

THE BOROUGH OF NEW SALEM PLANNING COMMISSION
February 26, 2008

A meeting of the New Salem Planning Commission was held February 26, 2008 at 7:00 pm. In the absence of Chairlady Edith Hinkle, the meeting was called to order at 7:00 pm. by Kim Martin with a salute to the flag. Present at the meeting were Commission members, Thomas Miller, George Rabenstine and Patricia Wainwright, Secretary Cheryl Bahn, Engineer Jeff Spangler and Solicitor D. Michael Craley. Edith Hinkle, was absent from the meeting.

Sketch Plan for Sherwood Forest Phase II

Mr. Rod Krebs, Springfield Contractors, and Harry Wright, were present to present a sketch revision of Phase II Sherwood Forest Subdivision Plan.

- The plan had been reviewed by the Borough Engineer, Jeff Spangler.
- The sketch plan involves eliminating a portion of Marian Way (to avoid a steep grade and cut) and extending Scarlet Drive to King Richards Court North. This would result in one less lot and one less EDU - from 50 to 49.
- The plan still serves the purpose to avoid a direct connection to Friar Road. If there is a favorable opinion from the Planning Commission, then a revised preliminary plan would need to be submitted, followed by a Final Phase II Plan.
- Lot 74 on the sketch plan is different than on the approved plan. Mr. Spangler suggests not changing the lot since it has already been approved. Any changes could be made on lot 75.

Motion by George Rabenstine, seconded by Tom Miller, to give a favorable opinion to the proposed changes as presented. Motion carried unanimously.

Dwayne Forbes - Interpretation & Variance Request

Mr. E. Steve O'Donnell was present to present the Application for Interpretation & Variance Request of Dwayne Forbes for his property located at 4078 Sherwood Drive. Mr. Forbes was also present.

Dwayne A. Forbes, owner of 4078 Sherwood Drive, has appealed the decision of the Zoning Officer regarding a setback violation for the location of a house foundation poured on his property. A Zoning Enforcement notice was sent January 28, 2008. The foundation is in the front set back by approximately 10' and would need to be relocated to comply with the Zoning Ordinance. He has also applied for a variance to the Zoning Ordinance to allow the foundation to continue as built and resume construction of the house at the current location.

Mr. Forbes had applied for a building permit and presented copies of his permit. One of the conditions of the permit "requires setbacks, front -35 ft from the edge of the right-of-way, side 10', rear -30'. He indicated that he had not noticed that. He presented a sketch plot plan showing a set back of 35'. Mr. O'Donnell pointed out that he could not find a copy of the Sherwood Drive street dedication in the Court House.

Mr. O'Donnell voiced that no notice was received that his client was in violation of the of the right-of-way to which Mr. Craley indicated that other notices could be sent. Mr. O'Donnell stated that what he wants to do is figure out what he needs to do in order to protect his client's investment as "he has a major investment sitting there". They are looking for cooperation with the Borough and "a little lean to both ways".

Mr. Craley inquired if Section 404a (modification provision) could be of help to them. It was determined that the new set back using the setbacks of the neighboring properties would be approximately 36', so that would not be of help.

Mr. Forbes indicated that he called Mrs. Bahn and she indicated that the set back was 35' he took it to be 35' from the street. He stated that he was not trying to do anything wrong and that his application was approved with the plot plan showing his property going to the curb line. He had paid \$700.00 for his permit and he located the property as he described on the permit location. It was fortunate that the violation was caught before the construction continued any further. It is the responsibility of the builder to correctly locate the improvements on the lot.

Mr. Craley again inquired if Mr. Forbes could modify the foundation to comply with the setback. Mr. Forbes indicated that a poured foundation is not possible to modify, that he would have to take the whole foundation down to the ground and start again.

Mr. Craley inquired if the four feet were taken of the porch, if the setback violation would be as noticeable. It would put the set back at 29', or a 6' variance. There was mixed response.

Mr. Craley indicated that he could not advise the commission on the case as he is not sure if the Council will want him to represent the Borough at the Zoning Hearing.

Mr. Rabenstine questioned setting a precedence for entering the front set back. Mr. Craley replied that each case should be looked at according to its own merit.

Mr. Miller voiced that the Ordinance may be confusing as the definitions are in the front and not in each section. He also indicated that he thought that it was an honest mistake. Mr. Forbes voiced that he thought he was to measure from the street. He voiced that he shouldn't have to have an attorney. He admitted that it was his mistake.

The Commission was conflicted the situation with mixed feelings. The 6' would be a small variance and is better than a 10' variance.

Kim Martin asked if there were any options that the foundation could be modified. Mr. Forbes indicated that because of the nature of the poured foundation, it would not be possible. He would not have a problem removing the porch portion.

Motion by Tom Miller, seconded by George Rabenstine, to recommend that the Zoning Hearing Board grant a variance of 6' to the applicant that would require the removal of the front porch. Motion carried unanimously.

The Zoning Hearing is scheduled for March 18, 2008 at 7:00 pm at the Borough Building.

There being no further business, the meeting was adjourned at 8:07 pm. The next meeting will be March 25, 2008 at 7:00 pm, if necessary. Motion carried unanimously.

Respectfully submitted,

Cheryl D. Bahn
Secretary