

Village of Lordstown Planning Commission

October 12, 2021

The Lordstown Planning Commission met on October 12, 2021, at 6:30 p.m. at the Lordstown Administration Building. The meeting was called to order by Vice Chairperson, Richard Rook, followed by the Pledge of Allegiance to the Flag. Roll call was taken.

In Attendance: Richard Rook, Vice Chairperson
Bob Shaffer, Member
Arno Hill, Mayor
Don Reider, Council Member

Paul Dutton, Solicitor
Kellie Bordner, Planning & Zoning Administrator

Also Present: Gary Hulett, Lordstown, Ohio
Darrell Richardson, Jr., Lordstown, Ohio
Douglas Newman, Attorney at Law, Niles, Ohio

EXCUSE THOSE ABSENT:

MS. BORDNER: Ms. Dugan and Mr. Rech have asked to be excused tonight. They were unable to attend.

MAYOR HILL: I'll make that motion.

MR. SHAFFER: I'll second.

MR. ROOK: All in favor "aye".

MR. REIDER: Aye.

MR. SHAFFER: Aye.

MAYOR HILL: Aye.

MR. ROOK: Aye.

(VOICE VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

APPROVAL OF AGENDA:

MR. ROOK: Motion to approve the Agenda?

MR. REIDER: So moved.

MAYOR HILL: Second.

MR. ROOK: All in favor?

MR. REIDER: Aye.

MR. SHAFFER: Aye.

MAYOR HILL: Aye.

MR. ROOK: Aye.

(VOICE VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

APPROVAL OF MINUTES of September 1, 2021:

MS. BORDNER: These are the minutes of September 1st. On your Agenda there is a typographical error. It says the 21st – however, on your minutes, it is accurately depicted as being September 1st.

MR. ROOK: Okay -- can we get a motion to approve that?

MR. SHAFFER: So moved.

MAYOR HILL: Second.

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MR. ROOK: All in favor?

MR. REIDER: Aye.

MR. SHAFFER: Aye.

MAYOR HILL: Aye.

MR. ROOK: Aye.

(VOICE CALL VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

APPROVAL OF MINUTES of July 12, 2021:

MR. RECH: Very good -- then we have the July 12th minutes. Is there a motion to approve those?

MAYOR HILL: So moved.

MR. REIDER: Second.

MR. RECH: All in favor, say "aye".

MR. REIDER: Aye.

MAYOR HILL: Aye.

MR. RECH: Aye.

MR. ROOK: Aye.

(VOICE CALL VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

PLANNING AND ZONING ADMINISTRATOR'S REPORT:

MR. ROOK: That carries -- Planning and Zoning Administrator's Report?

MS. BORDNER: Yes, briefly -- Denise has provided everyone, in their packets, with the 2022 meeting dates, so that you will be aware of what those dates will be for next year. Also, Mr. Shaffer has been reappointed to the Planning Commission until August 13, 2027.

SOLICITOR'S REPORT:

MR. ROOK: Solicitor's Report?

SOLICITOR DUTTON: No report.

CORRESPONDENCE:

MR. ROOK: Correspondence?

MS. BORDNER: None, sir.

OLD BUSINESS:

MR. ROOK: Okay -- Old Business?

MS. BORDNER: We have none.

NEW BUSINESS: 1. Proposed Replat on Ravine Court involving Gary and Rosemarie Hulett at 667 Ravine Court, and Elizabeth and Darrell Richardson, Jr. at 655 Ravine Court, Lordstown, Ohio

MS. BORDNER: We have a proposed replat on Ravine Court involving Gary and Rosemarie Hulett at 667 Ravine Court, and Elizabeth and Darrell Richardson, Jr., at 655 Ravine Court. This is simply to get the Planning Commission's opinion on how they will feel, and I would like to read, into the record for you, what the situation is here.

Mr. Gary Hulett of 667 Ravine Court was recently in the Planning and Zoning office to discuss some concerns on his property. He has provided a letter, to the Planning Commission, which explains the history of how he became aware that his adjacent neighbor, currently Mr. Darrell Richardson, Jr., of 655 Ravine Court, has a 24' x 24' detached garage structure, which is partially located on Mr. Hulett's property.

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By way of a zoning history, it is important to note that on June 23, 1995, a previous Planning and Zoning Administrator, Ron Barnhart, issued a zoning permit to Randy Durig Construction, to build a single-family dwelling at 655 Ravine Court for the then-property owner, David Fascia. As part of the application seeking a zoning permit, a plot plan was submitted. The plot plan, at that time, showed a 35' setback from the side property line that's in common with Mr. Hulett, to the Fascia residence. On April 26, 2000, Planning and Zoning Administrator, Ron Barnhart, issued a zoning permit to Rob Reilly of Reilly Construction Management, to build a single-family dwelling at 667 Ravine Court for Gary Hulett.

