

**MINUTES OF THE MAY 16, 2016
MEETING OF THE PLAN COMMISSION
VILLAGE HALL 6101 CAPULINA, MORTON GROVE, IL 60053**

Pursuant to proper notice in accordance with the Open Meetings Act, the regular meeting of the Plan Commission was called to order at 7:30 pm. by Chairperson Farkas. Secretary Sheehan called the roll.

Members of the Commission Present: Blonz, Gabriel, Gillespie, Khan, Farkas
Shimanski

Members of the Commission Absent: Dorgan

Village Staff Present: Dominick Argumedo, Zoning Administrator/Land
Use Planner, John Komorowski, Building Official
Teresa Liston, Corporation Counsel

Trustees Present: Rita Minx Bill Grear

Chairperson Farkas described the procedures for the meeting. Anyone from the audience will be allowed to speak after the commission asks questions of the applicant. After residents comments, discussion and voting will take place.

Chairperson Farkas proceeded to seek approval of the February 15, 2016 minutes.

Commissioner Blonz moved to approve the minutes of February 15, 2016 with the month and date correction. Commissioner Khan seconded the motion.

Chairperson Farkas called for the vote.

Commissioner Gabriel voting	aye
Commissioner Gillespie voting	aye
Commissioner Shimanski voting	abstain
Commissioner Khan voting	aye
Commissioner Blonz voting	aye
Chairperson Farkas voting	aye

CASE PC16-02

APPLICANT: Phil Van Swol
9109 Menard Avenue
Morton Grove, IL 60053

PROPERTY LOCATION: 9109 Menard Avenue

PETITION: Application for a Subdivision at 9109 Menard Avenue with waivers to lot width and area in accordance with Section 12-8 of the Unified Development Code (Ordinance 07-07).

Mr. Argumedo reviewed the address of 9109 Menard, which are three (3) contiguous lots of record located mid-block on the east side of Menard Avenue in the R2 Single Family Residence District zoning district. The three (3) individual lots are 33 ft. x 125 ft. each and owned by the applicant, Phil Van Swol. The overall property is improved with a single family residence that encroaches on the two most northern lots.

The applicant is seeking to subdivide the existing three (3) lots into two (2) lots of record. The north lot would be 54 ft. x 125 ft. and 6,750 sq. ft. while the south lot would 45 ft. x 125 ft. and 5,625 sq. ft. This is considered a minor subdivision per the Ordinance.

The R2 zoning district regulations state that subdivisions of record after August 4, 1959 must have a minimum lot area of 5,900 sq. ft. and a minimum lot width of 50 ft. For this proposed subdivision, the proposed northern lot would be compliant with the required lot dimensions. In addition, the existing single family residence would be compliant with all R2 zoning bulk and dimensional controls on the proposed northern lot. The proposed southern lot, however, would not meet minimum area and width requirements and thus would require waivers. The waivers for the proposed southern lot from the proposed subdivision are:

275 sq. ft. waiver to allow for a Lot Area of 5,750 sq. ft.
5 ft. waiver to allow for a lot width of 45 ft.

Argumedo continued stating in 2008, the applicant purchased the three contiguous lots of record. At the time, the lots were improved with a single family residence that encroached on all three lots. As such, the lots were considered one (1) zoning lot due to common ownership. A zoning lot is defined as contiguous lots of record under single ownership considered one overall lot in order to be in compliance with zoning regulations such as setbacks and density. As a zoning lot an individual lot of record cannot be separated from a zoning lot if such a separation would result in the remaining structure or lot to be non-compliant, waivers from the Village would be required. After purchase, the applicant applied for and was granted permission to demolish the existing home and build a new single family residence. The applicant also applied to the Cook County Assessor's office and consolidated the three (3) existing PIN numbers into two (2) PIN numbers to reflect the applicant's desire to subdivide the lot in the future. The applicant did not, however, submit a subdivision application with the Village and no subsequent ordinance passed granting the subdivision. The Village must pass the subdivision Ordinance that is approved by the Board of Trustees and is then to be recorded with Cook County. In addition, while the PIN numbers were consolidated with the Cook County Assessor's office, the new PINS are not in the Cook County Office of Deeds database reflecting that a final subdivision occurred.

