

**Planning & Zoning Board
March 3, 2014**

Attendees:

Regina Dunay, Chairwoman
Susan Lomas, Board Member
Marion Rayburn, Board Member
Wade Fischer, Board Member
Jon Van Voorhis, Board Member

Staff:

Cinnamon Wild, Administrative Assistant
Ellen Hardgrove, AICP
Ray Bagshaw, Mayor
Bea Meeks, City Clerk
Drew Smith, City Attorney

Absent:

None

CALL TO ORDER

Chairwoman Regina Dunay called the Planning & Zoning Board (P & Z) meeting to order at 6:30 p.m., followed by the Pledge of the Allegiance. Administrative Assistant Wild announced there is a quorum.

APPROVAL OF MINUTES

- No minutes were provided for approval.

ORGANIZATIONAL MEETING

City Clerk Meeks administered the Oath of Office to the following newly appointed and re-appointed Planning & Zoning Board:

- Marion Rayburn – reappointed through 12/13/2015
- Susan Lomas – reappointed through 12/13/2015
- Wade Fischer – appointed through 12/13/2015

2014-01 – SE – SPECIAL EXCEPTION APPLICATION FOR CHURCH AT 5232 S. ORANGE AVENUE

Administrative Assistant Wild noted that 77 letters were mailed out, with 8 letters returned as of 02/26/14. There were no public comments.

Planner Hardgrove provided her report and introduced the applicant. She noted that parking is an issue. She also noted that the notarized form included in the P&Z Agenda packet in regards to the parking and times the applicant would have access to the parking lot.

Planner Hardgrove noted for the P&Z board to refer to the site plan, and said her approval was based on the following conditions:

- No more than 3 employees – Saturday and Sunday parking and church services.
- Facility will close by 10 p.m. each day
- Does not include rehab services – traditional service.
- No daycare can go in that building.
- 6' high fence or wall
- Future tenants in any part of the buildings onsite that will have services during the permitted hours of the church (i.e. Saturdays and Sundays, weekdays after 5:30 p.m. and Thanksgiving and the limited three employees during weekdays between 9am and 5pm) will not be allowed unless 1) this special exception is voided by the property owner, 2) the City Clerk or his/her designee approves such use by verifying the minimum quantity of parking per code is available for all uses on site, or 3) the special exception is amended reducing the maximum number of church attendants to balance the demand for parking with quantity available. Minimum quantity of parking can be achieved with verified joint use parking consistent with Code Section 134-606 AND 134-607 (see below). If the property owner chooses to void the special exception, he/she shall submit a notarized affidavit to City Council.

Planner Hardgrove said that when the applicant's Business Tax Receipt (BTR) is submitted, they will need to provide parking approval to the city. Board Member Rayburn questioned church service times, and noted that during the week they would be able to have services that start after 5:30 p.m. due to the relief in parking. She further noted that they could have services everyday during the week. It was noted that this could also cause additional traffic issues. Chairwoman Dunay questioned the property owner Bob Harrell; -noting the types of business' that can operate in the subject location. Mr. Harrell explained the process for BTR's with former and current lessee's (all churches) for the past 7 years. Mr. Harrell noted that the church has only 65 members. Board Member Van Voorhis referenced the issue of traffic, and Mayor Bagshaw mentioned that possibly a "DO NOT ENTER" sign to be installed. Board Member Rayburn noted there are illegal turns from the median.

Bobby Davis, a resident who lives at 5045 Oak Tours Dr said that he is a proponent of the church staying there. He also said that he would prefer that no bar be allowed in that space. He further stated that a church occupying that space has never been an issue in the 10 years that he has lived in the City.

2014-02 – VAR- RUSSELL HOME AT 510 HOLDEN AVE.

Board Member Lomas made the Motion to approve the application based on the (7) recommendations set forth in Planner Hardgrove's report; Seconded by Board Member Van Voorhis. Unanimously approved 5/0.

Administrative Assistant Wild noted that there were 53 letters mailed out, with one (1) letter returned and one (1) member of the public came in to review the file and requested copies.

Planner Hardgrove presented her report and noted this is for the variance approval only and that P&Z is not approving the Site Plan; the Site Plan is provided for informational purposes only. She noted to the Board that there is a copy of plans provided by Administrative Assistant Wild. Planner Hardgrove gave a brief history of reviews for Russell Home and different approval applications over the past few years. She turned it over to the applicant's Engineer John Kelly from Dyer, Riddle, Mills & Precourt (DRMP), who provided a review for the variances being requested. Mr. Richmond (Russell Home) noted the architect's submittal (provided in the packet), and confirmed for Chairwoman Dunay what was previously submitted. Engineer Kelly (DRMP) provided an explanation to Chairwoman Dunay, and noted how they were previously not ADA compliant. However, once the variances are approved they will be able to correct this compliancy issue.

