

**City of Rolling Meadows
Planning and Zoning Commission
City Council Chambers
7:30 PM
February 6, 2018**

APPROVED

Motion to Open the Meeting

Chairman Bisesi asked for a motion to open the February 6 Planning and Zoning Commission meeting. Mr. Whitney moved to open the meeting and Mr. Patterson seconded. Motion carried. Roll call:

Presiding: Chairman Bisesi

Present: Lynch, O'Brien, Patterson, Rataiczky, Whitney

Absent: Rybarczyk, Stefaniuk, Fink

Also Present: Fred Vogt, Public Works Director; Barry Krumstok, City Manager; Jim Macholl, City Attorney; and Elizabeth Payne, Secretary

Call to Order

Chairman Bisesi called the meeting to order at 7:30 pm and declared a quorum.

Approval of Minutes

Chairman Bisesi asked for a motion to approve the minutes from the December 5, 2017 Planning and Zoning Commission meeting. Mr. Whitney moved to approve the minutes as written and Mr. O'Brien seconded.

Roll call:

Mr. Lynch: Yes

Mr. O'Brien: Yes

Mr. Patterson: Yes

Mr. Rataiczky: Yes

Mr. Whitney: Yes

Chairman Bisesi: Yes

Motion carried. Minutes approved as written.

Chairman Bisesi asked for a motion to approve the minutes from the December 20, 2017 Planning and Zoning Commission Special meeting. Mr. Whitney moved to approve the minutes as written and Mr. Patterson seconded.

Roll call:

Mr. Lynch: Yes
Mr. O'Brien: Yes
Mr. Patterson: Yes
Mr. Rataiczky: Yes
Mr. Whitney: Yes
Chairman Bisesi: Yes

Motion carried. Minutes approved as written.

Chairman Bisesi asked for a motion to approve the minutes from the December 20, 2017 Planning and Zoning Commission regular meeting. Mr. Whitney moved to approve the minutes as written and Mr. Patterson seconded.

Roll call:

Mr. Lynch: Yes
Mr. O'Brien: Yes
Mr. Patterson: Yes
Mr. Rataiczky: Yes
Mr. Whitney: Yes
Chairman Bisesi: Yes

Motion carried. Minutes approved as written.

Upcoming Public Hearings: NONE

Pending Business: NONE

New Business:

- 1. Variation to City Code Section 122-10(d) to allow garage addition with a side-yard setback of 3.64 feet for property commonly known as 2103 Swan Lane, R-1 Residential, John DeWitt, Petitioner**

Chairman Bisesi asked if the file was in order.

Mr. Vogt stated that the file was in order and was made part of the record.

John DeWitt, 2103 Swan Ln., Rolling Meadows, IL and John Nelson, 1420 Whispering Springs Cir., Palatine, IL were advised by Chairman Bisesi of their appeal rights and were asked if they had any objection to the public notice not being read – they had none. Mr. Whitney made a motion to not read the public notice. Mr. Rataiczky seconded. Motion carried by unanimous voice vote. Mr. DeWitt and Mr. Nelson were sworn in.

Mr. Nelson stated that he was the architect for the proposed garage addition. He stated that the subject property was an irregularly shaped lot in the R-1 zoning district, with an area of 10,412 square feet. He noted that the existing garage was near the lot line and the residence. The proposal was to create a 20 feet by 22 feet addition to the garage, while keeping the existing side yard setback of 3.64 feet. This would mean that the front yard setback would be less than the 65 feet required for the existing set back – the required setback would be 10 feet. The garage cannot be located 10 feet from the side lot line – there is no room. The garage as proposed would end behind the setback of the neighbor's house. The variance requested would be for 895 square feet. The garage would include a one-hour rated fire wall between the garage and the house. The variance would improve the existing structure, be structurally more sound, and blend in with the house.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Bisesi opened the meeting to commissioners' questions and comments.

