

Oakwood, Dayton, Ohio

March 19, 2008

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 4:35 p.m.

The Vice Chair, Mr. Jeffrey Shulman, presided and the Clerk, Ms. Cathy Blum, recorded.

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

MR. JEFFREY B. SHULMAN.....PRESENT
MR. ANDREW AIDT.....PRESENT
MRS. REBECCA BUTLER.....PRESENT
MRS. HARRISON GOWDY.....PRESENT
MR. STEVEN BYINGTON.....PRESENT

Officers of the city present were the following:

Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Dave Bunting, City Inspector

The following visitors registered:

Gregory and Tricia Toussant, 406 Dellwood Avenue
Julie Thomes, Virginia Hollinger Tennis
Bob Rhodes, Rhodes Construction

Mr. Shulman noted organizational issues need to be taken care of. Mr. Weiskircher explained nominations are needed for chair and vice chair.

It was moved by Mr. Aidt and seconded by Mr. Byington that Mr. Shulman be appointed chair. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

It was moved by Mr. Shulman and seconded by Mr. Byington that Mr. Aidt be appointed vice chair. 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 Mr. Aidt that the minutes of the planning commission meeting held December 5, 2007 be approved as submitted and the reading thereof be dispensed with. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Shulman reviewed the meeting procedure. Mr. Weiskircher welcomed new members Mrs. Butler and Mrs. Gowdy.

Application #08-1, the request by Tricia and Gregory Toussant to vary the 50% rear yard green space requirement, to vary the side and rear yard setbacks and to vary the five (5) foot setback requirement for a driveway area associated with the construction of a new single-family residence at 820 Shafor Boulevard (NEC of Shafor Boulevard and Wisteria Drive) was presented. Mr. Weiskircher referenced a PowerPoint presentation and explained this involves four issues; one special use and three variances. He reviewed views of the lot from Shafor which formerly housed a two-story Tudor that sustained serious fire damage in December, 2004 and subsequently had to be demolished. The Toussants purchased the lot in 2006. He reviewed photos of the existing drive apron, north property line (rear yard), views from Wisteria, etc.

Mr. Weiskircher referenced elevations of the proposed home from Shafor, from Wisteria and from the east and north (access to the three-car garage and sunroom) which will be built by Mr. Rhodes. From a historical perspective, he referenced the footprints of the former and proposed homes, as well the fencing being proposed along the east property line. The variance issues are: 1) east side yard variance where 6' is required and only 4' will exist; 2) north rear yard where 40' is required and only 32' will exist from the home, the sunroom encroaches an additional 13'; and 3) a portion of the drive encroaches the 5' setback. The special use relates to violation of the 50% required rear yard green space, a violation of 145 square

feet. Mr. Weiskircher reviewed the next drawing which outlines in red the three variances. He also referenced a chart on the green space calculations; 3,240 square feet is needed, 1,620 was deducted for the structure, walk, drive and sunroom for a shortfall of 145 square feet. Mr. Weiskircher explained that the applicants have spoken with neighbors regarding their plans.

Mr. Byington asked about the setback requirements. Mr. Weiskircher explained that the setback is determined by using the average setbacks of the homes on that side of the street and within 400 feet of the lot. Mr. Shulman wondered if this is an unusually large lot. Mr. Weiskircher responded R-4 requires a minimum of 8,000 square feet and this lot is approximately 12,000 which is above average for the area. Mr. Shulman asked the applicant if they had anything to add. Mr. Toussant presented a sample of the brick and roof material. Mr. Weiskircher asked about the building schedule. Mr. Rhodes explained once approval is obtained, they will complete the drawings and then a quick start. He also pointed out there are limestone accents on the home which blend in with the older homes in the neighborhood. Mr. Shulman asked about building construction time. Mr. Rhodes estimated six to eight months. Mr. Byington wondered why they chose a ranch style. Mr. Toussant explained it fits their life style, they have three children and they intend to stay there on a long term basis.

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:

- Side Yard: Although the applicant's original submittal depicted the required 6' side yard setback, when the Shafor Boulevard setback had to be increased from 15' to 19' and the footprint of the house shifted to the east, the resulting setback was only 4'. To try and meet the 6' side yard setback will further impact the internal floor plan of the home which is why the applicants plan to install a privacy fence along the east side of the property.
- Rear Yard: At 12,200 s.f., the lot is simply not large enough to accommodate a reasonably sized house and meet all setback requirements. With a 33' setback along Wisteria (front yard), the length of the proposed home would have to be reduced from 57' to 49', and the sun-room eliminated altogether in order to meet the rear yard setback. With the exception of the sun-room which is 19.33', the proposed setback of 32' is significantly larger than the 15' rear yard setback which existed with the former home.
- Driveway: The Zoning Code requires that driveways be located at least 5' from any property line. Although the applicant is proposing to use the existing Shafor curb cut from the former home, a portion of the new driveway pad is only 2' from the lot line. While the former home had a two-car garage facing Shafor Boulevard, this proposed home has a three-car garage located on the north side of the property. Therefore, in order to provide adequate space to safely access the garage space, a portion of the driveway had to be moved closer to the property line. Reducing the size of the driveway pad by 3' in order to meet the setback requirement will create an access problem and thus a hardship for the applicant.

