

MINUTES OF THE HOWEY IN THE HILLS PLANNING AND ZONING BOARD
HELD DECEMBER 14, 2017

Member St. Clair called the meeting to order at 6:00 p.m.

Present: Member Wells, Member Ricci and Member St. Clair.

Absent: Chairman Llewellyn and Member Lehning

Also Present: Town Planner Harowski and Town Clerk Burke.

CONSENT AGENDA

Minutes of the Planning and Zoning Board Meeting held November 15, 2017

Member Ricci, seconded by Member St. Clair moved to approve the minutes of the Planning and Zoning Board Meeting held November 15, 2017. Motion passed unanimously.

NEW BUSINESS

Consideration and Approval to allow a retaining wall located at 460 Bellissimo Place, Lot 153.

Town Planner Harowski said he looked at the proposed improvement for the retaining wall and the land development regulations. He did not find anything in the LDR specific to retaining walls, but the section on grading and filling seems to require the Town engineer to review the proposal. Based on the photos and the survey, I personally do not see how the slope impacts the usability of the parcel. There appears to be adequate area to walk down the side of the house and the slope does not appear to be too severe to maintain the yard. Once past the structure, the yard area broadens out to allow plenty of room to feather the slope from the property line back toward the house. That said, he's not sure we can deny a permit since the code is not specific nor did he find standards to apply. He did have a couple of questions. Does the slope as it is now structured comply with the slope approved in the subdivision construction plans. Will the proposed retention wall create any drainage issues? He would require the applicant to be specific as to the proposed length of the wall and not rely on a sketch with no dimensions. So far as fencing is concerned, it is my opinion that the height of the wall must be considered as part of the fence height. The applicant does not get to put a six-foot fence on top of the three. five foot (3.5ft) retaining wall. The maximum height from the top of the fence to the bottom of the wall is six feet (6ft). He would allow a six foot (6ft) fence from the side property line to the house. If the applicant wants a fence, they might be best off to simply do a six foot (6ft) wall. The retaining wall does need to be finished with stucco, brick or stone. One issue to note that he has encountered in other areas is the wall footer. The entire footer needs to be on lot 153. This may end up setting the wall a little inside the property line.

Member Wells said that he went to the property and that there is a substantial elevation difference.

John Rhodes, Builder, said that the footers will be on lot 153. If the retaining wall is not granted then the neighbors will have no privacy. He went on to say that as the lot slopes back down to a normal grade there will be no wall just a six foot (6ft) fence.

Mr. Arnold, 456 Bellissimo Place-lot 152, showed pictures of the elevation difference between his property and lot 153.

Member Wells asked Town Planner Harowski what the height code was for fences. **Town Planner Harowski** replied six foot (6ft) back and side yard.

Mr. Hebbs, 460 Bellissimo Place-lot 153, said that he would like a pool installed but without the retaining wall he would have no privacy.

Member Wells asked if the Planning and Zoning Board granted fence permits. **Town planner Harowski** replied no, the Building Official does.

Member St. Clair said that if the retaining wall is granted cant a requirement be that the fence isn't built on top of the wall. **Town Planner Harowski** replied yes. **John Rhodes** said that the fence was never going to be built on top of the wall.

Member St. Clair said that all of Town Planner Harowski's questions should be answered on the building permit that is submitted to the Building Official.

Member Ricci, seconded by Member Wells moved to approve the retaining wall located at 460 Bellissimo Place, lot 153 with the fence being placed on the property line to finish grade. Motion passed unanimously.

Consideration and Recommendation to the Town Council regarding proposed amendments to Section 5.01.03 of the Land Development Code. (Sheds).

PLEASE SEE ATTACHED DIAGRAM

Town Planner Harowski said the revised proposal modifies several points: Clarification of the language guiding the placement of sheds to locate them behind the principal structure and Adding "variance" language to allow the Planning Board some discretion in the placement of sheds whereby specific site conditions can be considered without requiring the applicant to go through a formal variance process. He went on to add that the following proposal continues the format previously discussed which amends the current section 5.01.03 All Accessory Structures to remove regulations that are specific to Storage sheds. (Refer to revised section below.) A new section 5.01.04 Storage Sheds is proposed, and the following sections are to be renumbered to allow for the new section. The proposed section is provided below.

