

PLAN COMMISSION

**Minutes of the Regular Meeting on
January 4, 2018**

**14240 West 151st Street
Homer Glen, Illinois 60491**

**Village of Homer Glen
14240 West 151st Street, Homer Glen, IL 60491
Village Board Room**

1. Call to Order.

The meeting of the Homer Glen Plan Commission was called to order by Chairman Mitchell at 6:58 P.M.

2. Pledge of Allegiance to the Flag.

3. Roll Call.

Present for the Plan Commission were Chairman Don Mitchell, Members Broque Backal, Beth Verdun, Eileen Crement, Lynn McGary and Bryan Kozor. Absent from the Plan Commission was Member Kevin O'Donnell. Present on behalf of the Village of Homer Glen were Director of Planning and Zoning Vijay Gadde and Assistant Planner Kyle McGinnis. The minutes were recorded and transcribed by Assistant Planner Kyle McGinnis.

4. Public Comment.

There was no one present at the meeting to make public comments.

Chairman Mitchell stated that he would like a motion to change the order of the agenda so that the minutes from December 21, 2017 would be discussed following the scheduled Public Hearing for Case No. HG-1801-V, O'Malley Builders, Inc.

A motion to amend the evening's agenda was made by Member Crement, seconded by Member Backal. Voice vote taken; all in favor, none opposed. *Motion Carried.*

Director Gadde swore in persons wishing to speak at the meeting.

5. New Business.

- a) **HG-1801-V, O'Malley Builders, Inc. (*Public Hearing*): Consideration of a Variance to reduce the required front yard setback for the properties located in the R-4 Single-family Residential District from thirty (30) feet to twenty-five (25) feet [Final Plat for Crystal Creek Estates Subdivision dated December 15, 2003] for certain real properties located at 12245 and 12251 W. Carroll Drive in Homer Glen, Illinois.**

Director Gadde began by explaining the case to the Plan Commission. The applicant – Shawn O'Malley – is a local residential developer. Mr. O'Malley owns both Lot 8 and Lot 9 of the Crystal Creek Estates Subdivision, located off of W. 159th Street east of S. Will Cook Road. Both lots in question, although sizable, contain large easements that dramatically reduce the available amount of buildable space when taking into consideration the Village's Code requirements. More specifically, Lot 8 contains a large stormwater detention easement located in the middle of the property, as well as a conservation easement that eliminates a significant portion of the property's southern half from the parcel's total

buildable area. Much of Lot 9 includes the same conservation easement and therefore suffers the same reduction in buildable space as Lot 8.

The applicant is requesting a slight reduction in the front yard setback in order to provide more space between these easements and any future homes. Proposals have already been made for Lot 8, which include a single-family home of comparable size to the others located in the subdivision. This proposed home, without the requested Variance, will directly abut the stormwater detention easement located on the property, which would present an inconvenience and hazard to the property owners due to the steep topographic change associated with this easement. Although this issue is not present on Lot 9, the applicant requested the same Variance for this lot in order to slightly increase the distance between any future development and the conservation easement on the property's southern half.

Chairman Mitchell called the applicant forward to speak.

Mr. O'Malley thanked Director Gadde and Assistant Planner McGinnis for their assistance throughout the Zoning process. He extrapolated on Director Gadde's explanation of the situation by stating that due to the topographic drop-off on Lot 8, the future property owners of the proposed home will have no way to access the rear of the home or property safely. The reduction of the front yard setback would provide ample room for the homeowners to access the rear of their home without navigating unsafe terrain. Mr. O'Malley also states that he built the existing homes to the west of the subject properties, but that because of the lack of easements on those lots the homes could be set back from the front property line significantly.

A motion to open the public hearing in Case No. HG-1801-V was made by Member McGary, seconded by Member Crement. Voice vote taken; all in favor, none opposed. *Motion Carried.*

Chairman Mitchell called for comments from the public. There were no persons present at the meeting wishing to make comments on this agenda item.

A motion to close the public hearing in Case No. HG-1801-V was made by Member Backal, seconded by Member Crement. Voice vote taken; all in favor, none opposed. *Motion Carried.*

Member Crement asked for clarification as to the location of the western lots referenced by Mr. O'Malley. Mr. O'Malley stated that he was referring to the two parcels located directly west of Lot 8. Lot 8 is the western-most parcel of the two properties in question, with Lot 9 located to the east.