Mr. Rataiczky asked what the hardship was that required the variance. Mr. DeWitt replied that the hardship was the shape of the lot and location of the easements. Mr. Rataiczky asked how that was a hardship. Mr. DeWitt replied that he could not build his garage per code. Mr. Rataiczky noted that every lot has constraints on what can and cannot be placed on them. He asked again how the lot presented a hardship when it had been purchased as it was. Mr. Nelson noted that the garage could not extend beyond the 65 foot setback per code. Mr. Rataiczky noted that the lot had not changed since the owner had purchased it. He asked how the lot could be a hardship if it had been that way since it had been purchased. Mr. DeWitt noted that he needed increased storage space for furniture, and to create a workshop for his hobby. In addition, cars are built larger than they used to be. Mr. Nelson added that they were limited by the shape of the lot – they could not build forward without the variance, or to either side.

Mr. Patterson noted that wanting a bigger garage and only being able to come forward did not constitute a hardship. He also noted there was no other place on the lot for the garage.

Mr. Whitney summarized the requested variance. He noted that enlarging the building toward the

front of the property would require a 10 foot side setback, so between the requested setback and the requested size of the building, the petitioner was requesting a 130 square foot variance. He noted that the limitations of the lot were easily understood, but do not constitute hardships. He noted that he was concerned about setting a precedent, and was concerned about the garage being so close to the next door neighbor. Mr. Nelson stated that there was 15 to 20 feet between the garage and the neighbor's house. Mr. Whitney noted that the proposed variance would limit the neighbor as well. Mr. DeWitt noted that the neighbor was his sister, and would not have a problem.

Mr. O'Brien asked about the proposed new asphalt driveway. It was stated that would be included in the building permit.

Mr. Lynch stated that the petitioner must have had an idea of how he wanted to use the property when he acquired it, and that the property as it was would meet his needs. He noted that City code makes nine references to "hardship", including "particular" and "undue" or "unnecessary". He remained unconvinced of the hardship.

Mr. Lynch asked if extending the garage would overshadow the neighbor to the north. Mr. DeWitt replied that the garage would be set back farther than the front of the neighbor's garage, including the extension. He added that he had spoken to City inspectors during a remodel some time ago regarding his plans for the garage, understanding he would need to enlarge it at some point, and had been told at that time that, while he would need to apply for a variance, there should be no problem. Mr. Nelson added that the neighbor's attached garage is some distance away from the proposed expansion. It would be a garage facing a garage – not overshadowing a living space window. Mr. Lynch asked if the new frontage of the garage would impede the frontage of the building to the north. Mr. Nelson stated that it would be behind.

Mr. Bisesi stated his concern about setting a precedent in the City. The codes are in place for a reason. He noted that, while the current resident might accept the proposal, any future resident might not. Mr. DeWitt replied that the proposal was behind all building lines. He noted that there are few lots in the City of similar shape, and most of those were much larger than his. He wanted to improve the property.

Mr. Vogt noted that Staff had no recommendation. Commissioner comments and questions had been in line with Staff thoughts regarding the petition. He noted the possibility of a precedent, and that it was a significant variation.

Mr. DeWitt noted that his lot was the only one on his block not on a corner, which could be seen to cause some difficulties in development.

QUESTIONS AND COMMENTS FROM THE AUDIENCE:

Chairman Bisesi opened the meeting for comments from the public. With there being no public comment, the public hearing was closed.

ADDITIONAL QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Bisesi opened the meeting to additional questions and comments from the commissioners.

Mr. O'Brien moved to approve a Variation to City Code Section 122-10(d) to allow garage addition with a side-yard setback of 3.64 feet for property commonly known as 2103 Swan Lane, R-1 Residential, John DeWitt, Petitioner

Motion was seconded by Mr. Patterson.

Mr. Whitney moved to add the condition "per plan T1 dated 11/20/2017". Mr. Rataiczky seconded.

Roll call on the amendment:

Mr. Whitney: Yes

Mr. O'Brien: Yes

Mr. Lynch: Yes

Mr. Rataiczky: Yes

Mr. Patterson: Yes

Chairman Bisesi: Yes

Yeas – (6) – Bisesi, Lynch, O'Brien, Patterson, Rataiczky, Whitney

Nays – (0) – NONE

Absent – (3) – Fink, Rybarczyk, Stefaniuk

Abstain – (0) – NONE

Motion approved.