5.01.03 All Accessory Structures

- A. There shall be a permitted principal structure in full compliance with all development standards and requirements of this LDC prior to issuance of a permit for an accessory structure. This provision shall not be construed to prohibit the establishment of an accessory structure simultaneously with the establishment of a permitted principal structure.

- B. There shall be no more than two (2) accessory buildings (shed, workshop) on a residential lot, not including a detached garage. Detached garages shall not exceed 625 square feet on the first floor. Detached garages and ~~sheds and~~ workshops that exceed 144 square feet shall have the same building finishes as the primary structure, including exterior materials (i.e., stucco, siding, brick) and color.
- C. Accessory structures shall be shown on any site plan with full supporting documents as required by this LDC.
- D. Accessory structures shall be included, if applicable, in all calculations of impervious surface and stormwater runoff requirements. (Some structures such as fences and playground equipment would not constitute an impervious surface.)
- E. With the exception of signs and fencing, accessory structures shall not be located in any required buffer or landscape area.
- F. All accessory buildings shall comply with the setback requirements as outlined in the Zoning Chapter. ~~Yard sheds,~~ Gazebos and similar accessory structures of 300 square feet or less may not be placed closer than the (10) feet to the rear and side lot lines, and are not permitted in the front yard.

5.01.04 Storage Sheds

- A. Storage sheds are permitted as an accessory structure subject to the provisions of Section 5.01.03 and the provisions of this section.
- B. Storage sheds shall not be permitted in front of the rear plane of the principal structure and shall not be permitted beyond the plane of the side of the principal structure on a street side yard.
- C. Storage sheds shall be placed in rear yards at least five (5) feet from rear property lines and shall not extend beyond the plane of the sides of the principal structure.
- D. Storage sheds that exceed 144 square feet shall have the same building finishes as the primary structure, including exterior materials (i.e., stucco, siding, brick) and color.
- E. Storage cabinets measuring less than 30-inches in depth and 36-inches in width and less than 72-inches in height may be placed on a property without permit provided the storage cabinet is placed adjacent to the rear or side of the principal structure, detached garage, or storage shed. Storage cabinets shall not count towards the two permitted accessory structures.
- F. The Planning Board may approve the placement of shed in another location on the subject property based upon a finding that a location complying with Subsections B and C above is not practical due to specific site conditions such as steep slopes, tree preservation, site access limitations or other conditions that the Planning Board finds relevant. In no case shall the Planning Board approve a shed location in any front yard. This section is not intended to prohibit a property owner from seeking variance to the code using the procedures set forth in Chapter 4.

Member Wells asked if storage sheds came in neutral colors. **Town Planner Harowski** replied typically.

Member Ricci said that he would like to see storage sheds restricted to the same plane as regular sheds. **Town Planner Harowski** said that he would add that verbage.

Member Wells asked if the shed exceeds one hundred and forty four square feet (144sqft) does the setbacks change. **Town Planner Harowski** replied no.

Member Ricci asked Member Wells if he was recommending setting a different set back if the shed exceeds one hundred and forty four square feet (144sqft). **Member Wells** replied yes, may be an eye soar to surrounding neighbors due to the size.

Town Planner Harowski said that once it exceeds a certain size it then becomes an accessory structure and has to follow those setback guidelines guidelines.

Member Wells and Member Ricci asked that the verbage be added that over one hundred and forty four square feet (144sqft) the shed must comply with the accessory structure section of the Land Development Code.

Member Wells asked if the verbage was up to and including one hundred and forty four square feet (144sqft). **Member St. Clair** replied yes.

Member Wells asked if a shed could be placed on a rear easement. **Town Planner Harowski** replied no but maybe an exception for a rare case.

Member Ricci, seconded by Member St. Clair moved to recommend to the Town Council the proposed amendments to Section 5.01.03 of the Land Development Code with the verbage added that the storage sheds be placed in the same plane as sheds and sheds over 144 square feet shall comply with the setback requirements for accessory structures as set forth in Section 5.01.03F Motion passed unanimously.

PUBLIC COMMENTS- No Comments

The meeting adjourned at 7:00 p.m.

ATTEST:

Richard Llewellyn, Chairman

Dairian Burke
Town Clerk