

**VILLAGE OF CHAGRIN FALLS
PLANNING AND ZONING COMMISSION
November 16, 2015**

Members present: Rogoff, Baker, Feniger, Touzalin, Muscenti
Also present: Himes, Lindner, Edwards

The meeting was called to order at 7:30 p.m. by Chairman Nancy Rogoff.

APPROVAL OF MINUTES

Moved by Mrs. Touzalin, seconded by Mrs. Baker that the minutes of the meeting held October 19, 2015 be approved. Carried. Ayes. Rogoff, Baker, Feniger, Touzalin, Muscenti. Nays: None.

195 FALLS WALK WAY - OPEN SPACE USE

Mr. Himes said this is cluster zoning so it requires 50% of the land to be open space. Chapter 1150.07 says that the uses of that open land shall be limited to conservation and natural preserve areas except where more active uses have been expressly permitted by the Planning Commission. He said the Aherns wish to have a swing set placed in that open space area between their house and the adjacent house on Summit Street. A letter was received from the neighbors, the Curtis residence, in favor of the swing set. The Aherns have already cleared some dead trees from the buffer area. Mrs. Rogoff said they must have mowed it and put in a bunch of Evergreen trees. Mr. Himes said the trees were a part of the landscape plan for the subdivision.

Mr. Ahern explained that there were trees there. There was a lot of construction and after the construction a lot of the trees dies, even the trees that the developer planted. The Curtis' approached us and said because these trees are dead it looks really bad, do you guys want to try to make this look better? We weren't aware of all of the restrictions on this space. The Curtis' had approached the village about cutting down the dead trees and that was approved. Mrs. Rogoff said it is not their property. Mr. Himes said the property's homeowners association is currently in the hands of the developer so he would have final say on whether the trees could come down or not and I believe he was involved in all the conversations. Mr. Ahern said Harry came by and said you can't leave it like this, there has to be trees planted. Mr. Ahern said he had planned on planting a variety of trees that match the current trees. Nine trees were cut down and he planted 15. We didn't want this space to be an eyesore and we believe in the aesthetics of the village in general. We didn't want our area to look like a sloppy mess. Mrs. Rogoff said and you mowed this area? Mr. Ahern said it hasn't been mowed.

Mrs. Touzalin said when you put the swing set in did you know that was not your property? Mr. Ahern said no, we assumed at that particular time that it was HOA because that is what it was drawn out on the plot map and the plot map is HOA. We approached the HOA president and said we are

thinking about putting a small swing set in place for the children and where would be the best place for that. The president came over and said put it here so that is where we put it. We did that in conjunction with other neighbors and everyone seemed to be on board. We were then informed a couple of weeks later that it was on open space and we weren't aware of that. Mrs. Rogoff said you did say that you were aware that it was HOA space. Mr. Ahern said we were because we got approval from the president as well as neighbors who are a part of the HOA. Then Harry came back and said this is not HOA space, this is supposed to be open space. The HOA wasn't aware of the restrictions. Mrs. Rogoff said he is very much aware of the zoning restrictions on this property. Mr. Ahern said the other option was to put the swing set adjacent to Summit Street and that would be allowed. Mr. Himes said if it is not a structure it can go anywhere on someone's property.

Mrs. Rogoff said I am still trying to understand what is supposed to be open space here and it also has an easement. Is it being mowed and clipped so that it looks like a lawn and not open space? There is a difference in my mind to it being manicured and mowed as opposed to being what our code requires for this. Mr. Himes said part of it was graded and planted when the subdivision went in. Mrs. Rogoff said there is a property line somewhere. Mr. Ahern said it is 9 feet past our property line. Mrs. Baker asked, can't you move it closer to the back of your house? Mr. Ahern said there is a slope and a hill.

Mr. Ahern said I apologize. It was our lack of knowledge that there was a restriction. I understand whatever decision you guys come to but I wasn't trying to go around anyone's back. I didn't realize that there was a restriction and neither did the HOA. Mrs. Feniger said I think we understand that you didn't do it maliciously and you wanted a play space for your kids. Mrs. Baker said your position is understandable but Gary's position, being in charge of a development of that scale, there is really no good excuse for him not knowing the requirements of the development agreement that he is working under. Just because it is HOA land doesn't mean that they can do whatever they want with it. This zoning was created specifically for that property and they had calculated out what percentage of land would go where and how it would be used so that is too bad on his part.

Mrs. Rogoff said the problem is that when you have a swing set there you have it maintained and mowed and all around there it is going to be landscaped. A large area is going to have to be landscaped to maintain that swing set so it is really taking over the open space for a private use. That is an additional problem to having cleared that space to begin with.

Mrs. Rogoff said she knows some residents in the cul-de-sac area who are very upset about this, having a swing set there and somebody using the open space for that purpose.

Mr. Muscenti said the point is that, whether people like it or don't like it, it is a question of following the rules that have been set down. We know that Mr. Ahern may have honorable intentions but they are not within the guidelines so you are going to have to move your swing set.

Moved by Mr. Muscenti, seconded by Mrs. Baker to permit the swing set to stay in its current location. Defeated. Ayes: None. Nays: Rogoff, Baker, Feniger, Touzalin, Muscenti.

SIGNS - CHAPTER 1143

Mr. Himes said this is still in front of the law director.

RENTAL PROPERTY REGULATIONS

Mr. Himes said this is still in front of the law director.

MISCELLANEOUS

Phil Koepf, non-voting member of the Architectural Review Board, asked questions about historic preservation regulations.

The meeting adjourned at 8:35 p.m.

Nancy Rogoff, Chairman
lgb