Chairman Mitchell questioned whether these western lots had experienced any issues regarding easements or otherwise. The applicant explained that there were not any issues with these western properties.

Chairman Mitchell asked the applicant if he had purchased the lots from the original property owners. Mr. O'Malley explained that he did not. Chairman Mitchell then asked what the applicant's initial expectations were for these lots. The applicant replied that he had coordinated with Village staff from the beginning of the process to determine the buildable area of these lots, but that the drop-off issue on Lot 8 only came to light once the engineers for the project had produced a topographic survey as part of the Building Permit process.

Chairman Mitchell then asked the applicant if the lots had been inspected prior to their purchase specifically in order to make evident issues known before the applicant bought either parcel. Mr. O'Malley stated that the lots had been inspected prior to him purchasing the land, however, it was difficult at that time to know what impact the stormwater detention area would have on any future development without first creating proposals for these parcels.

Chairman Mitchell noted that the stormwater detention pond on Lot 8 likely exists to catch runoff from the surrounding development before the water could flow and flood the Forest Preserve trails located to the south of the subdivision. Mr. O'Malley explained that these lots drain into the stormwater detention area intended to accommodate for the full subdivision and that the pond is typically dry, indicating that any increase in runoff caused by the development of the subject properties should not be drastic.

Chairman Mitchell concluded that he does not have any concerns with the requested Variances and then asks the Commissioners if they have any questions regarding the case.

Member Backal echoed the applicant by stating that the growth of landscaping along the rear of the home on Lot 8 would further reduce the workable space behind the home, providing greater reason to request a Variance.

Chairman Mitchell asked for further comments or questions from the Commissioners.

Lynn McGary states that the future homes will have a good view of the Forest Preserve to the south. Chairman Mitchell agreed.

A motion to adopt staff's findings as the findings of the Plan Commission and to recommend approval of a Variance to reduce the required front yard setback for the properties located in the R-4 Single-family Residential District from thirty

(30) feet to twenty-five (25) feet [Final Plat for Crystal Creek Estates Subdivision dated December 15, 2003] for certain real properties located at 12245 and 12251 W. Carroll Drive in Homer Glen, Illinois [O'Malley Builders, Inc., Case No. HG-1801-V] was made by Member Backal, seconded by Member McGary. Roll call vote taken.

In favor (5) McGary, Crement, Backal, Verdun, Kozor. Opposed (0) none. Absent (1) O'Donnell. Abstained (0) none. The Chairman did not vote. *Motion Carried.*

6. Minutes.

a) December 21, 2017

Chairman Mitchell asked if the condition referenced in the minutes for the Plan Commission meeting and public hearing held on December 21, 2017, in regards to Case No. HG-1728-S, Enterprise Rent-A-Car, had actually been included in the final motion for the case. He felt very strongly that it had been decided that the Plan Commission would remove the condition from the motion citing concerns regarding future enforcement and whether it would even be necessary.

Member Backal voiced concerns that the condition – to require a parking agreement amongst the DANRICH, Inc. properties located in Annico Business Park – could jeopardize the sale of the land in the future.

Member Verdun stated that the condition was included in the staff report and that she did not recall the Plan Commission excluding it from the motion.

Director Gadde stated that the Village Board had approved the Variance request at the December 27, 2017 meeting and had included a condition with their approval stating that a formal cross access parking agreement would be formed amongst the relevant property owners to ensure the agreement's longevity and feasibility.

Chairman Mitchell voiced that he feels the condition is not enforceable and is too bureaucratic. Member Kozor responded to these concerns by stating that he feels the parking agreement is enforceable in an easily manageable manner.

A motion to approve minutes from December 21, 2017 was made by Member McGary, seconded by Member Crement. Voice vote taken; all in favor, none opposed. *Motion Carried.*

7. Reports of Plan Commissioners and Staff.

Member Crement asked if the Village utilized any practices that allowed them to track an applicant's progress towards the completion of a condition were their request

approved with a condition. Director Gadde explained that because the condition would be included in the approved ordinance, a legal document, then the condition would be legally binding and therefore able to be revoked if such a need arose. Director Gadde also stated that the applicant would have a certain period of time during which they would need to reach compliance with the condition(s) approved, after which action would be taken against the applicant were the condition(s) not fulfilled.