Mr. Richmond and Engineer Kelly came forward to provide an explanation of a request for variance, in response to Chairwoman Dunay's concern regarding their prior submittal and internal access. Engineer Kelly explained the egress and ingress inside the building. Chairwoman Dunay noted that members of the public would like to comment.

Attorney Smith confirmed for Chairwoman Dunay that each variance would be heard and then a motion made.

Planner Hardgrove mentioned her conditions for approval of variances and they are as follows:

- Maintenance of the 6' high opaque fence along the north property line.
- Planting and clustering trees, to fill in gaps of existing trees.
- Building height is limited to one story.

Chairwoman Dunay opened the floor for comments from the public. Prior to public comments Administrative Assistant Wild noted for the record that Orange County Parks and Rec provided a letter stating that they support the variance requests #4 and #5.

Board Member Van Voorhis questioned the windows on the building and if there would be a barrier, Engineer Kelly referenced the 6' opaque barrier.

Bob Harrell came forward and spoke as a proponent for the Russell Home and he mentioned that he is in favor of all the variances.

2014-02 – VAR- RUSSELL HOME AT 510 HOLDEN AVE.

Administrative Assistant Wild introduced Mr. Jim Worthen who came forward to speak. Mr. Worthen lives at 4655 Casa Grande Drive. He is an adjacent property owner, he presented his concerns. He is in agreement with the variances and the conditions per Planner Hardgrove's report.

Variance #1 – Front Yard Setback (North) Variance of 3.5 feet: Code Section 134-579 requires 30 feet, 26.5 feet proposed.

Planner Hardgrove noted the landscaping in location to the wall, and then concluded her report. Engineer Kelly addressed the remaining variances.

Jim Worthen (Proponent) spoke in regards to this variance request, to reduce the setback to 30' then you would have to reduce physical structure and meet ADA requirements for the structure. He also noted the 6' opaque fence; stating he appreciated that this would be installed. He also questioned if there will be a buffer, stating how there isn't much guidance. He also noted the building height, lighting and windows. Regarding exterior building lighting, Mr. Worthen requested that "down-lighting" be added as a condition. He said he would approve based on those conditions.

Mr. Worthen confirmed for Planner Hardgrove that as an adjacent property owner to the Russell Home, he would recommend landscaping. He expressed interest in having a site meeting. Mayor Bagshaw recommended installation of understory trees instead of large Oaks that would later need to be removed.

Attorney Smith noted that he will strike the 2nd condition and add:
Location, plus tree heights and sizes to be installed shall be approved at site plan approval.

Attorney Smith confirmed for Mr. Worthen that there would be another public hearing and that he would have an opportunity to speak again (Site Plan P&Z Meeting) on this pending project. Attorney Smith said that he would like to revise another condition on the Planner's report; regarding lighting and that he has proposed language. The exterior lighting shall be down lighting to minimize glare on surrounding properties.

Attorney Smith confirmed for Chairwoman Dunay that the understory trees would be discussed at the time of site plan review. Mayor Bagshaw explained further what constitutes an understory tree and what is allowable.

Board Member Van Voorhis made the Motion to approve variance #1 subject to the conditions; Seconded by Chairwoman Dunay. Unanimously approved 5/0.

2014-02 – VAR- RUSSELL HOME AT 510 HOLDEN AVE.

Planner Hardgrove presented her findings for Variance #2:

Rear Yard Setback (south): Section 134-579 requires 35 feet, 26 feet proposed.

Planner Hardgrove confirmed for Chairwoman Dunay that there are storage sheds located in the rear yard, it was noted that the storage is for both the house and the resale shop that was approved by and is located on Orange Ave.

Planner Hardgrove noted her conditions for approval of this variance and they are as follows:

- Rear yard variance is only to be approved in the location of the existing playroom and the new addition as shown on the site plan; this is not a blanket variance that gives them the ability to come 26' from the rear yard for the entire property. Maintenance of 6' high opaque fence along the south side where adjacent to residential properties.
- Building height is limited to one story within 35' of the south property line.

Engineer Kelly noted they are not worsening the condition for the encroachment, he further noted that the setback is in line with the existing building. Engineer Kelly said that they are extended the east of the existing building. The encroachment will remain the same as noted by Engineer Kelly, to stay in architectural construction that aligns with the existing building per the addition with the office/storage area. Chairwoman Dunay questioned the extension to the playroom; Mr. Richmond said there are four (4) storage buildings onsite so they are trying to eliminate extra storage. No one from the general public came forward to speak.

Board Member Van Voorhis made the Motion to approve Variance request #2 subject to the Planner Hardgrove's conditions; Seconded by Co-Chair Lomas. Unanimously approved 5/0.

