

Oakwood, Dayton, Ohio

March 2, 2011

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., Dayton, Ohio, 45419, at 4:30 p.m.

The Vice Chair, Mr. Andrew Aidt, presided and the Clerk, Mrs. Cathy Gibson, 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. Norbert S. Klopsch, City Manager
Mr. Robert F. Jacques, City Attorney
Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Dave Bunting, City Inspector

The following visitors registered:

Mark and Peggi Stiver, 409 Telford Avenue
Lisa Kell, 247 Volusia Avenue
Martha Haley, 400 Irving Avenue
Rob Stephens, Council
Jane Balquiedra, 414 Irving Avenue
Robert & Sheilah Conard, 416 Irving Avenue

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

It was moved by Mr. Byington and seconded by Mrs. Jackson that the minutes of the planning commission meeting held January 19, 2011 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, same passed unanimously and it was so ordered.

Application #11-1, the special use request by Mark and Peggi Stiver to vary the rear yard green space requirement for the installation of a four season pool room, attached to the detached garage at 409 Telford was reviewed. Mr. Weiskircher referenced a PowerPoint presentation for this request to vary the 50% green space requirement for a 21.5 x 15 square foot pool room addition and referenced a site plan showing the location of the addition as well as photos, sketch and elevation drawings. He explained there is 875 square feet required and only 721 square feet of green space will remain. He also referenced the petition the Stivers submitted from neighbors along Telford and Aberdeen in support of the request.

Mrs. Stiver explained they had looked at adding onto the house but did not want to destroy the inside or outside of the home so decided to use a portion of the yard they don't use. She indicated the glass structure won't block the view. They have waited for their retirement years and been at this home for 31 years. The room includes a small heated exercise pool. Mr. Stiver referenced the rear bay window and explained on the interior that is part of the family room which abuts the fireplace so it would have been difficult to add this structure to the rear of the home. Mr. Aidt asked about the exercise pool. Mr. Stiver indicated it's approximately 7 x 14 and 39" deep. Mrs. Stiver indicated its 2' under the floor, semi-submerged. The contractor noted there is a safety area around the pool and they are using standard sized glass panels for the enclosure. Mrs. Stiver further explained this is a fitness type pool for older people, less wear and tear. The contractor indicated they have done other room additions in Oakwood which are very aesthetic.

Mr. Aidt asked if the entire room will be heated. The contractor explained they will install a mini-split unit that will assist with moisture and provide air conditioning and heat. Mr. Stiver indicated it's a small

compressor that is efficient and quiet. He also explained the pool has a cover and they will include a small table and chairs in the room to eat lunch. Mr. Aidt questioned the connection between the garage and room. Mrs. Stiver indicated they will use the existing doorway. Mr. Aidt wondered if there will be an area in the garage to change into suits before entering the pool. Mrs. Stiver indicated they will change in the house and go out to the room, no different than those with a hot tub. Mrs. Jackson asked if the purpose is for their health and wellbeing and wondered if there are any medical reasons. Mrs. Stiver indicated no specific medical reason other than bad knees. Mrs. Jackson wondered if the room had been added to the rear of the house, how the neighbors to the west would have been impacted. Mr. Stiver indicated based on the existing thick 4-6' hedge between the properties, there would have been little impact. Mr. Aidt indicated if connected to the house; they also would have needed steps. Mr. Stiver referenced the plot plan of the rear yard and noted if the room had been attached to the house; the northeast corner of the room would not leave much space to the edge of the drive. Mrs. Gowdy noted their property is lovely and the pictures didn't do it justice.

Mrs. Jackson asked if there is pavement behind the garage. Mr. Stiver concurred and to the northeast is a double lot. Mr. Aidt asked about the bronzed colored frames being used for the addition. The contractor explained that is standard and the shingles will match the garage roof. Mr. Aidt asked if the glass is tinted. The contractor concurred, that is what is used on "four seasons" room and the aesthetics will blend with the property. Mr. Byington appreciated the petition from the neighbors and wondered if anyone refused to sign. Mrs. Stiver responded no. Mr. Byington asked if the neighbors were told about the compressor and potential sound. The contractor indicated the compressor is about twice the size of a computer monitor. Mr. Byington asked if the compressor can be located in the yard. Mr. Bunting had thought the mechanical systems were in the garage, but the unit could go to the west side of the structure. Mr. Aidt asked if it will be ground mounted to which the contractor agreed.