Roll call on the motion as amended:

Mr. O'Brien: Yes – It is a significant variance, but the lot is unique and the proposal fits the neighborhood. It also falls behind the building line, and will improve the lot.

Mr. Lynch: Yes

Mr. Rataiczky: No –The constraints of the lot are understood, but it is too large of a variance without cause.

Mr. Patterson: Yes – There is no obstruction to the neighbor's view, and the proposal should cause no problem.

Mr. Whitney: No – It is too large a variance.

Chairman Bisesi: Yes – There is concern about the size of the variance and setting a precedent, but it is a unique situation.

Yeas – (4) – Bisesi, Lynch, O'Brien, Patterson

Nays – (2) – Rataiczky, Whitney

Absent – (3) – Fink, Rybarczyk, Stefaniuk

Abstain – (0) – NONE

Motion approved as amended.

Chairman Bisesi stated that, with the vote 4-2, the variance was approved. The petitioner would be notified of the decision in writing.

- 2. Request for Approval for a Variation to City Code Section 18-244(5) to allow a driveway to have a width of 21 feet at property commonly known as 4590 Fairfax Avenue, Kathy Tybyrowski, Petitioner**

Chairman Bisesi asked if the file was in order.

Mr. Vogt stated that the file was in order and was made part of the record.

Kathy Tybyrowski, 4590 Fairfax Ave., Palatine, IL (mailing address) and Mike Doherty, 10 W. Schaumburg Rd., Schaumburg, IL were advised by Chairman Bisesi of their appeal rights and were asked if they had any objection to the public notice not being read – they had none. Mr. Whitney made a motion to not read the public notice. Mr. Patterson seconded. Motion carried by unanimous voice vote. Ms. Tybyrowski and Mr. Doherty were sworn in.

Mr. Doherty stated that the owner's prior home had an asphalt driveway. They asked him, as the contractor, to pour concrete ribbons to either side of the new asphalt driveway to prevent crumbling. He agreed. He noted that they had a base inspection for the driveway, and that the concrete ribbons were already in. Prior to that, there was another base inspection that he believed would include the ribbons. He reiterated that the primary function of the ribbons was to keep the asphalt driveway intact. Secondly, it would provide additional footing for the owner's elderly mother.

Mr. Doherty stated that the inspector informed him that the driveway as he had placed it was too wide, and that he needed to speak to the plan reviewer. He offered a suggestion to remedy the situation, which was dismissed. He presented to the Commission a suggestion, previously provided to the inspector, about how to move forward was to replace approximately one foot of concrete on either side with brick pavers. He added that the ribbons did not meet the sidewalk as they stood, which was within code.

Mr. Lynch asked what the allowed 20 foot dimension was referring to. It was stated that the dimension referred to the width where the driveway meets the sidewalk. Ms. Tybyrowski stated that they would like to keep the driveway as it was, but would consider the alternate.

Mr. Doherty stated that he was told that concrete was permanent, and pavers were not, so the pavers would be permitted.

Ms. Tybyrowski noted that they had letters of support from some of the neighbors, and none of the neighbors had a problem with the driveway as it existed. She did understand that the variance was required, but did not see a problem. Mr. Doherty noted that the concrete was for safety, and could not be driven on.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Bisesi opened the meeting to commissioners' questions and comments.

Mr. Rataiczky asked how the ribbons could not be driven on. Mr. Doherty replied that it ended past the garage. Mr. Rataiczky noted that the rest of the length of the driveway, the concrete could be driven on. Mr. Doherty agreed.

