

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, November 24, 1992

Mr. Hosfeld called the meeting to order at 7:30 P.M.

Attendance: Mr. Robert Hosfeld, Chairman; Mr. Peter McMahon; Mr. Bernard Samples; Mr. Scot Stone. Absent: Mr. Arthur Foland; Mr. James Durham; Mr. Stanley Swartz. Also present: Mr. Steve Feverston, Assistant City Planner; Mr. Robert N. Farquhar, City Attorney.

MOTION: Mr. Stone moved to excuse Mr. Foland, Mr. Durham and Mr. Swartz as they gave prior notice of their absence to the Planning Department. Mr. Samples seconded the motion. The motion was approved unanimously 4-0.

PUBLIC HEARINGS

Lightcap, Jack and Beverly - Variance of Side Yard Setback

Mr. Feverston reviewed the Variance application submitted by Jack and Beverly Lightcap requesting a side yard setback variance to allow the construction of a carport at their residence located at 65 Laura Avenue. The zoning on the property is R-1d, single-family residential which permits a minimum lot size of 15,000 sq. ft. This particular property is approximately 7,056 sq. ft. and has a lot width of 60 ft. Our normal lot width in this zoning district is 100 ft. Mr. Feverston stated that this lot is typical of how this particular neighborhood was platted when it was developed many years ago.

One (1) variance is being requested by the applicants for a side yard setback of 3.5 ft. along the east property line. Mr. Feverston stated that there is an existing one-car garage on the property with approximately 20 ft. of separation between the house and the garage.

Mr. Feverston stated that in reviewing the application, there is no uniqueness or hardship to this particular property.. He stated that variances are applied to property and not personal needs. It was, therefore, the staff recommendation to deny the variance request.

Mr. Hosfeld opened the public hearing.

Mr. Jack Lightcap, applicant, stated that there main reason for wanting the carport is due to health reasons. The carport would eliminate scraping of ice from the car, protecting the car from the

elements and eliminating snow removal from that area of the driveway. He stated there it is at least one (1) other carport in the neighborhood and there has been no objection to this proposal from surrounding property owners that he was aware of.

Mr. Samples asked if the neighbor to the east of the site had objected to the proposal.

Mr. Lightcap stated that he spoke with that particular property owner and he had no objection. He stated that he was not aware of any objection unless the City had received any in written form.

Mr. Samples asked what the notification procedure was for this application.

Mr. Doug Purkey, the contractor for the project, stated that he was required to submit the property owners within a 500 ft. area of the property, some 117 names, which he felt was unreasonable. He stated that the lot size itself poses a hardship because there are no lots today that are developed 60 ft. in width. He stated that the minimum lot width in this particular zoning district in today's zoning standards is almost twice that of the lot in question.

Mr. Feverston explained that the lots in this area were platted back in the 1940's under previous zoning requirements which permitted lots that size and dimension.

Mr. Stone stated that he understood the issue of the applicants medical problems, however, what the Planning Commission has to review is what is unique about this property. This particular property is not any different than those in the surrounding neighborhood. He stated he realized there is a personal hardship, but not a hardship involving the property which is the basis for granting a variance.

Mrs. Beverly Lightcap, applicant, stated that she did not understand who would be hurt by the construction of the carport.

Mr. Stone stated that unless an applicant presents a certain unique hardship to the case, the Planning Commission cannot arbitrarily change lots all through a zoning district which would defeat the purpose of the intent of the Zoning Ordinance. If this type of variance was granted to everyone in the neighborhood, the setbacks between houses in this particular area would be about 10 ft. from each other.

Mr. Purkey stated that condominiums are being constructed in this same manner all over the place.

Mr. Stone stated that those condominiums are being constructed under zoning for that particular use.

Mr. Purkey stated that these homes were constructed 50 years ago when families only had one (1) car. He stated that the Planning Commission has to be more flexible to the rules that the Council provides. He stated that the hardship is not the applicants' health, but rather the fact that there is no other place left on the lot to put a car. Mr. Purkey stated that the hardship in other cities is not based solely on the lot, but, evidently it is here. He stated that he has had a few personal cases where it is.