PLANNING COMMISSION FINDINGS: Sustained.

- 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:

- Side Yard: The difficulty in this application arises from the fact that in order to meet the average corner side yard setback along Shafor Boulevard the house had to be moved an additional 4' to the east.
- Rear Yard: Similarly, given the Wisteria setback requirement, it would be very difficult to develop a realistic footprint capable of meeting the 40' rear yard setback.

- Driveway: The footprint dictates that the garage be accessed from the north thus necessitating the variance request.

PLANNING COMMISSION FINDINGS: Sustained.

C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.

PRELIMINARY STAFF FINDINGS:

- Side Yard: The purpose of the side yard variance is to allow the applicants the opportunity to utilize 2' of space that was lost when the footprint of the home had to be relocated 4' further to the east away from Shafor Boulevard.
- Rear Yard: Similarly, in order to accommodate a reasonably sized footprint, a rear yard variance is needed.
- Driveway: The driveway variance is associated with the desire of the applicant to have a three-car garage on the north side of the structure thereby enhancing the appearance of the front façade along Shafor Boulevard.

PLANNING COMMISSION FINDINGS: Sustained.

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:

- Side Yard: The alleged difficulty in meeting the side yard setback arose when the house had to be moved an additional 4' to the east beyond the standard 15' corner side yard setback.
- Rear Yard: As with the previous home which stood on the site, meeting the setback requirements along the Wisteria side of the property creates a hardship in trying to meet the 40' rear yard setback.
- Driveway: The difficulty in this application is created by the fact that the garage is located on the north side of the property, and in order to be able to provide convenient access, a portion of the driveway pad must encroach upon the 5' setback requirement.

PLANNING COMMISSION FINDINGS: Sustained.

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:

- Side Yard: While the property can yield a reasonable return if the owner is required to meet the setback regulations, the footprint would have to be reconfigured which, in all likelihood, will result in a home in which the square footage has to be achieved vertically rather than horizontally.
- Rear Yard: There does not appear to be a realistic footprint that can be developed which would yield a reasonable return on the cost of the parcel and at the same time meet the rear yard setback requirement.
- Driveway: Although the property can yield a reasonable return if the zoning regulations are met, the resulting conditions would be less than ideal for safe and convenient ingress and egress to the three-car garage.

PLANNING COMMISSION FINDINGS: Sustained.

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:

- Side Yard: The applicants are proposing to erect a 5' high privacy fence along the east property line which should mitigate any impact a variance may have upon the adjoining property owner.
- Rear Yard: Since the rear yard setback is actually greater under the proposed footprint than what existed with the previous home there should be no detrimental impact on the adjoining neighbor.
- Driveway: With the existing privacy hedge and solid board fence the adjoining neighbors should not be impacted by the partial encroachment of the driveway pad into the required setback.

PLANNING COMMISSION FINDINGS: Sustained.

- 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:

- Side Yard: If the proposed 2' variance is granted there will still be 14' between the east side of the proposed home and the west side of the adjoining property to the east. Although the proposed home is certainly closer than the former home, it is only a single story as compared to the former two-story structure.
- Rear Yard: Given that the proposed rear yard is more than twice the setback distance as the former home, there should be no light or air issues, nor should there be any aesthetic issues even though the garage is on the north side of the structure.
- Driveway: There do not appear to be any issues associated with the driveway variance that will impact either the adjoining property owners or the neighborhood.

PLANNING COMMISSION FINDINGS: Sustained.

- 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:

- Side Yard: As already mentioned, if the applicants were required to comply with the side yard setback, they would have to further reduce the footprint of the home which, in turn, will negatively impact the size of the rooms throughout the structure.
- Rear Yard: It will be extremely difficult for anyone to develop this lot with a reasonably sized home if the footprint were required to meet the rear yard setback requirements.
- Driveway: Although the applicants could comply with the setback requirements, the resulting conditions would make it extremely difficult to conveniently access the three-car garage.

PLANNING COMMISSION FINDINGS: Sustained.