Mr. Rataiczuk asked about the sequence of events. He noted the petitioner had submitted plans for a new home to the City, indicating a driveway. He asked what the width on those plans. Mr. Doherty did not know, but noted it would have been within code as it had not been brought up by the plan reviewer. Mr. Rataiczuk then noted that the petitioner had asked the concrete contractor to add the ribbons, widening the driveway from its approved width, without notifying the City. Mr. Doherty confirmed that to be true, but that the ribbons had been inspected. Mr. Rataiczuk stated that all the concrete had been formed, and an inspection requested. Mr. Doherty provided a copy of the inspection report. Mr. Rataiczuk noted that the inspection report stated “stoop and walk” only, not the ribbons. Mr. Doherty noted that the other inspection report was for the base for the driveway, which was where the discrepancy was noted. Mr. Rataiczuk asked Mr. Vogt regarding the sequence of events. Mr. Vogt replied that, to his knowledge, the asphalt driveway was installed at 20 feet and was inspected appropriately, and the concrete ribbons were installed, but have no record of inspection and were not on the approved plans. The driveway with the ribbons is a total of 23 feet wide. The inspector instructed the contractor to apply for an amendment, which was denied. The inspector found the discrepancy. Mr. Rataiczuk noted that the ribbons were in when the driveway was inspected, but nowhere does it say the ribbons were inspected. He stated that there was nothing explicitly stating that the ribbons were inspected, which was a problem. Mr. Doherty said that the concrete contractor called in the inspection, and Mr. Doherty did not know the ribbons were not on the inspection report.

Mr. Rataiczuk asked what the hardship was. Mr. Doherty replied that there was no hardship. Mr. Rataiczuk noted that a hardship was the reason for the variance. Ms. Tybyrowski stated that the preservation of the driveway and safety were the hardships. Mr. Rataiczuk noted that neither argument was directed to width.

Mr. Patterson asked what prompted the change from 18 feet in width to 20 feet in width. Mr. Doherty noted that the 18 feet had been a mistake, which had been corrected. Ms. Tybyrowski noted that the three-car garage required the 20 foot driveway. Mr. Patterson noted that variances were not meant to grant permission after the fact, but instead to allow for a way to perform something where there is no better way. He added that everything should have been done up front. Ms. Tybyrowski noted that others in the neighborhood had ribbons. Mr. Patterson asked if any were as wide as the petitioner was requesting. Mr. Doherty replied that he did not know.

Mr. Whitney noted that the driveway was 23 feet on either side of the sidewalk. He stated that the homeowner was not to blame – it was a construction error on the part of the concrete company. He noted that there was a problem of the width between the street and the sidewalk. He asked if the petitioner planned to remove the concrete between the sidewalk and the street. Mr. Doherty replied only a part.

Mr. O’Brien noted that it was odd to have the concrete inspected piecemeal. He thought it may have been a miscommunication or error on the paperwork.

Mr. Lynch asked why the code limit to the width of the driveway was 20 feet. Mr. Vogt replied that staff would have to research why it was established. Some of it was for the width of the curb cut, and some of it was to limit the amount of the front yard covered by driveway.

Mr. Lynch asked if the garage has a door on the east side. Mr. Doherty replied it did not. Mr. Lynch replied that it would be reasonable to want a walkway around from the door to the back. It was something that should have been planned for in advance, and put in the original permit request. Mr. Vogt added that the same would be the case if a sidewalk had been put in next to the driveway for ease of transportation across the lot.

Mr. Patterson noted that the question before the Commission was the width of the driveway at the sidewalk. Mr. Vogt confirmed that was the case.

Mr. Lynch asked if the replacement of the concrete with pavers would become an extension of the driveway. Mr. Doherty said no, as pavers were removable. Staff stated that pavers are considered acceptable hard surfaces for driving, and paver ribbons would be considered part of the driveway. Staff added that the inspector had offered the suggestion of angling the concrete ribbons in at the end of the driveway to meet the required width at the sidewalk, which the petitioner had chosen not to do. Mr. Doherty replied that he was planning to cut the ribbons back. Commissioners noted that the suggestion was to cut back the concrete and replace it with pavers, as opposed to cutting it back on an angle. Mr. Rataiczuk asked if the petitioner was to cut back the concrete from the sidewalk, if it would be compliant. Staff confirmed that to be the case.

