

**MINUTES OF MEETING**  
**INDIAN HILL PLANNING COMMISSION**

**March 20, 2024**

The regular meeting of the Indian Hill Planning Commission was held on March 20, 2024 at 7:00 p.m. in Council Chambers of the Village Administration building.

Members Present:           Richard Wiggers  
                                  Joseph Rhodenbaugh  
                                  Rita Stolper  
                                  Shayne Manning  
                                  Barrett Tullis

Members Absent:           None

Officials Present:           Jonathan West, Assistant City Manager

Visitors Present:           J.P. Burleigh, Suder, LLC  
                                  Bruce & Janet Byrnes, 9935 Lakewood Lane  
                                  Doug Norwell, The Camargo Club  
                                  Michael Haehnle, The Camargo Club  
                                  Donald McGraw (Planning Commission alternate)  
                                  Tim Hensley, Hensley Custom Building Group, LLC

**Item Number 1:** Minutes and findings from the February 21, 2024 Indian Hill Planning Commission meeting: Mrs. Stolper made a motion to approve the February 21, 2024 minutes and findings. Mr. Rhodenbaugh seconded, and the motion was approved by a unanimous voice vote.

Chairman Wiggers asks for anyone planning to speak this evening to please stand, raise their right hand, and be sworn in prior to presentation of the cases.

**Item Number 2:** Case #24-002: The Camargo Club is requesting variance approval from **Section 59.5** of the Indian Hill Zoning Ordinance to increase the height of an earthen berm in the front yard from three (3) feet to six (6) feet. The property is located at 8605 Shawnee Run Road.

Mr. Doug Norwell, Superintendent of The Camargo Club, states that their goal in requesting the increase in the height of the earthen berm is to better screen those driving down Shawnee Run Road from the tee, as well as screening the golfers from the road. The current situation allows for distractions for both drivers and golfers. There will also be additional landscaping added to aid in screening.

Mr. Michael Haehnle, General Manager for The Camargo Club, adds that they have lost a lot of mature trees in this area. Increasing the height of the mound, along with additional landscaping, will both add privacy and lessen distractions.

**Staff Report:** Mr. West reviews previous Planning Commission actions as follows:

- February 15, 2017: The Planning Commission approved the renovation of the golf practice range facility, relocation of the short game range, construction of a new golf instruction building, and granted a variance for the installation of a 5'-8' high serpentine landscape berm designed to screen the practice facility from Shawnee Run Road.

The applicant is requesting variance approval to construct a six-foot earthen berm in the front yard between the first tee box and Shawnee Run Road, where a maximum height of three feet is permitted in zoning District B per **Section 59.5** of the Indian Hill Zoning Ordinance.

The finished elevation of the mound will be 4' higher than the elevation of Shawnee Run Road. An extensive landscaping plan has been provided which will soften the appearance of the mound so that it will blend into the natural environment and provide adequate screening.

The variance application is based on "Conflict with Village's adopted Land Use Objectives & Policies."

Mr. West notes that the four variance review criteria were listed in the staff report previously distributed to the Planning Commission and available this evening.

Related to variance review criteria 2, Mr. West highlights the following:

The request would not conflict with the Village's adopted land use objectives and policies, specifically "Physical Development and Site Design, B. Objective, Policy 4. Encourage the use and placement of alternative fences and walls such as landscaped berms,...utilizing appropriate indigenous evergreen tree or shrub species."

Mr. West adds that staff has not received any comments on the request.

After brief discussion Mr. Rhodenbaugh made a motion to approve the requested variance. Mr. Manning seconded, and the motion was approved by a unanimous voice vote.

**Item Number 3:** Case #24-003: Hensley Custom Building Group, LLC is requesting a resource protection area swap for Lot 5 of Lakewood at Peterloon Subdivision, Section A for the construction of a new single-family residence. The subject property is located at 9925 Lakewood Lane.

