

Oakwood, Ohio

May 6, 2015

The Planning Commission of the city of Oakwood, state of Ohio, met this date in the council chambers of the city of Oakwood, city building, 30 Park Ave., Oakwood, Ohio, 45419, at 4:30 p.m.

The Acting Chair, Mr. Andy Aidt, presided and the City Attorney, Robert Jacques, recorded.

Upon call of the roll, the following members responded to their names:

MR. JEFFREY B. SHULMAN .....	ABSENT
MR. ANDREW AIDT .....	PRESENT
MRS. HARRISON GOWDY .....	PRESENT
MRS. E. HEALY JACKSON.....	PRESENT
MR. STEVE BYINGTON.....	PRESENT

Officers of the city present were the following:

Mr. Robert F. Jacques, City Attorney  
Mr. Jay A. Weiskircher, Assistant City Manager

The following visitors were present:

Sharon and Larry Rab, 25 Harman Terrace  
Michele Farash, 704 Harman Avenue  
Anne and Doug Almoney, 708 Harman Avenue

It was moved by Mrs. Jackson and seconded by Mrs. Gowdy that the absence of Mr. Shulman be excused. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

It was moved by Mr. Byington and seconded by Mrs. Gowdy that the minutes of the planning commission meeting held February 4, 2015, be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mr. Aidt reviewed the meeting procedure with all in attendance.

Application #15-4, Mr. Weiskircher referenced a PowerPoint and explained that this application involves a special use request submitted by Sharon Rab to reduce the 50% green space requirement and a rear yard setback variance for a deck at 25 Harman Terr.

Ms. Rab spoke briefly and answered questions from the Planning Commission regarding the design and the exact location of the deck. She noted that her rear yard is already fenced and adjoins the parking lot from the adjacent condos/apartments. She also noted that both abutting neighbors have seen and approve of the plans as submitted.

The matter was then opened for public hearing.

There being no further public testimony offered, the public hearing was closed and the Planning Commission began its deliberations.

Therefore, it was moved by Mrs. Gowdy and seconded by Mr. Byington that the preliminary staff findings shall be adopted, and on that basis, application #15-4, to reduce the 50% rear yard green space requirement and to vary the rear yard setback for a deck at 25 Harman Terrace, shall be approved.

For purposes of the minutes, the preliminary staff findings as stated in the Staff Report were as follows:

### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
 PRELIMINARY STAFF FINDINGS:
- The Comprehensive Plan recommends that improvements and additions be compatible with and complement existing neighborhoods scale and character. The Rabs have very limited rear yard space and the proposed improvements will allow them to maximize the use of the available space for everyday living convenience as well as entertaining.
- B. The proposed building or use will not adversely affect or change the character of the area in which it is located.  
 PRELIMINARY STAFF FINDINGS:
- The Rab's rear yard abuts the parking lot of the adjoining apartments/condo buildings and is already enclosed by a 6' high wood privacy fence. The proposed outdoor kitchen space and deck should not impact the adjoining single family residences to either the east or west.
- C. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare.  
 PRELIMINARY STAFF FINDINGS:
- The rear yard already violates the 50% green space requirement and the proposed improvement results in only about 20% green space coverage.
- D. That the proposed use will not be injurious to the reasonable use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.  
 PRELIMINARY STAFF FINDINGS:
- The proposed outdoor kitchen and deck improvements are in keeping with a residential use and therefore should have no negative impact any of the adjoining properties.
- E. The proposed use at the specified location will not significantly adversely affect the use and development of adjacent and nearby properties in accordance with the regulations of the district in which they are located. The location, size and height of proposed buildings and other structures, and the operation of the use will not significantly adversely affect the use and development or hinder the appropriate development of adjacent and nearby properties.  
 PRELIMINARY STAFF FINDINGS:
- None of the proposed improvements will impact the use of land and development of nearby properties. The proposed improvements will be constructed of materials typically used in residential applications.

- F. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.

PRELIMINARY STAFF FINDINGS:

- The topography of the rear yard makes it very difficult to utilize the rear yard space. The proposed structures will be constructed of high end materials that should enhance the value of the property.

- G. That adequate utilities, access roads, off-street parking and loading facilities, drainage and/or other necessary facilities, have been or are being provided at the applicant's cost.

