

**VILLAGE OF CORNWALL-ON-HUDSON
PLANNING BOARD
TUESDAY, JULY 19, 2016 - 7:00 P.M.**

Present Were:

Jeffrey Small, Chairperson
Vishwa Chaudry
Wynn Klosky
Lee Murphy
Maureen Spaulding

Also Present:

John Furst, Attorney
Andrew Fetherston, Planning Board Engineer
Benjamin Maggio, Code Enforcement Official
Roberta Hastey, Recording Secretary
James & Wendy Valentine, Applicants
Kevin Brennan, Attorney for the Valentines
Kelly and Arya Yarpezeshkan, Applicants

The meeting was called to order by Jeffrey Small, Chairperson at 7:00 pm.

OLD BUSINESS – Public Hearing

James and Wendy Valentine- 10 Idlewild Park Drive- Applicants are requesting site plan approval to place an accessory apartment within the garage area of the existing single family dwelling.

Kevin Brennan, attorney for the Valentines requested the Board not include the parking restrictions as the family has been able to manage the parking ever since they knew it was an issue for the neighbors.

Mr. Small reviewed the facts of the application for the Board to discuss.

1. We have a law on the books to provide affordable housing for the elderly and the young and the site plan has been reviewed by building inspector and consultants and the proposal conforms to the code.
2. Purpose now to shape the agreement to follow the code and mitigate issues. Since the plan will in essence remove two parking spaces within the garage, parking is a concern.
3. Special permit to expire when no longer serving the agreed purpose and subject to inspection.

Ms. Spaulding was not comfortable requiring additional parking and if there was illegal parking, it would be separate from the apartment use and handled as any illegal parking would be.

Atty Furst suggested added parking be part of the renewal review.

Mr. Murphy felt parking could be part of the review, if there are continued complaints by neighbors then additional parking could be required. He also felt the apartment should be limited to the M/MIL only.

Ms. Klosky agreed that parking needs to be addressed in the agreement but the review on renewal was a suitable way to handle the issue. As far as the intent of the code, it is to provide additional housing for the elderly and young and to not increase the burden on the school system

and requiring the agreement to be limited to one particular person was beyond the scope/purpose of the code.

Ms. Spaulding noted the code refers to family – not a specific person so children of the owners could be included as long as they follow what is in the code.

Mr. Small suggested breaking it down to the two separate issues and polled the Board regarding each.

1. The Board agreed to review of parking on renewal with a 9x18 permeable space to be used if needed.
2. Who could use the space?
 - Atty Furst - Code limits the space to three people and one bedroom. For the Board to be more limiting, they would need to show reason.
 - Mr. Chaudry felt it was necessary to limit to a particular resident to deter the use of the code to create moneymaking apartments and change the character of the area.
 - Atty Brennan asked that it not be limited to the one M/MIL but limited to family as specified in the code.
 - Mr. Murphy asked for Atty Furst's opinion on limiting it to only this specific resident. Atty Furst stated it could be limited to only one particular relative if all parties agreed.
 - Atty Brennan noted it was possible that the children now in the home could later use the apartment or be in the main residence and the parents occupy apartment.
 - Mr. Murphy thought they could reapply if the situation changed.
 - Ms. Spaulding noted it is an expense to community and to homeowner to reapply
 - Ms. Klosky was also concerned that if the Board limited the parameters beyond that of the code, it in effect increases the burden not only on the applicant but the Board and Village and community. The community has the ability to make complaint if the code is not followed.
 - Mr. Small: the code is our guide and the Board should not limit the use beyond the code.
 - Mr. Murphy argued that the Board should limit their approval to show disagreement with the code and reflect the neighbors' disagreement with the code.
 - Atty Furst noted that the Board needs to work within the code but could recommend code changes. Actual changes would need to be legislated.

Atty Furst spoke with Atty Brennan regarding the proposed resolution prior to the meeting and drafted a proposal. Mr. Small summarized the drafted proposal noting it was still in discussion.

- Resident(s) of the apartment would be limited to elderly or young members of the immediate family of the occupant. Immediate family being: parents, grandparents, grandchildren or adult children.
- If an immediate member of the family is no longer in residence, the apartment must be internally modified so it is no longer consider a separate building unit per NY State code. This will be noted on Certificate of Occupancy.
- Not transferrable to subsequent landowner. Subsequent landowner would need to reapply and to meet the same guidelines.
- The applicants will allot a 9x18 parking space to the left of existing driveway to be installed using permeable pavers if needed on review in two years.
- The application will be reviewed every two years. The Building Inspector can inspect at any time and will make periodic inspections.