- 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:

- Side Yard, Rear Yard & Driveway: Even though the proposed home covers approximately 2,200 s.f. of additional lot area than the previous home, it seems to be well proportioned on the lot. The exterior materials chosen for the home are compatible with the neighborhood, and the appearance of the home is not inconsistent with the architectural diversity which exists throughout the community.

The property owners made a significant investment when they purchased the lot in January, 2006 for \$240,000, and the home being proposed for this site is economically compatible with the initial investment.

PLANNING FINDINGS: Sustained.

Mr. Weiskircher suggested each variance be voted on separately. In regard to the east side yard variance, Mr. Byington wondered why they didn't relocate the home 2' closer to Shafor. Mr. Weiskircher indicated staff would have felt uncomfortable with the home being located closer to the street. Mr. Shulman asked about the setback on Shafor. Mr. Weiskircher explained the average is 19' on Shafor and 33' on Wisteria. Mr. Byington questioned the distance between the house to the east. Mr. Weiskircher responded 10'. Discussion ensued in regard to the motion.

Therefore, it was moved by Mr. Aidt and seconded by Mr. Byington that a portion of application #08-1, the request by Tricia and Gregory Toussant to vary the side yard setback with the construction of a new single-family residence at 820 Shafor Boulevard (NEC of Shafor Boulevard and Wisteria Drive) and known as lot #2638-2637 pt., the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request for the 4' setback on the east property line based on plans and information submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

The second variance issue related to the rear yard setback. Mr. Shulman wondered why the sunroom isn't part of the house. Mr. Weiskircher explained the house itself needs a variance at 32', only the sunroom needs a variance at 19'.

Therefore, it was moved by Mr. Aidt and seconded by Mr. Shulman that a portion of application #08-1, the request by Tricia and Gregory Toussant to vary the rear yard setback for with the construction of a new single-family residence at 820 Shafor Boulevard (NEC of Shafor Boulevard and Wisteria Drive) and known as lot #2638-2637 pt., the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request for the 32' setback for the house and 19' setback for the sunroom based on plans and information submitted and in compliance with all applicable city rules and regulations. 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. Aidt and seconded by Mr. Shulman that a portion of application #08-1, the request by Tricia and Gregory Toussant to vary the five (5) foot setback requirement for a driveway area associated with the construction of a new single-family residence at 820 Shafor Boulevard (NEC of Shafor Boulevard and Wisteria Drive) and known as lot #2638-2637 pt., the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request for the 2' setback for the drive which encroaches the 5' setback based on plans and information submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

SPECIAL USE STANDARDS

A. The proposed use at the specified location is consistent with the Comprehensive Plan.

PRELIMINARY STAFF FINDINGS: The new home being proposed by the applicants is consistent with the objective set forth in the Comprehensive Plan that new housing construction complement and enhance existing neighborhood scale and character.

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: Although the proposed home violates the 50% rear yard green space requirement by approximately 145 s.f., the proposed rear yard setback is significantly greater than the previous home. Much of the impervious surface in the rear yard is associated with the size of the driveway pad necessary to provide convenient ingress and egress to the garage area. Granting the special use will not adversely affect or change the character of the area.
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: The establishment of the special use will have no impact whatsoever on the safety, morals, comfort, convenience or general welfare of the public.
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: Taking into consideration the screening already provided by existing privacy fences which run along almost the full length of the north property line, the proposed special use will not be injurious to the reasonable use and enjoyment of adjoining property nor will it substantially diminish property values within the neighborhood.
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: The special use will have no impact whatsoever on the development of adjacent or nearby property.
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: Although the applicants are planning to use the Shafor curb cut from the previous home, the garage is on the north side of the structure rather than on Shafor Boulevard. Consequently, most of the impervious surface associated with the driveway is located in the rear yard rather than the corner side yard. Even though the functional plan of the proposed home is markedly different from the previous home, it will not change the character of the area nor depreciate property values.
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: All utility connections and necessary drainage facilities are being provided at the applicant's cost.
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: As already mentioned, the applicant will be using the existing curb cut on Shafor Boulevard so the traffic pattern will be the same as the

former home.

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: Except for the variance associated with the encroachment of the driveway into a portion of the 5' setback requirement, the special use conforms to all other applicable regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Mr. Byington wondered what percentage the 145 s.f. violates. It was noted approximately 8%.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Butler that a portion of application #08-1, the request by Tricia and Gregory Toussant to vary the 50% rear yard green space requirement with the construction of a new single-family residence at 820 Shafor Boulevard (NEC of Shafor Boulevard and Wisteria Drive) and known as lot #2638-2637 pt., the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request for the 145 square foot variance to the required green space based on plans and information submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Application #08-2, the special use request for the Virginia Hollinger Memorial Tennis Club to install two identification signs on the property at 201 Shafor Boulevard was presented. Mr. Weiskircher referenced photos of the proposed identification sign locations. He explained that the tennis court facility is a non-conforming use in the R-3 zoning district. Since identification signs aren't permitted in a residential district, a special use is required. He noted the sign on the Schantz side had been vandalized years ago and they plan to re-use those sign poles. The Shafor sign will be 24 x 36 and located in close proximity to the public sidewalk; the Schantz sign 35 x 40 and Ms. Thomes, representing the Club, is available to answer questions.