Mr. Lynch stated that he could appreciate the desire for the concrete extensions between the sidewalk and the house, but not between the sidewalk and the street. Ms. Tybyrowski replied it was for consistency. Mr. Lynch noted that if the driveway were to come into compliance between the sidewalk and the house, the driveway between the sidewalk and the street would still be outstanding. It was noted they would need to cut it on that side as well. Mr. Vogt added that the section between the sidewalk and the street was correct at the street.

Mr. Bisesi asked if the Commission could take a straw vote on approval, per Mr. Whitney's suggestion. Mr. Whitney noted that they could save the petitioner from outright denial. If the straw vote indicated a negative direction, the petitioner could withdraw the petition and modify the existing driveway to code. Mr. Vogt noted that the permit would need to be modified. Ms. Tybyrowski asked how far back from the sidewalk the ribbons would need to be cut back. Mr. Rataiczuk noted that the Commission could not provide a legal opinion. He suggested that the petitioner could submit a modification to the building department for review, and leave an avenue open for a resubmittal to the Commission in the event of the failure to reach an agreement with the decision. Mr. Bisesi asked Mr. Macholl for a legal opinion about what the petitioner could do in the event of failure to agree. Mr. Macholl noted that if the petition was withdrawn, it would be without prejudice and they could reapply. If the Commission had a final vote, and voted no, the petitioner's only recourse would be litigation.

The Commission held a straw vote. The majority of the Commissioners were not in favor of allowing the variance.

Ms. Tybyrowski and Mr. Doherty decided to withdraw the petition without prejudice and seek resolution with Community Development.

3. Request for Approval of Special Use to allow a photography studio at the property located at 5105 Tollview Drive #202, T-1 Office, Institutional, and Research District, Mihee Kim, Petitioner

Chairman Bisesi asked if the file was in order.

Mr. Vogt stated that the file was in order and was made part of the record.

Mihee Kim, 1465 Cornell Ct., Hoffman Estates, IL was sworn in by Chairman Bisesi.

Ms. Kim stated that she was a photographer, an educator, and a mom. She had wanted to open a new photography studio for the past three years, and now had the opportunity. The subject property has access to Route 53, and an excellent management company.

Ms. Kim stated that the suite she was looking to lease had three rooms. One would be used as storage for lighting equipment and props and an office, one would be a studio for pictures of small children, and the largest would be a studio for family sessions. Her sessions would vary from a 15-minute mini session for events such as holidays and back-to-school, to a full 45 to 60 minute session for maternity, engagement, and family shoots, among others. The business would operate Monday through Friday from 9:00 am to 3:00 pm, with 3:00 pm to 5:00 pm for appointments only. Bookings for appointments would be made either online or by phone. The office would be used mostly for organization, advertising, and editing when there were no sessions taking place. She planned to have only one employee for the business.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Bisesi opened the meeting to commissioners' questions and comments.

Mr. Lynch noted that the office building has a parking agreement with the hotels next door. He asked if the petitioner was aware of that, and if that would be problematic. Ms. Kim replied that she was not aware of the agreement, but she would only be having three or four families per week, and so it should not be an issue. Mr. Vogt added that the business would be operating from 9:00 am to 5:00 pm, which falls within the timeframe that the office building can use the hotel's parking spaces. Ms. Kim noted that she had previously visited the site, and had had no problem with parking.

Mr. O'Brien asked if the petitioner was planning to have sessions on weekends. Ms. Kim replied that she was not planning weekends at this time. If she did so in the future, it would be one or two families in a day at different times.

Mr. O'Brien asked if there would be storage of any hazardous materials. Ms. Kim replied that there would not.

Mr. Whitney asked if there would be signs for the business anywhere. Ms. Kim replied that any signage would be put up by the management. She noted that she had been offered signage in the lobby, in the directory.

Mr. Patterson asked what the size of the larger room was. Ms. Kim replied that it was approximately

twenty feet by ten feet. Mr. Patterson asked if there would be enough room for her. Ms. Kim replied that it should be sufficient depending on the lenses she used, of which she had many.

