

Oakwood, Dayton, Ohio

August 3, 2005

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 Chair, Mr. William Kendell, presided and the Clerk, Ms. Cathy Blum, recorded.

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

MR. WILLIAM KENDELL.....PRESENT  
MR. JEFFREY B. SHULMAN.....PRESENT  
MR. STEVEN BYINGTON.....PRESENT  
MR. ANDREW AIDT.....PRESENT  
MR. CARLO C. MCGINNIS.....ABSENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager  
Ms. Dalma Grandjean, City Attorney  
Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Dave Bunting, City Inspector

The following visitors were present:

Roger Doolin, Miamisburg  
Jim Joly and Chong Zhang, 20 Lookout Drive  
Lisa Mullen, 1000 Runnymede Road  
Bob & Judy Whitehead, 317 Telford

It was moved by Mr. Byington and seconded by Mr. Aidt that the absence of Mr. McGinnis 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. Kendell and seconded by Mr. Shulman that the minutes of the commission meeting held July 13, 2005 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 #05-9, the special use for Robert and Judith Whitehead for the existing rear yard pavers which exceed the 50% green space requirement at 317 Telford was reviewed. Mr. Kendell noted the pavers have been in place and were noticed during a pre-sale inspection. Mr. Weiskircher referenced a plot plan that depicted the 210 square foot patio to the east and an additional 110 square foot paver area to the west for trash cans. He indicated a special use is required since the impervious area exceeds the required 50% green space ratio by approximately 120 square feet. He reviewed photos of the paver areas that abut neighboring garages and fences. Mr. Weiskircher indicated prior to today's meeting he asked Mr. Whitehead how long the pavers have been in and was informed approximately seven years.

Mr. Kendell asked the city attorney about procedure in terms of the standards and motion. Ms. Grandjean suggested the commission make a finding that they have reviewed the evidence/findings and concur with everything; unless there is a standard they don't concur with then they need to make that modification. She indicated they need to state that all standards were met, then either approve the application, approve with conditions, or deny the request. Mr. Klopsch suggested rather than read the standards verbatim, the commission be asked whether there is a specific standard they'd like to review. Mr. Kendell explained to the audience that included with the agenda are the special use standards which the commission reviewed for each application and rather than read the standards, the commission is trying to work out language for a motion referencing said standards. Ms. Grandjean indicated they also need to reference the findings of fact by staff and whether the standards have successfully been met based upon evidence of those standards found in section 1004.6.

Mr. Kendell asked if there were any comments relating to the application. There being none, the public hearing portion of the meeting was closed.

### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: The use of pavers is consistent with the principle in the Comprehensive Plan that residential improvements be compatible with the scale and character of the surrounding neighborhood.  
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 areas in question are surrounded on three sides by garages and are barely visible to the adjoining property owners.  
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 use of pavers on a residential lot is a common practice and should not be detrimental to the public's 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: As already noted, the areas in question are well screened and therefore the pavers should not have a negative impact on the adjoining properties.  
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 presence of the pavers will not have an impact on the use and/or development of properties within the area.  
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 use of pavers for residential applications is a common practice and should not 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: Drainage is not an issue in 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: Except for the special use request, the pavers conform in all other respects to city codes and regulations.  
PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Shulman that application #05-9, the special use request for Robert and Judith Whitehead for the existing rear yard impervious surface that exceeds the 50% green space requirement at 317 Telford Avenue and known as lot #885, be approved based on the fact that the commission has reviewed the special use standards in section 1004.6, reviewed the findings of fact, reviewed staff recommendations, have no objections to the special use standards, 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.

Mr. Aidt asked if the commission could have the language in writing. Ms. Grandjean is still fine tuning the information. Mr. Klopsch indicated it will be included in the next packet of material. Mr. Aidt referenced standard language used in Kettering. Mr. Klopsch asked if they could review same.