Mr. Argumedo reviewed the Village's building permit file from 2008 that revealed:

- A plat of survey of the previous residence that shows three lots of record and an existing residence that encroached on all three (3) lots in question which thus constituted one zoning lot
- Dimensioned building plans that detail a new residence to be built on a newly subdivided lot on the north side at 54 ft. X 125 ft. subdivided with the south lot vacant; leaving a 45 ft. lot to the south
- No evidence a subdivision application was submitted or Village review identified that one would be needed

Concluding, Mr. Argumedo stated there is no evidence in the file stating that the owner was told that by subdividing these lots, this is creating a non-conforming lot to the south.

Chairperson Farkas asked for questions.

Commissioner Gabriel asked if the 54 ft. lot was incorrectly stated, because it was 3 lots and was not an issue when it was built since all 3 lots were contiguous. Mr. Argumedo replied that all the site plans pointed to 2 future lots, proof that it was analyzed on a 54 ft. lot by the Plan Commission.

Commissioner Blonz inquired if the storm sewer that comes across the property is going to pick up drainage from the new lot. Building Official John Komorowski stated if someone submits plans for the new parcel, they would have to submit a sub-engineering plan.

Blonz also inquired about the landscaping and the trees on the current lot. Mr. Argumedo replied the case would have to go before the Appearance Commission and would be decided if the tree would have to be replaced, however, there is not a private property tree ordinance.

Chairperson Farkas asked if an assumption could be made that the owner intended to build the house on the 54 ft. lot with the intention of having green space on the adjacent lot. Mr. Argumedo responded we can't speak on assumptions and the property owner is present and can speak on his own behalf. Continuing, if a similar proposal were to come thru, the owner would have to come before the Board for approvals, even if it was by right. This subdivision could have been done by rounding and this property could have been subdivided 49'6" and with rounding it would be 50 ft. and compliant. It cannot be the case now because the existing house would be in the side yard setback.

Commissioner Gabriel asked if there were any current non-compliant conditions with the existing home. Mr. Argumedo responded no.

The applicant, Mr. Phil Von Swol was sworn in. Mr. Von Swol summarized the history of his purchase of the parcel that was on 3 pins in 2008. The intentions at that time were to build the

current home on the 54' ft. lot and keep the adjacent lot of 45' 6". Prior to solidifying the proposed building plans, a meeting was held with the current Village Planner, Bonnie Jacobson and was informed that a 45' 6" side lot would comply with zoning ordinances in the Village. The plans and surveys were drawn up and presented to the Village Planner for the lot of 54 X 125' and 45' 6" X 125' and were approved. Mr. Von Swol registered the 2 consolidated pins with Cook County in 2014. After this was completed, it was presented to Mr. Argumedo and at that time was told that the 45' 6" lot was not compliant. At that point, Mr. Von Swol was surprised and asked what the appropriate process was to obtain the variance. Mr. Argumedo then stated this case should go before the Plan Commission and that has brought this case up to the current status.

Mr. Von Swol continued with the description of the area where the lot is located with a combination of newer and older homes and 2/3 of the homes are on 45 ft. lots. The proposed construction of the new home would be tastefully designed and would benefit the area. The majority of the landscaping that is currently on this lot would remain, including the arbor vitae located on the south side.

Chairperson Farkas asked if there were any questions for the applicant.

Commissioner Gabriel stated the street view does not appear wide enough to construct another house. Beginning at 9115 Menard and continuing down to 9109 Menard to the corner, the house does not look like it would fit in with the current cluster of homes. Mr. Von Swol added that most of the homes on the 45 ft. lots are 35 ft. wide which is what the proposed structure would be.

Commissioner Blonz asked if the bushes on the south side would remain and if there would be any problem for the Fire Department to have access in an emergency. Mr. Komorowski responded if the bushes are 3 ft. wide and are encroaching within 5 ft. they may have to be relocated. This area is where the water drainage is going to go and they may never survive the construction. The newer homes are brick and the fire rating on the exterior wall are higher and would burn itself out before it did any damage to the home. Mr. Von Swol intends to leave the bushes unless there is some reason in the building process to remove.

Chairperson Farkas asked if there was anyone present that wanted to be heard.

Barbara Kuzinski, at 9118 Menard, does not feel that the lot is big enough to build a house and wants to know why Mr. Von Swol wants to sell the lot and build a house on it. Ms. Kuzinski is concerned about parking on the block and that the house would be so small it would look like a box car.

Chairperson Farkas asked if there was anyone else present that wanted to be heard.