Mr. Tim Hensley, President of Hensley Custom Building Group, LLC, comes before the Commission and states that on behalf of his client he is requesting the relocation of 7,467 SF of existing resource protection area located on the western front of the property in exchange for 9,050 SF on the east side of the property to accommodate the construction of a new home.

Mr. Hensley comments that the area they are requesting contains young canopy forest with a few mature trees whereas the larger area they would be swapping contains all mature canopy forest.

Mr. Hensley notes that in 1991 when this subdivision was platted the Village did not require onsite storm water management as it does today. They plan to provide underground storage tanks in the current resource protection area.

In addition, in 1991 septic systems were direct discharge and did not require much room; whereas, today's systems require approximately 5,000 SF between the main system and the replacement system.

Mr. Hensley adds that the landscaping plan provides a lot of screening on the west side of the property to ensure privacy for both the homeowner and the neighboring property.

**Staff Report:** Mr. West reviews previous actions as follows:

- June 16, 1992: The Planning Commission approved a resource protection area swap for the installation of a tennis court at 9975 Lakewood Lane.

Mr. West notes that the applicant has stated the following reasons for the request:

1. The Village requires onsite storm water management, which was not required in 1991 when this subdivision was platted. The detention area will be underground storage in the front of the home in what is currently resource protection area.
2. Onsite septic systems today require a large area of drip lines/mounds for a primary and replacement area. In 1991, when the subdivision was platted, the State of Ohio and the Village allowed direct discharging septic systems which did not require much room. The septic system for the subject property requires 5,100 SF of drip field for the primary and replacement areas.

3. The seller of the lot (lives at 9960 Lakewood Lane and also owns the adjacent vacant lot at 9950 Lakewood Lane) placed additional non-buildable area restrictions on the east side of the subject property.
4. The lot of 5 acres currently has 1.09 acres of buildable area and 3.91 acres of RPA or approximately 80% of the lot.

The Hamilton County Public Health Department has reviewed the septic areas shown on the plan and have stated that the soils are adequate to accommodate the septic fields. Final detailed design of the septic system is still being reviewed.

Staff mailed out the legal notice and was contacted by the adjacent property owners at 9935 Lakewood Lane, Bruce and Janet Byrnes. Counsel for Mr. and Mrs. Byrnes provided a summary of their opposition to the request which was included in the packet distributed to the Planning Commission.

Staff notes that the Planning Commission has been favorable to resource protection area swap requests when:

1. The Village ends up with more resource protection area; and
2. The Village receives higher quality resources protected.

The Planning Commission shall approve, approve with conditions, deny, or continue the request pending additional information.

Should the Planning Commission consider approving the request, the following conditions should be considered:

1. The reserve area for the septic field should be left in its natural state until the area is needed.
2. The RPA swap is contingent on final review and approval of the septic system design and layout by the Hamilton County Public Health Department.

Mr. Manning asks if the restrictions by the previous owner are being honored.

Mr. Hensley explains that the previous deed restrictions are still being met.

Mr. J.P. Burleigh, attorney with Suder, LLC, comes before the Commission on behalf of Bruce and Janet Byrnes who reside at 9935 Lakewood Lane. Mr. Burleigh notes that Mr. and Mrs. Byrnes moved into their home in September 2023 and have invested over two million dollars in their property.

Mr. Burleigh points out that many people move to the Village because of the high quality of natural resources, which is the primary reason Mr. and Mrs. Byrnes moved to this

particular property. There are not only a lot of trees on their property, but also trees between properties that serve as a buffer to ensure privacy.

Mr. Burleigh explains that the entire street was developed by Hannibal Land Company in 1991. At that time, the developer recorded a plat and a declaration of covenants, easements, and restrictions which established the current resource protection areas. These are private, deed restricted resource protection areas, not ones established by the Village's subdivision ordinance. He notes that any amendment to the resource protection areas must be approved by the property owners in the Lakewood at Peterloon Subdivision with a two-thirds majority vote of the property owners.

Chairman Wiggers states that the deed restrictions are not in the Planning Commission's venue. The Planning Commission enforces the zoning code, but not anything beyond that, as the Commission does not have the authority to do so.