Application #05-10, the special use request for Jim Joly for the installation of a curvilinear driveway and to vary the side yard setback for placement of the regular driveway on lot #3959 Little Woods Road was reviewed. Mr. Weiskircher indicated it is exciting to see a proposal given all the work the commission has spent the last couple years on the subdivision. Although the development has fewer lots than originally planned, the Mullens have purchased the manor home and there are four buildable lots. He reviewed photos of the site taken from various angles and the proposed home. Mr. Weiskircher explained the two issues; first, a special use for a curvilinear drive; and second a variance for the proximity of the drive to the property line, 5' is required and there are areas where the drive intrudes in that setback. He reviewed the outline of the buildable area on the lot and the required wooded easement in the back that was mandated by the commission in the covenants. Mr. Weiskircher indicated there is a 170' setback from the edge of the drive to the street and 200' from the house to the edge of the street. He noted the lot also includes an in-ground pool.

Mr. Weiskircher reviewed elevation drawings of the proposed home that is a contemporary style with Frank Lloyd Wright characteristics. He noted the mean height elevation is 23' on the proposed 5,200 square foot home. He indicated the Jolys, Lisa Mullen and Roger Doolin are in the audience and the latter will work with the city engineer on the drainage requirements. In regard to drainage, he referenced a letter forwarded to the commission from an attorney representing property owners on Oakmead about a water situation which they feel was caused by the subdivision. However, Mr. Doolin feels the watershed on this property is not related. Mr. Weiskircher also referenced a letter received earlier in the day from the Joly's architect and reasoning behind the driveway request. Mr. Weiskircher reviewed the following curvilinear driveway standards.

### **CURVILINEAR DRIVE STANDARDS**

1. The zoning lot on which the curvilinear driveway is to be located is at least 1.5 acres.  
**Response:** This lot is 1.23 acres.
2. The front door of the principal structure is at least 100 feet from the edge of the street.  
**Response:** The front door is approximately 230 feet from the edge of the street.
3. Year-round vegetation screening must be installed so as to reduce the visual impact of the curvilinear driveway.  
**Response:** While the topography may serve to screen a portion of the curvilinear driveway from the street, there may be a need for additional vegetation screening.
4. The curvilinear driveway may not exceed 10-12' in width at any point and must be constructed of the same material as any existing or proposed driveway. This policy shall also require that any existing driveway that is substandard must be upgraded or replaced.  
**Response:** The proposed curvilinear driveway is approximately 12' in width and will be constructed of concrete – the same material as the driveway.
5. The curvilinear driveway may not be used for storage of material or long term parking of any vehicles, boats, RVs or other similar items.  
**Response:** As discussed during other applications, there will certainly be instances where vehicles are parked in the curvilinear driveway for extended periods of time.
6. The square footage of the curvilinear driveway may not occupy more than 50% of the total square footage of the front or corner side yard.

**Response:** The curvilinear driveway occupies less than 10% of the total square footage of the front yard.

7. At the furthest point from the edge of the street, the curvilinear driveway must be at least twice as far from the street as it is from the front door of the structure.

**Response:** At its furthest point, the curvilinear driveway is 205' from the edge of the street and less than 25' from the front door.

8. Exceptions to these guidelines may be granted from time to time because of unusual circumstances. Those circumstances, may include, but are not limited to: prohibited parking along the zoning lot, safety concerns over ingress and egress, special conditions of the property residents and topography.

Mr. Weiskircher indicated this lot is unusual in that it sits far back from the street. As referenced in his memo, the manor home has a curvilinear drive as do several other properties in the immediate area, not an uncommon request. Mr. Aidt asked if the mounding between the manor home and this lot was required for screening. Mr. Weiskircher responded yes it was part of the subdivision requirements. Mr. Kendall suggested the commission also address the drainage problem since they spent considerable time on this issue, were informed by Mr. Doolin there wouldn't be a problem, and then in turn informed concerned citizens that there would not be a drainage issue.