Mr. Chaudry reiterated his concern for changing the character of the community. Discussion continued and while all agreed on the parking changes there was concern regarding the actual user of the space.

Atty Flynn asked if all was in order, could the applicant handle the renewal by mail. Atty Furst responded if there were no issues the renewal could be handled by mail.

Mr. Murphy asked that the agreement be re-written and brought before the Board to review in August but Atty Flynn stated the applicants were anxious to make the changes and asked if a decision could be determined that night.

Motion to Approve Application

With the following conditions: Inspected and renewed every two years. Parking to be reviewed at renewal. Use limited as per code. Not transferrable to subsequent owners. For use of immediate family. Ms. Spaulding motioned to approve. Ms. Klosky seconded, two (Mr. Chaudry & Mr. Murphy) against, three for, motion passed.

OLD BUSINESS – Public Hearing

Kelly A. Yarpezeshkan – 8 Riverside Drive – Applicant is requesting board review of an application to place a yoga studio into existing space previously used as a doctor’s office.

Mr. Small reviewed the project:

- Code allows for home professional office. Building inspector determined the use would be a home professional office versus a home occupation – e.g. website designer with little traffic and more solitary work. A home professional office was more akin to a doctor’s office or a lawyer’s office with some traffic. It is not limited to the examples given and does not exclude a Yoga Studio.
- The original proposal was more extensive and out of scale to a doctor’s office. Working together the proposal has been scaled back to two classes per day during the week and one class on Saturdays with four students per class so that the traffic would be comparable to what was previously in the space.
- Concerns were traffic & parking.
 - Plans presented showed adequate parking and two points of access.
 - Doctor’s office used Riverside Drive lessening the need to use Wilson & Grand View which are more residential streets.
 - Longstanding use of Riverside Drive.
 - Won’t overburden the easement across Riverside Drive.
- Proposed Yoga Studio will be secondary to the primary use of the space as a residence.
- Agreement to not use outdoor areas for Studio.

Board was polled for their input:

Ms. Spaulding had a question regarding Riverside Drive access and the hours the studio would be open.

Mr. Chaudry felt that input from the public hearings of neighbors within the 500 feet radius, should be given more weight in the deliberations than those of supporters that will not be directly affected by the decision.

Mr. Murphy asked how often the house would be occupied by the resident. Mr. Yarpezeshkan responded the family would be in residence 48-51 weeks out of the year.

Mr. Murphy also wondered about the applicants response of “not at this time” to two specific

questions. Ms. Yarpezeshkan replied that was in response to a question about practicing yoga on her deck and although she personally will, it will not be part of the business.

Ms. Klosky stated that vagueness could be avoided by the content of the resolution and by making sure the wording is clear about what is allowed and what is agreed to.

Mr. Small although many at the public hearing did not want any activity, the code allows for a home office but the principal use must be residential. The impact of traffic and parking along Grand View is a primary consideration but access off of Riverside driveway should minimize that issue. Mr. Small also noted that the Board was sent a large amount of letters. The letters have all been read by the Board but due to the quantity, will not be read at the meeting but will be part of the record on the application.

Atty Furst regarding using Riverside Driver for access: if they will be burdening the access it would be between the landowners and beyond the scope of the Board but there was no language in the deed that he saw limiting access and there was a history of owners being granted access.

Motion to Declare a Type 2 action

Mr. Murphy motioned to declare a Type 2 action, Ms. Klosky seconded, All in favor.

Mr. Chaudry asked about monitoring the use and excessive use of Wilson and Grand View and how can the Village enforce the students use of Riverside Drive.

Mr. Small replied that the board can't enforce use but the applicants can request students to use Riverside and a number of clients said they were close by and would prefer walking anyway.

Mr. Small asked that Atty Furst note that this is a site plan approval and the board is not approving or interfering in any decision regarding the dispute regarding the fence or easement.

Conditions:

1. Renewal every 2 years
2. General range of hours 9:30 to 5:00
3. Classes limited to four people per class with two classes per day except Saturdays which will be one class and none on Sunday.
4. Show parking for class participants on site plan.
5. No use of outdoor areas.
6. Agreement will not address fence issue.

Motion to Approve Application

Ms. Klosky motioned to approve with the noted conditions. Mr. Murphy seconded, all in favor.

MINUTES

June 17, 2016

Mr. Murphy motioned to approve the June minutes with the corrections made by the Board, Ms. Klosky seconded, all in favor.

Meeting was adjourned at 8:35pm

Mr. Murphy motioned to adjourn the meeting, Ms. Klosky seconded, all in favor.

Respectfully submitted,

Roberta Hastey, Recording Secretary