Mr. Patterson asked if there would be more than one appointment at a time. Ms. Kim noted that there would not.

Mr. Patterson asked if there would be any printing done on site. Ms. Kim replied there would not. Any printing would be done in a separate location.

Mr. Rataiczuk asked if there would be signage in the lobby only. Ms. Kim replied that would be the case.

QUESTIONS AND COMMENTS FROM THE AUDIENCE:

Chairman Bisesi opened the meeting for comments from the public. With there being no public comment, the public hearing was closed.

ADDITIONAL QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Bisesi opened the meeting to additional questions and comments from the commissioners.

Mr. Patterson moved to approve a Special Use to allow a photography studio at the property located at 5105 Tollview Drive #202, T-1 Transitional, Mihee Kim, Petitioner

With the following conditions:

1. Any proposed signage is to conform to the regulations of this zoning district.
2. If possible, two or three parking spaces should be designated for this use.

Mr. Rataiczuk seconded.

Roll call:

Mr. Rataiczuk: Yes.

Mr. Patterson: Yes – It will be a nice addition to the area.

Mr. Whitney: Yes –It will work nicely in the area.

Mr. O'Brien: Yes – It will be a nice addition to the area.

Mr. Lynch: Yes – The proximity to the hotel may provide opportunities for business.

Chairman Bisesi: Yes.

Yeas – (6) – Bisesi, Lynch, O'Brien, Rataiczuk, Patterson, Whitney

Nays – (0) – NONE

Absent – (3) – Fink, Rybarczyk, Stefaniuk

Abstain – (0) – NONE

MOTION APPROVED

Chairman Bisesi stated that, with the vote 6-0-3, the item would go before the City Council with a positive recommendation from the Planning and Zoning Commission, tentatively February 27, 2018 for first reading of the ordinance.

Miscellaneous Business:

1. Continuation of commissioner training from August 2, 2017 with City Attorney

Mr. Macholl hosted a continuation of the training session for the Planning and Zoning Commission begun August 2, 2017. Topics covered included the process of the meeting – including the back-and-forth between the petitioner and the public, procedures for larger meetings – including allowing any experts to testify and be questioned one by one, individual external research and ensuring any decisions are based on evidence presented at the hearing, relevancy of testimony, and findings of fact. Mr. Macholl also mentioned the updated harassment policy and the upcoming statement of economic interest, with a submittal deadline of May 1, 2018.

Matters Not on the Agenda:

Mr. Lynch brought up the request for proposal for the upcoming update of the City of Rolling Meadows Comprehensive Plan. The City Manager led discussion regarding the proposal, and how the Planning and Zoning Commission would be involved in the process of updating the Plan.

Reports:

Mr. Vogt noted that the next meeting was scheduled for March 6, 2018. There were three items on the agenda – a four-lot subdivision, a sign appeal for a billboard, and a text amendment regarding corner side yard setbacks.

Mr. Vogt noted that the former Dominick’s property – the Ryan Homes proposal – had had its first reading before the City Council. The second reading would be postponed to February 27, 2018. If it is approved at that time, Ryan Homes will need to seek final approval for the subdivision and PUD.

Mr. Vogt noted that this Commission had discussed officers at the first meeting after the combination of the Planning and Zoning Commission in July, 2017. At that time, a May to April term had been discussed. He asked the Commissioners to consider if and how they wanted the current serving officers to change.

Adjournment

A motion to adjourn was made by Mr. Whitney and seconded by Mr. Lynch. Motion carried by unanimous voice vote. The regular meeting of the February 6, 2018 Planning and Zoning Commission was adjourned at 10:04 pm.

Respectfully Submitted,



Elizabeth Payne
Secretary
Community Development Division

Distribution:

Mayor
City Manager
Planning and Zoning Commissioners
Community Development Department
Clerk’s Office

Minutes approved at the March 6, 2018 Planning and Zoning Commission meeting as written.