the Commission to decide the request. The Commission could choose to find an appraiser but that would take time and might be difficult to find.

Mr. Payne reviewed the proposed construction estimate for the Commission.

Mr. Hunt stated the submitted construction estimate appears to be \$19,000 less than the required 60% of fair market value of the building. This information would meet the requirements of the Village ordinance.

Mr. Broome state he thought the current ordinance is intended to prevent an owner from expanding the structure beyond its current footprint and prevent them from extensive improvements. He also stated he felt the intent is for "live in" structures of this type to go away over time. He suggested the "live in" document does not clear state which building it is referring too.

Mr. Steinbrink summarized the request and all the information provided. He also commented on the field meeting which the Commission met to review the existing site conditions and conditions of the building. He indicated no discussion regarding the request took place at that meeting.

Mr. AuWerter stated the request is to continue a non-conforming use. He asked if the owner would be willing to provide natural screening for the property to the north.

Mr. Payne stated the owner would be willing to provide natural screening as suggested. They want to be good neighbors.

Mrs. Voinovich asked how the current owner intends to use the building if approved. She also asked if the Village could require something in writing preventing from ever being rented.

Mr. Hunt stated the Commission could not require such a written document. However, the owner could "choose" not to use the building as a rental unit.

Mr. Payne stated the owner wants to use the building for himself when in town or during the extensive remodeling of the existing main house and for family members when they are in town. Has no desire to use as a rental unit.

Mr. Hunt stated the Village ordinances do not prohibit the renting of this building.

Mr. Steinbrink stated he is wrestling with the possibility of this building being used for rental income not necessarily by the current owner but by future owners of the property.

Mrs. Voinovich state that the building only became non-conforming when the ordinance was passed.

Mr. Hunt explained the owner could file a "informational affidavit" with the County which would make future buyers of the property aware the building could not be used for rental income.

Mr. Steinbrink asked if anyone from the audience would like to speak.

Mr. David Hooker from 1800 County Line Road from the audience asked to speak. He stated he currently lives in front of the Trivisonno property and would have no objection to the existing building being renovated and looks forward to meeting the current owners. He also stated he is concerned with future owners wanting to use the building as a rental unit.

Mr. Hunt stated the informational affidavit will transfer and stay with the property or could be accomplished with a deed restriction.

Mr. Michael Press from 2040 County Line Road from the audience asked the Commission if the owner could split off the cottage structure on a 5-acre lot.

Mr. AuWerter stated the building and lot could not be split from the existing property due to an existing conservation easement.

Mrs. Laurie Deacon from 1760 County Line Road spoke. She stated the structure was originally a barn/storage garage and was probably converted to living quarters without authorization or permission from the Village. She also appreciates the screening being added and likes the idea of the affidavit.

After further discussion, a motion was made to *approve* the alteration and continuation of the existing non-conforming use of the white cottage building based on the drawings and documents submitted pending the following:

1. The owner shall provide and maintain natural screening for the property to the north.

2. The owner shall use the cottage building for his personal and family purposes only and will file an "information affidavit" on the property preventing the white cottage from ever being used as a rental unit.
3. No building permit shall be issued until the affidavit is received and filed with the County.

Motion by: S. Broome 2nd: J. Voinovich

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

4. Motion to adjourn the regular meeting of the Planning and Zoning Commission and convene a meeting of the **Board of Zoning Appeals**.

Motion by: J. Voinovich 2nd: S. Broome

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

5. A gas well setback variance request for the **SIRK** residence at **6974 Gates Road** was heard. Notice has been provided to adjoining property owners. Mr. & Mrs. Daniel Sirk, Owners were present.

Mr. Sirk reviewed the proposed setback variance request for the Board. He indicated they are wanting to build a new house structure using the current foundation and part of the existing garage. He stated the existing structure does not meet the current standard and the proposed new design places the new house slightly closer to the tank battery. The distance at the rear to the existing well head remains unchanged. The current house structure sits approximately 131' from the tank battery and approximately 150' from the well head.

Mrs. Sirk stated due to health reasons, the design of a single-story ranch will work better and provide more mobility throughout. The doors and bathrooms will be ADA compliant to also help family members who do not live in the United States.

Mr. Deacon asked if the front of the house design could be shifted to meet the State setback of 100' to the tank battery.

Mrs. Sirk stated they would consider shifting the front to meet a 100' setback.

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

After further discussion, a motion was made to *approve* a 230' front setback variance (100' front setback to tank battery) and a 170.85' rear setback variance to the existing well head.

Motion by: S. Broome 2nd: J. Deacon

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

There being no further business the meeting was adjourned at **6:20 P.M.**

Craig Steinbrink, Chair

David Biggert, Secretary