Arnie Reznick, at 9114 Mango has concerns about the parcel being built on a 45 ft. lot which would allow for a 35 ft. very tall and narrow structure. The garage will be in the front and

would be over 20 ft. wide and the house will only be 15 ft. façade in the front. Building a garage on the alley would be very difficult for access and snowplowing in the winter would be impossible. Assuming this is going to be high end with all brick and currently all the houses across the street are frame and this won't fit in. Mr. Reznick also had concerns over who is going to own this property and was it for monetary reasons being sold to a developer. This should have been considered in the beginning that the lot was not buildable.

Commissioner Shimanski asked by allowing the subdivision is this implying that the 45 ft. lot is buildable or would new construction with a 45 ft. lot have to come in front of the Zoning Board for approval. Mr. Argumedo said a subdivided 45 ft. lot would have to come before the board for approval. Continuing, a condition could be added to the ordinance, with knowledge that this is for a subdivision as stated. Mr. Argumedo asked for Ms. Liston's input for interpretation for code 12-15-5a, which states a non-conforming lot of record that was recorded prior to August 4, 1959 not meeting the requirements of this title, may be used for a single family dwelling provided that ZBA finds the undue hardship is imposed on the owner.

Ms. Liston stated if this was a non-conforming lot before 1959 then this case would not be presented to the board. There have been cases that have been approved for a house to be built on a sub-standard lot.

Commissioner Gabriel asked if the lot were subdivided as requested, would all the perimeters on the lot meet regulations. Argumedo stated that this is in the R2 district and is compliant with 5 ft on the north and 5 ft on the south.

Chairperson Farkas asked if there was anyone present that wanted to be heard. There was no response.

Chairperson Farkas asked if there was any further discussion. With no response, Farkas added that he was bothered by what the applicant's foundation was based upon one conversation that was made with a building official back in 2008. Continuing Farkas added, there was a reflection made that the information was incorrect, and not within code. The applicant could have checked the code himself that is public record. This sets a bad precedent and this is presented to the board and then the Village is stuck with that verbal opinion. The applicant owns a lot that is 99 ft. and could have built two homes on this lot without any question. Farkas added he is not asking for any reply, just stating his opinion.

Mr. Von Swol asked to be heard and he explained there was well documented and detailed plans and surveys that were brought before the Village Planner.

Ms. Liston stated from a legal standpoint if a Village employee gives out the wrong information, it is not binding on the Village.

Chairperson Farkas asked if the sub division is approved and the applicant looks for a variation to build, and the problem to overcome was something that was created by the owner and was

this self-imposed because there could have been two homes built on the lot. But if the lot is sold, is it no longer an impediment or an argument.

Ms. Liston quoted the code 12-15-5 Section C:

The creation of a non-conforming lot subsequent to the effective date of this title (which was 2007) or any subsequent amendment shall not entitle the owner of such non-conforming lot to a building permit as provided elsewhere in the code.

Liston continued stating the owner can come back and apply for it, but the owner is not entitled to it just by a matter of right just by approving the sub-division.

Shimanski says this is the first step in getting approval for the sub-division, and nothing can happen until this is passed.

Liston added the code provision stated you cannot build two homes on one lot, and right now this is considered one lot.

Chairperson Farkas asked for a motion.

Commissioner Shimanski moved to approve Case PC16-02, 9109 Menard, request for recommendation of approval for a Subdivision at 9109 Menard Avenue with waivers to lot width and area in accordance with Section 12-8 of the Unified Development Code (Ordinance 07-07)

1. The subdivision shall be recorded in accordance with all materials submitted with the application in accordance to Section 12-8-3.
2. The owner and successive ownership shall be duly notified through a recorded deed that any future development on each lot shall correspond to existing unified development code.

Chairperson Farkas stated the application is for a subdivision with waivers.

Mr. Argumedo stated that the waivers speak to themselves. All subdivisions have to be reviewed by the Plan Commission. The waiver is that this is for a subdivision on a sub-standard lot and they speak to themselves.

The motion was seconded by Commissioner Blonz.

Voting as follows:

Commissioner Khan voting	aye
Commissioner Gillespie voting	aye
Commissioner Gabriel voting	aye

Commissioner Blonz voting	aye
Commissioner Shimanski voting	aye
Chairperson Farkas voting	aye

Motion passed.

Chairperson Farkas asked for any other business or discussion. Hearing none, Commissioner Gillespie moved to adjourn the meeting. The motion was seconded by Commissioner Gabriel and approved unanimously pursuant to a voice vote at 8:32 pm.

Minutes by: Janet Sheehan