Mr. Shulman indicated as one of the founding members, he needs to recuse himself and hopes the courts will open soon. Ms. Thomes reviewed the sign materials and explained the sign on Shafor will be double sided and perpendicular to the street. Mr. Byington asked if there is a stipulation on the number of signs since there is an existing one on the fence. Mr. Weiskircher responded no. Mr. Byington asked if there is any intent to light the signs. Ms. Thomes responded no but noted if required, they could remove the sign next to court fencing on the Shafor side of the property. Mr. Aidt asked if there had been any recent vandalism. Ms. Thomes responded not within the past few years. Discussion ensued in regard to a motion and possibly not permitting the existing sign on the fencing to remain.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
PRELIMINARY STAFF FINDINGS: The proposed signage is part of an overall plan to upgrade the Hollinger Facilities and is consistent with the Comprehensive Plan goal of enhancing those portions of the living environment which support the local population.
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 proposed free-standing signs are of a size, scale and appearance that will not change the character of the area.
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: The signs will be located on private property and therefore will not be detrimental to or endanger the public health, safety, morals, comfort, convenience and/or general welfare.

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 signs will have no impact whatsoever on the use and enjoyment of neighboring properties nor diminish property values within the neighborhood.

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: The proposed signs will have no impact whatsoever on the development of adjacent and nearby properties.

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 signs will be manufactured by a local sign company and are of a scale and appearance that will not detract from the character of the neighborhood nor depreciate property values.

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: This standard is not applicable to this application.

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: This standard is not applicable to this application.

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: The proposed signs exceed the 3 ½' maximum sign height permitted in residential districts.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that application #08-2, the special use request for the Virginia Hollinger Memorial Tennis Club to install two identification signs on the property at 201 Shafor Boulevard, and known as lot #2697, the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request for two signs, one on Shafor and one on Schantz with the exact location to be determined by staff and the applicant based on plans and information submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed with four yeas and one (1) abstention from Mr. Shulman, and it was so ordered.

Due to spring break being when the regularly April meeting is scheduled, Mr. Weiskircher asked if the April 2 meeting should be moved to April 9 since they have two requests. First, Mr. Williams, Versant, will present amendments to the Residential Master Plan. The second request also involves Mr. Rhodes, who was retained to build a new home for the Sanfords at 240 Park Road. The issue will be to review the landscaping plan, which is a condition of the home sale contract. The owners are still working with the builder on house plans, the plan are not prepared at this time. Mr. Byington asked how they can approve a demolition without new plans. Mr. Weiskircher explained the issue relates to execution of the landscape plan. Mr. Shulman asked about timing. Mr. Weiskircher believes they want to begin construction this summer and explained the contract was written in such a way that the new owners needed to obtain permission to proceed with the demolition. Although in most instances the landscape plan is presented at the same meeting as the plans for the new home, it didn't work out that way for this request. Mrs. Gowdy asked if they have the ability to say no to a landscape plan without new house plans. Mr. Aidt explained the demolition is regulated through the Building Code. Mr. Weiskircher concurred and added the landscape plan regulations have a stipulation that if building begins within 60 days, the landscaping need not be installed.

Mr. Weiskircher indicated this is similar to the Hemmelgarn request on Oakwood Avenue. Mr. Byington asked how start of construction is defined. Mr. Weiskircher responded once the building permit is taken out. Mr. Byington believes the city needs to look at the landscape plan regulation and whether it should be tied into new construction. Discussion ensued in regard to the regulation. Mrs. Gowdy noted the public might feel as if they are being deceived with the term review of landscape plan. Mr. Weiskircher explained that the legal ad includes language referring to the planned demolition. Mr. Shulman asked if that regulation is in the Zoning Code. Mr. Weiskircher responded no, it's in the Building Code and he will forward a copy. Mr. Shulman anticipates concerns from the preservationists. Mr. Weiskircher noted that the interior of the home has been stripped.

Upon approving the April meeting date change from April 2 to April 9, it was moved by Mr. Aidt and seconded by Mr. Shulman that the Planning Commission be adjourned. The public meeting concluded at 5:38 p.m.

CHAIR

ATTEST:

CLERK