Thereafter, on September 16, 2009, Mr. Barnhart issued a zoning permit to a Michael Hentosh of Hentosh and Son, to build the aforementioned 24' x 24' detached garage for David Fascia at 655 Ravine Court. The plot plan submitted with that application for zoning permit indicated that the detached garage would be 20' from the common property line between Hulett and Fascia and that such structure would have a front facing opening -- the garage door would be on the front, in a similar build line as the single-family dwelling. Mr. Barnhart issued a zoning permit for this detached garage despite the conflicting plot plans of the single-family dwelling and the proposed detached garage. The single-family dwelling plot plan showed a setback of 35' from the common side property line. Whereas, again, the detached garage plot plan showed an undetermined footage existing between the attached garage and the proposed detached garage, a length of 24' on the detached garage, and a setback from the common property line of 20' feet, all of which would have totaled at least 44' feet out of the only 35' which, allegedly, existed.

On October 15, 2009, John Mansell, as the Assistant Zoning Inspector, signed and issued a Certificate of Occupancy for the 24' x 24' detached garage at 655 Ravine Court, following an on-site inspection of the structure, as indicated by Mr. Mansell's date and signature at the bottom of the zoning permit. The Certificate of Occupancy was issued despite the fact that the structure was clearly not in keeping with the offered plot plan in that it was partially over the common property line and was built on a diagonal rather than on a straight build line.

The problem with the 24' x 24' detached garage on the property at 655 Ravine Court, now owned by Mr. Darrell Richardson, Jr., and it being partially on the Hulett property at 667 Ravine Court, resulted from a series of errors that occurred in 2009 that were not caught and/or addressed by the Lordstown and Planning Zoning Office as follows:

There was an error in the application for the detached garage relative to the side setback measurement.

There was error in failing to check the stakes at the time of the issuance of the zoning permit.

And there was an error in issuing the Certificate of Occupancy when the detached garage was changed from a straight to diagonal orientation, and the stated setback from the common property line was not properly observed or verified, resulting in the structure straddling a common property line.

As Mr. Hulett's letter indicates, he would like to correct the existing problem and replat these two parcels within the Brookhollow/Ravine Court subdivision, 655 Ravine Court and 667 Ravine Court, so that the 24' x 24' detached garage at issue is wholly upon the property of Darrell Richardson, Jr., at 655 Ravine Court. However, in order to do so, Mr. Hulett would have to go through the replat requirements as set forth in Lordstown Codified Ordinance 1103, including engaging in the very expensive task of hiring a surveyor to prepare a Plat Boundary Map and new legal descriptions.

Mr. Hulett is seeking to maintain the value of his property by attempting to retain at least 2 acres, after graciously subdividing off enough property to Mr. Richardson so that the 24' x 24' detached garage, which Mr. Richardson is not responsible for originally constructing, can be located wholly on his property at 655 Ravine Court. In doing so, Mr. Hulett would not be able to meet the 10' setback requirement for the newly created side property line to the existing, diagonally placed detached garage on the Richardson property.

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Along with his letter, he has submitted a map so that you can see exactly what we're talking about relative to this. Mr. Hulett would like to seek the thoughts and guidance of the Lordstown Planning Commission on whether or not it would entertain and be amenable to a 3' setback from the side property line to the existing detached garage upon Mr. Hulett submitting his replat request and seeking a waiver from those setback requirements. He would like this guidance and information prior to making the expense necessary to hire a surveyor to create the required documentation for a replat submittal. Thank you for your consideration.

Mr. Rech has reviewed all of the information that was contained in your packet, along with my memo as well, the maps, and Mr. Hulett's letter -- and he had indicated, in an email addressed to me on October 12, 2021, that he has read the packet, which was prepared on the proposed replat of Gary and Rosemarie Hulett's property at 667 Ravine Court, to accommodate Darrell and Elizabeth Richardson's property at 655 Ravine Court and correct the existing problem of the 24' x 24' detached -- now Richardson garage -- that is partially on the Hulett property. He states that he is in favor of granting a setback waiver to resolve this situation, and that we can contact him with any questions or concerns.

Mr. Hulett is present. Also, Mr. Darrell Richardson is present. They are both present, along with legal counsel, Douglas Neuman.

MR. ROOK: Okay, you two gentleman -- one of you want to speak, both of you want to speak?