Mr. Farquhar stated that through the state of Ohio, it is based on the lot and not based upon personal considerations. He stated that if Mr. Purkey had experienced a different situation, the law was not being followed.

Mrs. Lightcap was disturbed that consideration was not being given to their personal hardship. She stated that they pay high taxes to live in Centerville and have never voted against any levy that was proposed. She stated this issue is the most ridiculous situation she has ever seen. Mrs. Lightcap stated that having lived in Centerville for 35 years, this is the kind of cooperation they get for asking for one (1) variance.

There being no other speakers, Mr. Hosfeld closed the public hearing.

Mr. Hosfeld stated that the Planning Commission reviews many applications from people who want to do a particular treatment to their property. He stated that one of the strengths of the City of Centerville is that it is well laid out, it has a Comprehensive Plan that has taken it to where it is today, and it is one of the reasons why many people come here to stay. Their requirements are included in the Zoning Ordinance and it is the responsibility of the Planning Commission to try to follow those guidelines. He stated that in his opinion when a variance is granted from the Zoning Ordinance, in a way a new ordinance is being created. There needs to be something very unique as to why that is done. Mr. Hosfeld stated that he understood the Lightcap's personal needs, but unfortunately that is not the way the law works and this body is an instrument of the law. He stated that tax dollars also go to pay the City staff to implement those laws to keep the City of Centerville the way you would like to have it be. In some cases, it does not exactly fit what we would like to personally have it, but it fits the overall general good of the City.

Mrs. Lightcap stated that she did not understand why public hearing notifications had to be sent to 117 property owners if the Planning Commission had already decided the action it would take. She stated that as long as they maintain and enhance their property which would help keep up the tax base, she did not understand how a \$1,600 carport would hinder the whole community.

Mr. Samples stated that he recalled the City making exceptions to the side yard setbacks several years ago based on those 60 ft. width dimensions. He indicated he did not recall if those variances were granted by the Planning Commission or at the Council level. He stated that he empathized 100% with all the comments the applicants have made and if he were in their position, he would be very angry and would not buy this argument that the Planning Commission is limited by the law. He stated that he did feel there was room for flexibility because of the extenuating circumstances, none of which fall within the purview of the checklist. He stated that the checklist does not address the age of the plat plan, the age of the plat itself and the number of changes in the Zoning Ordinance.

Mr. Farquhar stated that in one sense, Mr. Samples was correct--a variance is a variance from the law. But, in determining whether or not you are going to vary the law, you need to use the checklist which are the standards for granting a variance.

Mr. Feverston reviewed the checklist of standards for granting a variance at the request of the Planning Commission to explain the staff recommendation of denial.

Mr. Farquhar stated that should the Planning Commission desire to approve the variance, a condition could be placed on that approval to limit the carport structure to exist only as long as the applicant remained the owner of this property based on their health problems and the temporary nature of the proposed structure. He stated this is an alternative that could be considered, however, technically it should not be granted.

Mr. McMahon asked how that situation could be enforced.

Mr. Farquhar stated it would be difficult to enforce. There would be a zoning violation if the property were sold and the carport was not removed.

Mr. Purkey stated that this a judgment call that no one wants to make with the exception of Mr. Samples.

Mr. Stone stated that all the lots in the plat are the same and this situation does not represent uniqueness.

MOTION: Mr. McMahon moved to deny the Variance application submitted by Jack and Beverly Lightcap, 65 Laura Avenue, as requested. Mr. Stone seconded the motion. The motion was approved 3-1 with Mr. Samples voting no.

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Mr. McMahon stated that the applicants have the right to appeal this decision to Council.

Mr. Purkey stated he understood the procedure very well.

There being no further business, the meeting was adjourned.

R. J. Hatfield 2/23/93