Planner Hardgrove presented her findings for Variance #3:

Dumpster location and screening: Section 30-49 Dumpster in front yard not allowed – proposed in front (north) yard.

Planner Hardgrove noted this is in reference to the location of the dumpster. She noted that since Variance #1 (Front Yard Setback (North) Variance of 3.5 feet: Code Section 134-579 requires 30 feet, 26.5 feet proposed) was approved that technically Variance #3 is not required. Planner Hardgrove noted the 26.5' front yard and the dumpster is no longer 26.5' from the front yard it is beyond that. However, after Planner Hardgrove discussed with Engineer Kelly, he insisted that the variance request still be voted on.

Planner Hardgrove noted that this variance does not need to meet all six (6) criteria for variance(s) due to preservation of trees.

Mr. Worthen came forward to speak and noted that he did not have a problem with the variance; he did request that the dumpster be fenced with opaque barrier. Planner Hardgrove noted that it is a code requirement and will be covered at time of site plan review. But he wanted to note that the Russell Home should be considered institutional and not residential.

Co-Chair Lomas made the Motion to approve Variance #3; Seconded by Chairwoman Dunay. Unanimously approved 5/0.

2014-02 – VAR- RUSSELL HOME AT 510 HOLDEN AVE.

Variance #4

Screening of Vehicle Use Area from residential property (south property line): 7' wide landscaping and 8' high masonry wall required, 6' high opaque pvc fence (47 feet length) and 6' high chain link (east 48' length) proposed.

Planner Hardgrove referenced the plan provided to board members and according to her it appeared to be a parking lot, and according to the city code when there is a parking lot adjacent to residential area there needs to be a 7' landscape buffer and an 8' high wall. They are proposing it is not parking, and there are no deliveries to the receiving room (extension of the playroom). It is specifically for emergency turn around purposes. Planner Hardgrove mentioned that per meeting with Russell Home that they would install stabilized grass space area. If that is done then she believes the variance should be approved.

Planner Hardgrove mentioned her conditions for approval they are as follows:

- Orange County Fire Department approves the design for the fire emergency vehicle turn around.
- Parking of any vehicle including any loading or unloading in the hammerhead is shown by the plan shall be prohibited.
- Maintenance of a 6' high opaque fence for the emergency turn around areas adjacent to residential needs to be constructed. .

Planner Hardgrove further noted that the conditions ensuring that what is being shown is not going to be for loading and unloading.

Engineer Kelly said the turnaround or hammerhead is absolutely necessary, and that it is required for Orange County Fire and it is a life safety issue. Engineer Kelly confirmed for Chairwoman Dunay that they do not have Orange County Fire Department approval and noted they can make it a condition of approval at time of Site Plan review. It was noted that the applicant has the approval of Orange County Parks and Recreation for this variance. Chairwoman Dunay questioned if the area is a receiving area what is being received, Engineer Kelly noted that at times they would be receiving donations that are not donated to the thrift store on Michigan. It was questioned if it will be used for parking and Engineer Kelly confirmed that it would not.

Planner Hardgrove confirmed for Chairwoman Dunay that while this area is not parking but it is being used as a vehicular use area, and due to it being near residential area, she sees the need for a 7' wide landscape buffer and 8' high fence. Planner Hardgrove noted that no landscaping, or a block wall is being shown on the plan and she noted that it is a special circumstance. Mayor Bagshaw suggested posting a sign indicating "for emergency vehicle use only". Chairwoman Dunay questioned the plans and how they note signage for "no parking fire lane"; Co-Chair Lomas noted there are three (3) signs called-out on the plans.

Chairwoman Dunay pointed out the various types of fences referenced on the plans, she further noted the 6' of chain link fence as shown on the plans. Mr. Richmond noted that the black chain link fence is the County's for the park. Chairwoman Dunay questioned if the chain link fence would be removed, she further noted the three (3) types of fences and how residences may not want to look at the different fences. Chairwoman Dunay questioned why we can't have the stockade and then the opaque fence, and not have the other black chain link fence.

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Engineer Kelly noted how the County has an access easement, and Russell Home cannot block their access easement, he also noted how the County did have a gate there at one time to access the property for their County easement. Mr. Worthen came forward and confirmed that the County removed the gate and replaced it with fence, the gate was moved to access Granada Woods subdivision to access a strip of land that is maintained by the County. Mr. Worthen said if you were to ask the County if they have a problem with continuing the PVC (Opaque) fence for 6' he does not believe the County would object to it. Engineer Kelly noted if that is the case then they would consent to it and install the opaque fence along the 6' portion.