Mr. Byington asked about the lighting and concern with any light spill in the evening. Mr. Stiver indicated they will install a ceiling fan with light, table lamps and the pool is internally lit. Mrs. Stiver is uncertain of times of use. Mr. Byington indicated it's like a giant greenhouse and the compressor might run more than thought. Mr. Stiver noted every other window slides open. Mr. Aidt asked about the pool heater. Mr. Stiver explained the mechanical systems are in the garage, the filter is mounted on the pool. Mr. Byington asked about maintenance. The Stivers explained it can be filled with a garden hose and won't need to be entirely emptied for three years. Mr. Aidt noted no extra water line is needed but electrical will be. Mr. Byington wondered how the water is treated. Mr. Stiver explained they have a tablet to put in but it isn't chlorine. Mr. Byington asked about regulations relating to dispensing the water. Mr. Bunting explained it is treated like any pool, as long as there is no hazard to abutting property. Mr. Aidt wondered where the water will go. Mr. Klopsch responded in the gutter. Mr. Stiver indicated there is no floor drain. Mr. Klopsch doesn't believe there is another type exercise pool in Oakwood.

Mr. Aidt wondered if the room could be any smaller. Mrs. Stiver responded not really, they are using the smallest standard sized glass panels and they need space between the wall and the edges of the pool/cultured stone. Mr. Aidt asked about the garage wall. Mr. Stiver explained they will install drywall and remove the window; and noted making the room smaller would require custom made glass which would make it more expensive. Mr. Stiver questioned the green space square footage. Mr. Weiskircher explained it includes the pool room plus all existing impervious surfaces.

There being no further comments, Mr. Aidt asked to close the public hearing. Motion by Mrs. Gowdy, second by Mrs. Jackson. Upon a viva voce vote, the hearing was closed.

Mrs. Gowdy indicated when she visited the site and neighborhood she noticed two properties in the block with large additions to the rear of those homes which detracted from the aesthetics and the yard. She understands the applicant's argument that this makes more sense for their yard. She would probably agree to a wood shop or shed use - initially she had concern with a pool room addition. Mr. Aidt indicated this property already has an addition, deck and patio compared to other properties that don't have those additional items. Mrs. Jackson had initially thought it took a lot of room until she was on site and believes from a neighbor's perspective this location will be more pleasing. She referenced concern about setting precedent but also wants to assure longtime residents that they can stay and feel comfortable. Mr. Byington expressed concern with ancillary spaces being used for primary functions and believes this will be used quite a lot; however, the premise of zoning is flexibility and reviewing each

individual case. He doesn't want to make it a habit or encourage citizens to attach living spaces to garages. Mrs. Jackson indicated although this is large, they are using glass which will keep it more open. Mr. Byington indicated this glass has a tint which makes it look more solid.

Mr. Aidt asked if drainage requirements have been met. Mr. Bunting explained it falls under that regulation. Mr. Aidt agreed with other comments and felt if added to the rear it would make the home even more massive, he would prefer the room be smaller and believes this is different than a leisure pool. Mrs. Gowdy also had concerns with setting a precedent for leisure activities attached to garages, but would have agreed to a workshop attachment. Mr. Byington indicated the commission has flexibility, they can make exceptions and the differing styles/properties are the fabric of the community. Discussion ensued in regard to precedent, etc. Mr. Jacques concurred, the commission has the flexibility to review each case on its own facts and just because they rule one way in this case, it will only apply to this property. Mrs. Jackson believes the homeowners are also taking some risk because if a young family moved in, they'd probably dis-mantle the room.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
PRELIMINARY STAFF FINDINGS: The Comprehensive Plan suggests that home additions be compatible with and complement existing neighborhood scale and character. Clearly, the location of the proposed addition is unique to the area and results in a combined structure that is significantly larger than other accessory structures in the immediate area.
PLANNING COMMISSION FINDINGS: Sustained.
- 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 special use request itself is worthy of consideration if the applicant is willing to locate the pool room in a more appropriate location and you are satisfied the overall appearance of the addition is compatible with the neighborhood. I am unaware of any garages within the community with an attached pool room addition.
PLANNING COMMISSION FINDINGS: Sustained.
- 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: It is staff's position that the proposed use will be more compatible with the site as an attachment to the principal structure rather than being attached to the existing garage.
PLANNING COMMISSION FINDINGS: Sustained.
- 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 special use being requested is not unusual for the R-5 zoning district. What is unusual is the fact that contrary to community norms in which room additions are traditionally attached to principal rather than accessory structures, this proposed structure will be attached to the garage.
PLANNING COMMISSION FINDINGS: Sustained.
- 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: As already mentioned, the special use request to violate the 50% green space requirement is not at all unusual for lots in the R-5 zoning district. However, what distinguishes this application is the fact that the owners are requesting to attach the pool room to the garage.
PLANNING COMMISSION FINDINGS: Sustained.
- 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 proposed structure has three glass walls and a glass roof structure and will be unique to this neighborhood.