PRELIMINARY STAFF FINDINGS:

- All costs associated with the proposed improvements will be borne solely by the applicants.

- H. That adequate measures have been or will be taken at applicant's cost to provide ingress and egress so designed as to minimize traffic congestion in the public streets and avoid hazards to pedestrian traffic.

PRELIMINARY STAFF FINDINGS:

- The ingress and egress standard does not apply in this application.

- I. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulation may, in each instance, be modified by Council pursuant to the recommendations of the Planning Commission.

PRELIMINARY STAFF FINDINGS:

- Except for the rear yard variance for the proposed deck, the plans conform to all other regulations.

### STANDARDS FOR VARIANCES

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

PRELIMINARY STAFF FINDINGS:

- The proposed rear yard is already non-confirming at 17' where 40' is required. The proposed deck further reduces the rear yard setback to 4' along the north property line which abuts an existing parking lot.

- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.

PRELIMINARY STAFF FINDINGS:

- The lots along Harman Terrace are all undersized and in most cases, the front, side and rear yards are typically non-confirming as is the case in this application.

- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.  
 PRELIMINARY STAFF FINDINGS:
- The purpose of the variance is to enhance the usability of the rear yard for everyday living and entertaining.
- D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.  
 PRELIMINARY STAFF FINDINGS:
- The rear yard is already non-conforming and the proposed plans further extend the non-conformity.
- E. The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.  
 PRELIMINARY STAFF FINDINGS:
- The property in question can yield a reasonable return if the variance is not granted.
- F. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.  
 PRELIMINARY STAFF FINDINGS:
- The portion of the rear yard where the variance is being requested abuts a 6' high privacy fence located along the north property line which abuts the parking lot of the adjoining apartment/condo building fronting on Far Hills Avenue.
- G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.  
 PRELIMINARY STAFF FINDINGS:
- While the proposed use of the space will increase noise when the area is being used for entertaining, the noise is not inconsistent with a residential use. Furthermore, the use of this space has been professionally designed and the Rabs are using first class materials typically used in higher-end residential applications.
- H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.  
 PRELIMINARY STAFF FINDINGS:
- The shape of the land and lack of green space is such that any above ground improvements require a variance and special use.
- I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

PRELIMINARY STAFF FINDINGS:

- What is being proposed maximizes the use of the available space while being sensitive to the unique topography.

Upon call of the roll on the question of the motion, the following vote was recorded:

MR. ANDREW AIDT.....	YEA
MRS. HARRISON GOWDY .....	YEA
MRS. E. HEALY JACKSON.....	YEA
MR. STEVE BYINGTON.....	YEA

There being four (4) YEA votes, thereon, said motion carried.

Mr. Weiskircher provided an update on the Top of the Hill Preschool. He reminded the Planning Commission of the conditions that were imposed previously in granting the special use, and reported that the school is satisfying the conditions so far. The school is operating much like it did at its prior location, before the move. Mr. Weiskircher added that there have been no complaints from any of the neighbors.

Ms. Gowdy asked a question about green space requirements. Since the Planning Commission typically approves variance requests for green space requirements, she wonders if the requirements are necessary. Mr. Weiskircher answered that for most yards the requirements are a good idea, and variances are only appropriate where the yard's shape, size, or layout is unique and the green space requirement impedes the owner's ability to truly use and enjoy the yard. Mr. Byington concurred, and believes the requirement should be kept to ensure that residents don't pave their entire yard. A general discussion followed and the Planning Commission generally agreed that the requirements should be maintained.

Mr. Weiskircher provided a brief update on the residential teardown project on Runnymede Road, which will be starting soon.

Mr. Weiskircher provided a brief update on the Donnelly project at Oakwood Avenue and Park Road, which is moving along.

Mr. Weiskircher informed the Planning Commission about the current status of the vacant lot on Ridgeway Road, which was the subject of a prior application by Justin and Kelly Long. The Longs decided not to build and sold the lot to a new couple who are currently working on construction plans. Mr. Weiskircher has seen the preliminary drawings and there are some setback issues associated with the proposed roof height. The owners are negotiating with their adjoining neighbors and may be able to acquire additional land or find another way to avoid the needed variance requests.

There being no further business, the Planning Commission adjourned. The public meeting concluded at 5:00 p.m.

  
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ACTING CHAIR

ATTEST:

  
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ACTING CLERK