ATTORNEY NEUMAN: Well, I think I'll just go first. The letter is a great summary of how we, historically, got to this particular point. Does everyone have a copy of the current plat and the variations that are being sought -- the waivers? This is just one of those things that happens when this Ravine Court development was platted.

Oh, first off, my name is Douglas Neuman. I'm an attorney in Niles. My business address is 761 North Cedar Avenue, Niles, Ohio, 44446, and I have known the Hulett's for way longer than -- a long time -- (INAUDIBLE) a church that they belong to.

Mr. Hulett wants to have his ducks in order because he and his wife are both getting older, and they want to have something that is salable. They don't want to give this problem to the next owner, as has happened.

He is here. He will testify that this garage went up in a matter of one (1) or two (2) days, max. It was done very, very quickly. Assumed -- because if you look at the map -- and I have more if anyone needs one -- anyone need one?

MS. BORDNER: No, they have one, Mr. Neuman.

MR. ROOK: No.

ATTORNEY NEUMAN: Okay -- that the lot lines are not square. They're skewed. And so, in looking at it, if you think you have a square lot line, this could very easily have been within what the application said; but when this matter was revisited, and they hired a very good surveyor in Matt Hart, out at Advanced Land Measurement, it was apparent that the current structure is over the line.

Now this is a substantial investment, and it's not the goal of the Hulett's to cause problems for their neighbors, who they have always gotten along with -- this one and the predecessor, who actually built the thing. So they are looking for a way out that will satisfy both.

The current acreage on the lot is just a little over two (2) acres. By taking three feet (3') around the structure that is encroaching -- as opposed to tearing the structure down -- then the Richardsons can keep the extra garage, and they can also maintain it, access it and -- and like that.

So the question that's being posed is will the Planning Commission consider the waiver of the regulations, under these circumstances, which include mistakes that were made, not just by the Hulett's or the predecessors entitled to the Richardsons, but also by the Village --

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because, you know, when the zoning officer gives the construction company the building permit to go ahead, they assume that they are in compliance with whatever has been submitted. I mean, this thing had the whole thing -- 9 yards -- as to where this structure was supposed to be located; and then somebody was supposed to go out there and look and see if it was actually done. And in this particular case, they cut corners, and they changed the face -- where it fronts -- and I'm sure that the Village didn't have any idea this was what was going on there -- and for all these years, this was going on without hazard.

Now, coming to this point, where the Hulett's are trying to clean up their estate planning and that, they find out -- with a correct survey, that this is across -- this building is across the line.

So that is the gist of it -- and Gary, would you like to add anything to it?

MR. HULETT: No, no.

ATTORNEY NEUMAN: I mean, the letter was very detailed. That's the problem, and this is a proposed solution.

Well, you can also say -- well, why not have more? Well, it's because then you'd be below the two (2) acres -- and two (2) acres is a bit of a magic number when you're trying to sell something. It's better than 1.9 acres. It makes it look better so -- which they have no intention of selling, at this time -- or any time in the future, but this will be helpful if this can be accomplished. Thank you.

MR. ROOK: Mr. Richardson, do you want to say anything?

MR. RICHARDSON, JR.: Darrell Richardson. I live at 655 Ravine Court, S.W., Lordstown, Ohio, 44481.

I hired a surveyor when I moved in. The surveyor didn't say anything about the garage encroaching on the neighbor's property. You know, the first time I hear about it is from -- Mr. Hulett comes over -- actually, I seen the stakes that he had in the yard, and I went over, and I looked -- thinking, "Oh, my God", you know, "What am I going to do?" So I just don't know what to do.

Mr. Hulett has been nice enough to guide me through this process and is trying to do the best he can for me so that I don't have to lose the garage. It changes the aesthetics of the property drastically. I can't really put it on the other side, and it just -- it really does change the aesthetics of my property a great deal; and that's really all I have.

MR. ROOK: Okay -- Member comments?

MR. SHAFFER: Just to be clear -- the map that's marked number two (2) -- that's the one we're looking at?

ATTORNEY NEUMAN: That is correct.

MR. HULETT: Yes.

MR. SHAFFER: So, he doesn't have to give up that much property to satisfy --

ATTORNEY NEUMAN: Yeah, he'll be able to get all the way around the building.

MR. SHAFFER: Yeah, I think he's actually going above and beyond, and I appreciate that.

MR. RICHARDSON, JR.: I think so, too.

MR. SHAFFER: It's a good resolution for a bad situation -- and I, for one, appreciate that -- and I'm on board with it.