PLANNING COMMISSION FINDINGS: Sustained.

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: Any drainage costs associated with construction of the pool room will be at the homeowner’s expense.

PLANNING COMMISSION FINDINGS: Sustained.

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: There are no ingress or egress issues related to the placement of the pool room.

PLANNING COMMISSION FINDINGS: Sustained.

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: Even though the only issue that brings this application to the Planning Commission is the fact that the pool room reduces the remaining green space to less than 50% of the rear yard staff is strongly opposed to attaching the structure to the garage.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mrs. Gowdy and seconded by Mrs. Jackson that application that the Planning Commission has heard and considered the evidence presented by the applicant and has heard and read the staff’s preliminary findings, the Commission concurs with the staff findings; based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are each met; and approves application #11-1, the special use request by Mack and Peggy Stiver to vary the rear yard green space requirement for the installation of a four season pool room attached to the detached garage at 409 Telford Avenue, and known as lot #876, be recommended to council for approval based on plans and information previously submitted and in compliance with all applicable city rules and regulations.

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

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

There being four (4) yea votes and no (0) nay votes thereon, said motion was declared duly carried and it was so ordered.

TO AMEND SECTION 301, TERMS DEFINED, OF THE OAKWOOD ZONING ORDINANCE TO CLARIFY THE DEFINITION OF “FAMILY”.

Mr. Weiskircher explained the city received correspondence from the Miami Valley Fair Housing organization last fall during its review of local zoning codes in the area to ascertain whether there were any obstructions in regard to supported Living Homes and Oakwood was informed their code did not require any changes. About the same time, issues along Irving Avenue and the definition of family arose due to student housing. He referenced the proposed ordinance amendment which gives staff added flexibility with enforcement. Mr. Weiskircher reported at the December council meeting, based on an inquiry from several Irving Avenue property owners, staff made a presentation on the various amendments to the family definition including other jurisdiction regulations and Oakwood’s two unrelated persons is as strict as the law will allow. He explained this is not a major change, but a housekeeping measure.

Mr. Klopsch indicated they also have an issue with a property owner who has four (4) unrelated students and claims that two (2) of the residents are claiming exception based on ADA and medical issues. Staff is concerned that they are using the ADA regulations improperly so this amendment helps with the issue as well. He indicated it is financially driven for some to buy homes on Irving rather than the high cost of campus housing. Mr. Jacques explained a group home is licensed by the state under separate regulations and this does not change how the city interprets or applies the family definition ordinance. Mrs. Gowdy wondered about documentation proof for ADA requirements. Mr. Jacques indicated the intent is not to focus on the disability issue but tie more into housing requirements. Mr. Klopsch explained if there are more than two unrelated individuals, staff contacts the property owner - a timing issue which might include a legal process.

Mr. Aidt opened the public hearing. Mr. Robert Conard resides on Irving and believes this is helping make it more difficult to abuse the ordinance. Although he would prefer more rigid standards, this is a good change .

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

Therefore, it was moved by Mr. Byington and seconded by Mrs. Gowdy that the aforementioned ordinance be recommended to city council for their review and approval.

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

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

There being four (4) yea votes and no (0) nay votes thereon, said motion was declared duly carried and it was so ordered.

Mr. Weiskircher referenced the draft Rules of Procedure the commission received during the last meeting which are consistent with how they operate and which the Chairman suggests be given to the audience. Mr. Byington agreed and suggested the information be included on the website and attached to application information for both the Planning commission and Board of Zoning Appeals. Mr. Jacques indicated the BZA would have to adopt the rules separately. Mrs. Jackson suggested the three minute limit language be adjusted for debate by the Planning Commission.

Upon a viva voce vote, the commission concurred to adopt the Rules of Procedure.

Mr. Klopsch gave an update on the estate tax and Local Government Fund issues and the importance to varying cities. He indicated they now wait for the Governor's biennium budget. He also reviewed the overhead screen which the audience sees and which the commission looks down to view on the Diaz.

The Planning Commission adjourned. The public meeting concluded at 5:52 p.m.

VICE CHAIR

ATTEST:

CLERK