Planner Hardgrove noted that when the County donated land to the Russell Home, that is when she believes the whole easement issue changed. Engineer Kelly noted that this item could be a condition of site plan approval. Engineer Kelly further mentioned that they would be agreeable to making the barrier more consistent. Attorney Smith confirmed for Chairwoman Dunay that approval of this would be at Site Plan approval.

Chairwoman Dunay questioned if the public would like to make a comment and no one came forward. Planner Hardgrove noted her conditions for approval:

- Continuance of the 6' high opaque fence along the south property line if approved by Orange County.

Board Member Rayburn made the Motion to approve Variance #4 subject to the conditions; Seconded by Board Member Van Voorhis. Unanimously approved 5/0.

Variance #5

Screening of Vehicle Use Area from residential property (east property line), 7' wide landscape buffer required, 6' wide proposed; 8' high masonry wall where parking lots are adjacent to residential districts, 6' high chain link fence proposed.

Planner Hardgrove presented the variance request and she noted that there is plenty of green space and the health of plantings. She said that staff is recommending approval. Mr. Richmond spoke and noted they are proposing chain link and not PVC fence, he referenced the letter from Orange County and the County would like chain link fence to be installed. Chairwoman Dunay noted that the landscape will be addressed at Site Plan Approval. Chairwoman Dunay questioned the public for comment, there were no comments.

Board Member Van Voorhis made the Motion to approve Variance #5 subject to conditions; Seconded by Chairwoman Dunay. Unanimously approved 5/0.

Variance #6

Impervious Surface Ratio; Maximum 45%, 67% proposed.

Planner Hardgrove noted that this is an engineering issue and she simply provided Engineer Miller's (former City Engineer) report from 2011. It is exactly the same as what the Russell Home was proposing previously since they are requesting 67% impervious surface. He did the analysis and recommended approval and she agrees with his report. However, she did mention that she cannot speak to it since she is not an Engineer.

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Planner Hardgrove confirmed for Chairwoman Dunay that this is brought up because there is drainage from the Russell Home that flows to the drain in the park. Chairwoman Dunay questioned if there are some grassy areas that wouldn't be able to drain into the park. Planner Hardgrove commented that she cannot speak to this since she isn't an Engineer. Engineer Kelly came forward and noted the goal of storm water management is to not change flow patterns.

Engineer Kelly noted from Engineer Miller's report, that the Russell Home would not cause adverse effects to any abutting properties, to the lake or park. Engineer Kelly mentioned there are some minor areas that are draining to other areas for instance on the south property line. but it is all normal yard grading but you cannot catch it all. The County's pond will be able to handle the flow from the Russell Home.

Engineer Kelly confirmed for Board Member Van Voorhis that they have an agreement with Orange County for drainage to be allowed to flow into their property.

Jim Worthen came forward and referenced Engineer Miller's review was for the whole plan, which some of us have not seen. He noted that the old plan did contain a storm water retention area; the runoff would go to the Russell Home's storm water retention before reaching the drain for the park. Engineer Kelly mentioned that there is a swale on the south property line, he mentioned that the impervious is less than what it was before. Jim questioned if it's to drain towards park area, it could cause a potential flooding problem. He also mentioned that the drainage at park needs some work. Chairwoman Dunay thanked Mr. Worthen for his comments. Engineer Kelly mentioned instead of the retention pond as proposed on previous plan there is now a swale. Planner Hardgrove noted that this can be addressed by Engineer Sebaali at Site Plan approval. Engineer Kelly mentioned that some maintenance will need to be done with parking and he believes at that time it will address some of the drainage issues. Chairwoman Dunay asked for public comments, there were no further comments.

Board Member Van Voorhis made the Motion to approve variance #6; Seconded by Co-Chair Lomas. Unanimously approved 5/0.

Mayor Bagshaw commended Dyer, Riddle, Mills and Precourt (DRMP) and Russell Home on making it a workable plan.

Administrative Assistant Wild announced that Planner Hardgrove will be unable to attend the April meeting, since she is out of town and nothing has been received to date to require an April Planning & Zoning Board meeting.

Having no further business or discussion, the meeting adjourned at 8:30 PM

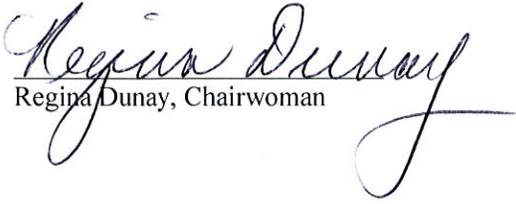
NEW BUSINESS

None.

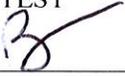
COMMENTS/ANNOUNCEMENTS

None.

ADJOURNMENT:


Regina Dunay, Chairwoman

ATTEST



Bea L. Meeks, MMC, CPM
City Clerk