

Minutes
10-04-07
Cedar Creek Planning Commission
Cedar Creek Board of Trustees

The Cedar Creek Planning Commission met in special session on October 4, 2007, at 7:00 p.m., at Village Hall. Advance notice of the meeting was given by notifying each member by telephone and posting the notice in three public places in the Village. Purpose of the special meeting was to act on a building permit application for construction at 101 East B Street.

The special meeting was called to order at 7:01 p.m. by Planning Commission Chair Jeff Leach. Roll call: Bob Fuxa, Monty McAllister, Gene Stauffer, Guy Ern. All present. Subcontractor of the proposed project, Dan Hansen, presented the permit on behalf of the property owner Ben Bohuslavsky. Application for and addition to the existing building and enclosing previous work, total project 2856 square feet, requested set back to east side lot line of one foot. Letter of approval for a two foot set back from neighboring property owner provided. Use of proposed structure given as storage only. Hansen also stated he would check with the Fire Marshal or Building Inspector on required fire codes relating to setbacks. Comments of Planning Commission members included: Red Tag needs to be resolved before additional work; Setback regulations; Fire safety codes; Illegal shipping containers on property. Chair Leach commented, the shipping containers issue has been filed in court, the Fire Marshal has given the owner a deadline to remove or fill the fuel tank, and this permit would take care of the red tag. Motion to pass proposed addition with a one foot setback to the east property line. Vote: Leach yes, Stauffer no on the setback variance, Ern yes because neighbor gave approval, McAllister no on variance, Fuxa yes.

Planning Commission meeting adjourned at 7:30 p.m.

Board of Trustees met in special session at 7:35 p.m., on October 4, 2007, at Village Hall. Advance notice of the meeting was given by notifying each member by telephone and posting the notice in three public places in the village. Purpose of the special meeting was to act on a building permit application for construction at 101 East B Street.

The special meeting was called to order by Chair Dan Muntz at 7:35 p.m. Roll call: Randy Moses, J.R. Olson, Pam Swenson, Bob Ford. All present. Chair Muntz stated the proposed construction was as presented to the Planning Commission prior to the Board meeting. Chair asked for comments from the public. C. Paukert commented the setbacks are regulated to provide utility access, managing fire codes, minimizing fire jumping. If buildings are too close together, a dangerous situation is created. Present use of the building could change in the future resulting in additional violations. Comments from the Board: R. Moses stated he thought most concern was about the requested variance to build one foot from the property line, and asked the contractor if he would consider building at the 6 foot setback the existing building is at. Hansen replied, the 10 foot required buffer zone is for beautification and is ridiculous. He is requesting to build 1

foot from the property line but would not disregard a fire code buffer if required by the building inspector. P. Swenson stated, we currently have an individual who was denied a variance and has threatened legal action. If this variance was granted. Is concerned with the enforceability of existing codes. B. Ford stated, the request for a variance does not meet requirements for a variance as given in the Cedar Creek Zoning Ordinance with the exception of #2 of the requirements which states an applicant cannot be deprived of rights commonly enjoyed by other properties. Other commercial properties in the village do not conform to the regulations. Ford said he would be willing to approve the six foot setback but not the one foot. D. Muntz stated, other properties in the area are not in compliance and would like to see the adjoining property changed to commercial use sometime in the future. Clerk informed the Board, all commercial buildings were built before the Zoning Ordinance was adopted and are grandfathered. Motion by B. Ford, approve application for construction but do not give a setback variance. Require a 10 foot setback to the east property line. Second by P. Swenson. Vote: Moses no, Olson no, Swenson yes, Ford yes, Muntz no. Motion failed. Motion by Moses to approve the permit with a six foot setback to the east property line. Second by Olson. Vote: Moses yes, Olson yes, Swenson no, Ford no, Dan yes. Question arose, if action would be considered a variance. B. Ford read from Zoning Regulations, Section 4.19, Nonconforming Structures in which is stated, no enlargement of a nonconforming structure shall either create any additional nonconformity or increase the degree of existing nonconformity. Ford stated, that the 10 foot setback needs to be enforced. After further discussion, motion by Swenson to submit to the village attorney board decision for determination if a variance is required to build at six feet from the property line, the same distance as the existing structure. Second by Ford. Vote: Moses yes, Olson yes, Swenson yes, Ford yes, Muntz yes.

Motion to adjourn made by Ford, second by Moses, all ayes.