Mr. Joly thanked Mr. Weiskircher for the introduction on the proposal. He indicated they have briefly talked with the Mullens, sent them a site plan and understood there were some concerns. He explained they'd like to have the curvilinear drive particularly given the distance from the street so when entertaining, guests will have closer proximity to the home and to avoid parking congestion in the cul-de-sac. Mr. Joly indicated given the narrowness of the lot, the architect felt there should be a good balance between the front and rear yard and they want the rear for a play area. He added that the home was designed to blend in with the woods. Given the difference in topography, he doesn't believe the curvilinear drive will be visible and they plan some landscaping to shield the drive from the street and manor home. Mr. Joly indicated they did consider alternative designs but this is their preference for both functional and aesthetic reasons. In regard to the drive variance, Mr. Joly submitted a revised drawing that will eliminate a portion of the variance so that only one section of the drive violates the 5' setback. He pointed out the areas that will be used for ease in backing up and egress to aid in safety.

Mr. Doolin referenced the grading plan for the subdivision and pointed out the Joly lot. He reviewed the runoff from the area and the distance to the Fehrman property. He indicated they haven't completed the drainage design for the Joly property but soil conditions are very good, which is unusual for Oakwood. It is a sandy gravel which is good for a drywell and they plan two, one in the front and one to the rear. He indicated the curvilinear drive will add to the runoff but only a minimal amount. Mr. Kendall asked where the curvilinear drive will drain. Mr. Doolin explained plans to install a small catch basin in the front. He indicated the catch basin will connect to the drywell as will all the downspouts. Mr. Kendall pointed out the drainage study is a requirement of the building permit process, not the commission application. Mr. Bunting concurred. Mr. Kendall indicated this is a beautiful design and will compliment the community. He believes other lots in this subdivision will also want a curvilinear drive given the lot depth. Mr. Kendall suggested the curvilinear drive not exceed 12' in width, that landscaping be considered and had no problem with the variance request. Mr. Shulman questioned the distance from the property line to the portion of drive by the garage. Mr. Joly referenced the revised plan he submitted and indicated it sits back a couple feet, enough space to make an arc for access to and from the garage.

Mrs. Mullen pointed out that originally the mound between their home and this lot was to be longer, however, they asked Mr. Robinson not to make it so long so it would look natural. She is concerned that there be appropriate buffer so they can't see the Joly's boat or drive, nor see any headlights, and would prefer the setback be maintained. Mr. Kendall questioned the mound. Mr. Klopsch explained since the Mullens asked Mr. Robinson not to make the mound as long and tall as the commission required, the commission could require Mr. Robinson to do what was originally approved. Mrs. Mullen indicated they would like something that compliments both lots and provides privacy. Mr. Klopsch noted the commission could approve the plan conceptually and then review the landscaping plan at the next meeting. In regard to headlight concerns, Mr. Joly pointed out their lot is 10' lower than the manor home.

Mr. Shulman suggested they treat each issue separate. In regard to the curvilinear drive, he presented a motion that since the commission has reviewed the standards and submitted evidence, reviewed and concurred in staff's recommendations, he recommended the request be approved. Ms. Grandjean suggested they also include that staff findings have been adopted. Mr. Kendell suggested they require screening. Mr. Shulman concurred based on staff's review of the landscape plan. Mr. Kendell suggested they keep the motion open in case they want to add other conditions, i.e., drainage. Mr. Shulman asked that the motion be held in abeyance.

Mr. Joly asked that the landscaping requirement be phrased subject to approval rather than a recommendation since they want to propose their own plan. Mr. Kendell concurred, they ask the city horticulturist to review the plan.

In regard to the variance request, Mr. Shulman presented a motion that based on evidence, the commission has reviewed the variance standards, reviewed staff recommendations and he recommended approval of the variance subject to staff's review and approval of the final landscape plan.