Member Crement responded to Director Gadde's comments by asking at one point it would become Village staff's responsibility to ensure that the conditions were being met. Director Gadde explained that staff does not typically track this type of progress in a proactive manner, but that the Village typically takes action if a complaint is filed against the applicant.

Member Crement then asked if the Village would be aware of the applicant's negligence without being provided a complaint. Director Gaddened reiterated that Village action in this scenario is typically based on complaints from the public and that proactive follow-up practices are not utilized.

Member Kozor explained that a final inspection occurs following the approval of a Variance. This final inspection is used as an opportunity to ensure that any structures, etc. approved by the Variance also comply with any conditions approved with the Variance.

Member Crement stated that she is specifically concerned with HG-1729-V, the Variance requested by Illinois American Water Company. She stated that the company failed to comply with a previously approved condition stating that the company would meet with the residents of Chickasaw Hills regarding the water treatment facility off of S. Parker Road. She also stated that had the residents not come forward during the public meeting held on December 21, 2017, then no one would have been made aware that the condition had not been fulfilled. She concluded that the Village should develop a way to enforce an applicant's obligation to fulfill their conditional approvals in a proactive manner.

Member Verdun stated that she feels there is also a lack of thorough and complete research incorporated into the staff reports provided to the Plan Commission, and that these types of issues would come to light earlier if more time were spent researching properties and requests prior to reaching the Plan Commission.

Chairman Mitchell recognized that there are two types of conditions – one-time conditions and others that are ongoing indefinitely. Member Crement stated that regardless of the type of condition in question, they should be included in reports for future projects associated with these conditions so that unmet conditions can be recognized earlier.

Member Crément questioned how it is possible for applicants to progress on future projects when the conditions of previous projects had not been fulfilled, specifically referring to Illinois American Water Company. Director Gadde stated that without a Variance, the company will have to build a six (6) foot fence and that all future work will require contact with the neighbors before approval.

Chairman Mitchell voiced frustrations with the Village's Code Enforcement staff, stating that their lack of follow-up makes the conditions approved by the Plan Commission irrelevant.

Member Crément stated that she would like to see follow-up from Village staff in these regards, and would like to see additional communication between Village staff and the Plan Commission in general. She concluded that she feels frustration with the Village that they do not hold negligent applicants accountable.

Member Verdun proposed that future conditions be approved with a deadline that Village staff can record digitally and reference at any time to ensure that conditions are being met in a timely manner following approval.

Chairman Mitchell asked who should be held to these deadlines to ensure that they are met. Director Gadde responded that it should be Village staff, not the Plan Commission or Village Board, who track the conditions and ensure their timely fulfillment. Chairman Mitchell agreed.

Member Backal stated that there are checks and balances in place to ensure that these types of issues are discovered and addressed. The Village does not have the resources to hire the staff required for a proactive approach, and he feels the responsibility therefore falls, in part, on the public. He also stated that he feels the Village's control in these situations is somewhat limited, but that he doesn't mind the responsibility falling on the public because the volume of work would be too great for a single Code Enforcement Officer.

Member McGary noted that despite the public outcry regarding the Illinois American Water Company's fence proposal, none of the residents of Chicasaw Hills had reached out to the Plan Commission or staff about the lack of communication leading up to the most recent public meeting. She feels that the residents are somewhat accountable in this scenario as well.

Member Backal stated that the public would have been made aware of the proposed fence in some form or another. Director Gadde supported this by stating that there are checks and balances in place to ensure that the zoning case process is fair.

Director Mitchell reiterated that he feels the Village's Code Enforcement staff should be more thorough in their work. Member Kozor stated that because of the nature of

the job, it is difficult to handle Code conformity issues not reported to staff as there is simply too much work to be done on a daily basis. He concluded by stating that this type of reactive approach is typical amongst many municipalities, so the Village's current system is not unusual.

Director Mitchell concluded with several points. Firstly, he does not feel that it is the responsibility of the Plan Commission to track Variance requests, particularly in regards to any conditions that might be approved in association with these Variances. Second, he feels that the staff reports made to the Plan Commission must be more thorough, as the partial or incomplete research of a case could negatively impact the Plan Commission's recommendation.

8. Adjourn.

Motion to adjourn at 7:53 P.M. was made by Member Backal, seconded by Member Verdun. Voice vote taken; all in favor, none opposed. *Motion Carried.*

Respectfully Submitted: Kyle McGinnis, Assistant Planner

Approved (Date):

1 - 18 - 18

Chairman Mitchell:

