

**MINUTES OF SPECIAL MEETING  
INDIAN HILL VILLAGE COUNCIL  
September 12, 2017**

A special meeting of the Indian Hill Village Council was held on September 12, 2017 at 7:30 p.m. The meeting was held in the Council Chamber of the Village Administration building.

Officials present:           Mr. Daniel J. Feigelson, Mayor  
                                  Mr. Mark D. Kuenning, Vice-Mayor  
                                  Mr. John B. Armstrong, Council member  
                                  Mrs. Molly R. Barber, Council member  
                                  Mr. Donald C. McGraw, Council member  
                                  Mr. Abbot A. Thayer, Council member

Officials absent:           Mrs. Melissa S. Cowan, Council member  
  
                                  Ms. Dina C. Minneci, City Manager  
                                  Mr. Paul C. Riordan, Clerk/Comptroller

Visitors Present:           *See attached list*

**PLEDGE OF ALLEGIANCE:** Council opened the meeting with the Pledge of Allegiance.

Mayor Feigelson stated that the first item on the agenda is the continuation of the appeal hearing for Planning Commission case 17-005.

Mayor Feigelson reviewed the procedures for the meeting.

Council member Thayer stated that although he was not in attendance for the last council meeting, he wanted to let everyone know that he did listen to the tape and review all of the materials associated with the appeals.

Council member Kuenning stated that it does appear to him that this is a legal lot of record, that what the Planning Commission did in May to change the front lot line from Park to Holly Hill was indeed correct and that has not been appealed here. So we now have Holly Hill as the front lot line. So then it appears that we have to determine the Lot Frontage and in addition to that, what is the rear line. These are the key points that we need to deliberate and decide on tonight. Looking at the record and the testimony, the Planning Commission decided that the Lot Frontage was determined by coming to a point that is parallel to the front lot line, at which point it met the required width of 250'. And, similarly the Planning Commission decided that the rear lot line was to be the line that is at the far south end of the property and that is what is being disputed in the appellant's case. He asked if the council members had any additional items that needed to be deliberated on.

Council member Barber stated that she agreed that those were the two issues that needed to be determined here and she feels that they were interpreted correctly by the Planning Commission.

Council member Armstrong discussed the history of this lot and the history of the Village as farmland with the Dupree's being one of those families that purchased large tracts of land along with the Kroger's and Fleischman's. This lot was part of one of those large tracts owned by the Dupree's. He said that we have reviewed all of the documents submitted by the applicant and the appellants and the transcripts, and we also heard expert testimony from the witnesses as well as all parties' counsels to consider whether or not this parcel is a buildable lot. He said that he has concluded, that this lot is a legal conforming lot that is greater than 5 acres, that fronts on Holly Hill and it meets the front yard and rear yard setback requirements. He said that he sympathizes with Dr. Kranbuhl that the construction and noise will be in her back yard. He believes this is a legally conforming lot under the Village Zoning Code.

Council member Thayer agreed with Mr. Armstrong's comments.

Council member McGraw stated that he has carefully studied all of the evidence provided by all of the parties and reviewed the zoning ordinance, and has walked the property on several occasions. There are two perspectives being presented, the Kahns' perspective is that in good faith they purchased the property on which they want to build a home and they have worked hard to make sure that home will meet all of the legal constraints and the Village Zoning Ordinance. Neighbors on the other hand object to the proposal and contend that the lot lines and setbacks are either incorrect or inaccurate and the others believe that the property is not buildable, or at least at the size that the Kahns' desire to build a house. He said that when he examines the evidence, as much as he wants to honor the neighbor's objections he finds them without merit. He said that he believes the Planning Commission came to the correct decision and that the Kahn's have met every requirement of the Indian Hill Zoning Ordinance. He also addressed how Indian Hill is a community of good neighbors. Planning Commissions decision to allow the Kahn's to build their home is an invitation to the neighbors to welcome them into the community and he hopes that the neighbors will embrace that spirit.

Mayor Feigelson stated that he also looked at the lot, walked the lot, studied the map, and he also believes that it is a buildable lot in the five-acre zone. He believes that it has legal frontage for a five-acre lot and sees no reason why, subject to the setbacks requirements of the text of the code that a house shouldn't be allowed to be built there. He agrees with the Vice-Mayor that the issues really become what are the setbacks, what is the front line, what is the rear line and then just applying those setbacks within the envelope to determine whether this house meets those requirements. One of the troubling things is that the house is in a five-acre zone and there is only a 25' side yard setback and he sympathizes with the fact that here we have houses on five-acre lots that may have several hundred feet of grassy area separating their house from the property line and now all the neighbor has to do is go 25' and they can build a house on the property. But that is clearly what is in the text. The authors of the Zoning Ordinance did not say you have a five-acre lot and you have to have a 100' of side yard setback, they said 25' is adequate. We heard a lot of conversation about the distance of the homes but the fact of the matter is, everybody has a right to build up to that 25' setback so I do not see any issue with that. He stated he agreed with the comment about the front yard setback and therefore to him, the only issue becomes what is the rear lot line. After studying the map and the language of the code, he believes it is what the Planning Commission determined it to be which is the line that crosses the entire rear yard which

is generally opposite the front line, and uses the word generally because that is what the code says. Subject to the setback requirements of the side and front yard setbacks, he had difficulty finding any reason that the Planning Commission erred in its judgment.

Council member Kuenning stated that he believes that the Planning Commission did properly apply and interpret our zoning ordinance in their decision of May 23<sup>rd</sup> and he moves to affirm that decision.

Council member Armstrong seconded the motion.

Mayor Feigelson asked if there was any other discussion needed. Hearing none, he asked Mr. Riordan to call the roll. All Council members present voted 6-0 to affirm the decision of the Planning Commission.

Mayor Feigelson asked for a motion to adjourn.

Council member Thayer made the motion to adjourn, which was seconded by Council member Barber. Upon call of the roll, all members voted in favor to adjourn.

Respectfully submitted,

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Daniel J. Feigelson, Mayor

ATTEST:

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Paul C. Riordan, Clerk