Mr. Klopsch asked if that is based on the revised plan submitted at the meeting. Mr. Joly noted the property line goes through the middle of the berm. Mr. Kendell suggested both owners work together on the berm or perhaps they require Mr. Robinson to do so. Mr. Klopsch believes a creative landscape architect could come up with a design that will incorporate plant material for a plan that is acceptable to both. Mr. Kendell wonders what happens if the owners disagree. Ms. Grandjean indicated the commission can't delegate to the Mullens veto power but can indicate that the landscape be approved based on the plan being compatible with the use and enjoyment of the property, characteristics of the area, etc., per standards and work with city staff. Mr. Klopsch suggested they work through Mr. Weiskircher and if both don't agree with the plan, then they could return to the commission; or the developer could be made responsible to build the mound as required. Mr. Aidt indicated if they grant the variance and the two owners are unable to work out the screening requirement, then the variance would be void. Mr. Joly suggested consideration to withdraw the variance request based on the requirement to satisfactorily shield from the Mullens, although he doesn't want to be un-neighborly, they are requiring a lot of contingencies for the variance. Mrs. Mullen believes they can come up with an acceptable plan. Mr. Joly indicated both the Mullens and he did not want the large berm and communicated that to Mr. Robinson. Discussion ensued in regard to the woods, intent of the original berm, photos of the berm, etc.

Mr. Doolin understands concerns with the berm, but reiterated there is a 10' elevation change between properties and suggested when the basement is excavated the surplus dirt be used. Mr. Byington asked if there is a landscaper on board yet. Mr. Joly responded no and recalled that Mr. Robinson was going to plant some evergreens. Mr. Shulman suggested they review the berm with the developer. Mr. Klopsch reminded the commission that both property owners directed Mr. Robinson to modify the required berm. Mr. Byington wondered if when originally approved, was the purpose for any reason other than aesthetic screening. Mr. Klopsch responded no. Mr. Kendell asked who would pay for the work. Mr. Weiskircher responded the developer. Mr. Klopsch indicated the city recently sent a letter to Mr. Robinson about outstanding items that need to be addressed before the final plat is approved and suggested this be included. Mr. Kendell suggested that input be obtained from both neighbors on the mound. Mr. Shulman believes Mr. Robinson needs to be involved to satisfy the city and property owners and recalled granting the development subject to landscaping.

Mr. Shulman asked about drainage concerns. Mr. Kendell referenced a letter from the attorney representing the Fehrmans about drainage problems from the subdivision into their pool. He expressed concern since he was told by Mr. Doolin and in turn told concerned citizens that there would be no drainage problem. Mr. Weiskircher explained at the end of June and early July there were three significant rain events. Although the Fehrmans always got some water, this time they also got silt in the pool and the house. Since that time, Mr. Robinson has installed additional bales of hay, silt fencing and planted grass on the slopes. The city has also uncovered an open sewer pipe at the rear of the Hemmelgarn property, a portion of which was purchased from Mr. Robinson, and plan to install a catch

basin. Mr. Weiskircher indicated that Mr. Robinson has assured the Fehrmans he will pay for all cleanup costs associated with the recent rain events.

Mr. Kendell wondered if the excavation violated the covenants, i.e., cannot build within 12' of the footprint of the home and the 25' wooded easement. Mr. Weiskircher indicated the developer complied with both requirements. Mr. Kendell felt it hard to fathom, given the distance between the properties that the development caused the silt problem. Mr. Klopsch explained there is a significant distance – probably more than 100' between the disturbed area and the pool. He indicated the good news during the three significant and isolated rain events is they know what could happen. Although there isn't a local rain gauge, given the intensity of the rains it could have been a "20-year rain" but noted there weren't mud slides only erosion. Mr. Klopsch indicated originally Mr. Robinson didn't have out more than what is typically seen at a construction site and since has really worked on barriers. He also reviewed the open storm line where water has accumulated and where they will install a basin. Mr. Weiskircher indicated staff is also working with Mr. Robinson and referenced the picture of the abutting wooded area and Fehrman property. Mr. Byington doesn't think there is anything else Mr. Robinson could do and doesn't feel the issues are related. Mr. Klopsch indicated there was more pervious surface when the carriage house and tennis courts were in place but the soil has since been disturbed. Mr. Byington reiterated he is not convinced this site impacted the Fehrman's pool.

### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: One of the principles set forth in the Comprehensive Plan is that all new residential development should be characterized by high quality construction and be compatible with the scale and character of the surrounding neighborhood. The proposed home and curvilinear driveway are in keeping with the character of the surrounding neighborhood.  
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 property is zoned for residential use and a request to construct a curvilinear driveway is not inconsistent with the scale of the home and the size of the lot.  
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 existence of a curvilinear driveway will not be detrimental to the public's 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 adjacent manor home already has a curvilinear driveway as does the Hemmelgarn property to the east and the Deitz property to the north.  
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: Although this is the first new home to be constructed in the newly platted Runnymede Hills Subdivision, it does not appear that approving a curvilinear driveway will affect the use and development of the adjacent lots. Due to the sloping topography, the proposed curvilinear driveway may not be fully visible from the cul-de-sac.  
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 curvilinear driveway does not appear to be at variance with the architecture of the proposed home nor is it inconsistent with the character of the 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: The applicant is responsible for submitting a drainage plan to address how storm water runoff will be addressed.

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: The property will be accessed by a driveway leading from the cul-de-sac.

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: Assuming stormwater runoff is adequately addressed, the proposed curvilinear driveway conforms in all other respects to the applicable regulations of the district.

PLANNING COMMISSION FINDINGS: Sustained.

#### **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: Due to the fact that the footprint of the home occupies the entire width of the building envelope, there is limited side yard space to access the proposed three-bay garage.

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: The five (5) foot setback requirement was adopted during the last Zoning Code edit. There are many driveways throughout the city which directly abut a property line.

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: The variance is being requested to accommodate the width of the driveway near the garage, and is not based upon a desire to make more money out of the property.

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: The alleged difficulty is created by the footprint of the home and the lack of available space to accommodate a portion of the proposed driveway within the required setback line.

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: The property can yield a reasonable return if the variance request is not granted.

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: The location of the driveway abuts the property line of the manor home and it does not appear that granting the variance will have a negative impact on the manor home.

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: The location of the proposed driveway will not have an adverse aesthetic appearance nor will it diminish or impair property values in 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: The juxtaposition of the proposed home on the lot rather than natural features of the land has created the variance request in this application.

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: With nearly 160 feet between the proposed driveway and the manor home, it does not appear that granting the variance will have a negative impact on the manor home.

PLANNING COMMISSION FINDINGS: Sustained.

Mr. Shulman asked that his previous motions be withdrawn. Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that application #05-10, the special use request for Jim Joly for the installation of a curvilinear driveway and to vary the setback for placement of the regular driveway on lot #3959 Little Woods Road, be approved since the commission has heard and considered evidence presented by the applicant and other parties, reviewed staff findings, concurred with staff findings, based on the special use standards found in 1004.6 and the variance standards found in 1006.7, the requests be approved subject to the revised drawing submitted by the applicant showing a slightly different drive location and noted as Exhibit A, contingent upon staff's approval of the final landscape plan, 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.

Mr. Doolin referenced the subdivision drawing and pre-developed drainage issue. He explained when the cul-de-sac was installed, the water shed area was reduced and all the hard surface from the former buildings was eliminated, nothing drains to the rear of the development. He agrees the recent rain events were very unusual and don't fit any normal statistics, but were very intense for a short duration of time. He indicated the Fehrmans have been there for 12 years and this has never happened, however, they also have nothing to direct the water around the pool. Mr. Doolin agreed that the developer has done a lot to prevent the silt, but believes there would have been existing erosion in the woods if the problem was from the subdivision area. Discussion ensued in regard to the drainage issue. Mr. Klopsch pointed out that the development is a contributing cause and there were a couple water issues across the street.

Mr. Weiskircher updated the board on a variety of projects. He indicated plans for the new four-apartment unit building on Shroyer have been completed and are currently being reviewed. Site work should get underway within a month. In regard to the 2600 Far Hills Building, the landscape plan to screen the heat pump has been submitted but due to weather will be a while for the taxus installation, and staff worked on getting the conduit moved. He indicated C'est Tout plans to open their enclosure within the next couple weeks.

There being no further business to come before this session of the planning commission, it was moved by Mr. Shulman and seconded by Mr. Kendell that this session of the planning commission of the City of Oakwood, now adjourn. Upon a viva voce vote on the question of the motion, it passed unanimously. Thereupon, this session of the planning commission did adjourn at 6:25 p.m.

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CHAIR

ATTEST:

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CLERK