Mr. Burleigh emphasizes that this must be part of the Planning Commission's decision this evening because the boundaries of the RPA were actually set by the developer.

Mr. Tullis notes that they were approved by the Village at that time, which was in the declaration provided to the Commission.

Mr. Burleigh adds that it won't be an efficient use of anyone's time or resources if the request is approved prematurely.

Chairman Wiggers states that the Planning Commission only has the authority to approve or deny the requested swap and nothing beyond that, as it's not in the Planning Commission's venue.

Mr. Burleigh notes that they wanted to make their argument for the record, and if the Planning Commission decides to proceed with reviewing the merits of this application then they respectfully ask that the request be declined. If approved, it would significantly adversely impact his client's use and enjoyment of their property.

Mr. Burleigh adds that not only would the approval of this request negatively impact the privacy his clients enjoy now, but it would also negatively impact the conservation of natural resources. If approved, although a larger area will be protected, the area is of lesser quality than what's currently protected.

Mr. Bruce Byrnes, who resides at 9935 Lakewood Lane, comes before the Commission and comments that one of the main reasons they purchased their home is because of the way the house sits surrounded by a natural environment. Their house has lots of windows and they enjoy looking out at the undisturbed woods. They currently enjoy watching wildlife out of the windows facing 9925 Lakewood Lane. Under the proposal

before the Commission, this would change dramatically. Unless there's rapid growth of massive landscaping, their new view would be of the back side of a house, garages, and cars traveling in and out of the driveway. In addition, they will see a lot fewer animals and trees.

Mr. Byrnes notes that he believes the proposed RPA swap is fundamentally inconsistent with the vision for Lakewood Lane, as it was set up to have an intentional balance of buildable areas to ensure privacy and protection of natural resources. If approved, they will lose the buffer between properties that currently exists.

Mr. Byrnes comments that if this request is approved, they will lose the privacy they value simply because someone wants to build a house that's too large for the approved footprint. He asks that the Commission deny the request and keep the resource protection area adjacent to their home exactly as it is right now.

Mr. Burleigh states that his clients have invested a significant amount of money in reliance on the resource protection areas remaining as they are currently. He asks that the Commission deny the proposed request as it's not efficient given where they are in the process right now. In addition, if approved it will remove the healthiest trees on the lot, negatively impact wildlife, decrease privacy for both properties, and negatively impact the property value of his client's property.

Mr. Tullis states that he feels Mr. Burleigh does raise some legitimate issues regarding the recorded declaration that governs this neighborhood; however, that's not for the Planning Commission to determine. He suggests that the parties involved attempt to meet to see if they can amicably resolve this issue. Mr. Tullis adds that all the setback requirements are met. In addition, the Planning Commission has established a historical precedent of approving RPA swaps where the Village receives more resource protection area.

Mr. Rhodenbaugh asks if the Commission approves the plan as submitted, does it reduce the buildable size of the lot. Mr. West replies that it does. Mr. Rhodenbaugh points out that the applicant could be in a position where if the request is approved, and they go to the property owners and fail, then they could be stuck with the lot due to the Commission not being likely to reverse the previous decision to reduce the size of the lot.

Mr. Manning asks if the mature canopy forest the Village would be receiving, if the request is approved, is made up of good quality trees. Mr. West replies that they are of good quality.

After further discussion, Mr. Rhodenbaugh made a motion to approve the request as submitted. Mr. Tullis seconded, and the motion was approved by a roll call vote with

Mr. Rhodenbaugh, Mr. Tullis, Mrs. Stolper, and Chairman Wiggers voting in favor of approval and Mr. Manning voting against approval.

There being no further business to come before the Commission, Mr. Tullis made a motion to adjourn. Mrs. Stolper seconded, and the motion was approved by a unanimous voice vote.

Respectfully submitted,

---

Richard Wiggers, Chairman

ATTEST:

---

Jonathan D. West, Secretary Pro-tem