MAYOR HILL: I can appreciate your analogy when he said two (2) acres versus -- why do you think they price something at \$1.99? Well, here -- you're doing the exact opposite here. You want to go the other way -- so if somebody comes in, you can say, "I have two (2) acres," and I can appreciate that, and I can support what's being proposed here.

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MR. ROOK: It's a lot nicer when two (2) people are coming together, rather than butting heads.

MR. RICHARDSON, JR.: Right.

MR. ROOK: Well --

SOLICITOR DUTTON: I have a question.

MR. ROOK: Yes, sir.

SOLICITOR DUTTON: Just to clarify the record, is there anything in our files, our records, to indicate what was submitted, in the nature of a survey, where this garage was -- the footprint of the garage when the application was submitted?

MS. BORDNER: There would have been nothing that would have been submitted -- in terms of a survey, at that time. The survey would have been submitted when Brookhollow and Ravine Court were created as a subdivision.

SOLICITOR DUTTON: Okay.

MS. BORDNER: Those parcels were already meted out at that time, and they would not have had a need to resubmit another survey for that application.

SOLICITOR DUTTON: So, when this mistake occurred, this error -- there was nothing in the Village's file that would have alerted you?

MS. BORDNER: No.

SOLICITOR DUTTON: Okay. And who would have placed the stakes or the footers for the garage?

MS. BORDNER: Well, presumably, either the former property owner, which would have been David Fascia -- or his contractor, who was doing the job.

SOLICITOR DUTTON: And our procedure is --

MS. BORDNER: -- for that person to contact our office, and let us know that those stakes have been placed. And then for the Planning and Zoning Administrator to go out and --

SOLICITOR DUTTON: -- and observe the stakes.

MS. BORDNER: Yes, sir.

SOLICITOR DUTTON: Okay. And there was testimony that the contractor, or somebody, changed the face of the garage -- and maybe the position or angle of the garage. Can you clarify that?

MS. BORDNER: It seems that they must have changed the orientation.

ATTORNEY NEUMAN: That's right.

MS. BORDNER: And my only guess would be, if anyone has gone over and taken a look at this area, you will see -- and Mr. Hulett and Mr. Richardson, I am sure, will back me up on this -- that on this particular property line, there is a lot of dense trees, quite thick, and so I think that maybe, in part, and this is just my speculation, but it seems reasonable, under the circumstances, that they were unable to determine, specifically, where that property line was. That's my guess.

SOLICITOR DUTTON: So, you would conclude that this is a reasonable mistake?

MS. BORDNER: Oh, absolutely.

SOLICITOR DUTTON: Okay.

MR. ROOK: Yeah, part of the problem is it's on a cul-de-sac, and the lots are all pie-shaped.

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SOLICITOR DUTTON: Yeah, I know where the street is. I have never seen the garage, but I know where the street is. I just wanted to make sure our record was clear.

MS. BORDNER: You will back that up, won't you, Mr. Hulett and Mr. Richardson -- that there are trees along that property line?

MR. RICHARDSON, JR.: That's right.

MR. HULETT: That 30 foot I have in the back, comes all the way down the side -- right to the garage.

MS. BORDNER: Okay.

MR. HULETT: Yeah. I left it like that so it would be a nice buffer.

MR. ROOK: Any other comments, questions?

(WHEREAS, THERE WAS NO RESPONSE FROM THE BOARD, AND PROCEEDINGS WERE AS FOLLOWS:)

MR. ROOK: Can we have a motion?

MS. BORDNER: So, would we make a motion to grant a waiver from the required ten foot (10') side setback requirement, to a 3-foot side setback around the Richardson 24' x 24' detached garage, so that Mr. Gary Hulett of 667 Ravine Court, can follow through with the replat requirements and come back to Planning Commission for the replat approval?

SOLICITOR DUTTON: Yes. Right. That's the motion.

MAYOR HILL: Now does he have to come back or could we -- if he brings the correct replat, does Kellie have the right to address that without coming to the Planning Commission, Paul?

SOLICITOR DUTTON: Yes. She's the platting office for the Village.

(WHEREAS, THE MEMBERS OF THE BOARD WERE SPEAKING OVER ONE ANOTHER, SIMULTANEOUSLY, AND THE TESTIMONY WAS INAUDIBLE. PROCEEDINGS WERE THEN AS FOLLOWS:)

SOLICITOR DUTTON: Yes, she has that authority.

MAYOR HILL: If we approve it, you can do it.

MS. BORDNER: Great! So what we're saying is that if we grant this motion for the setback to be three feet (3'), and if the replat meets the other requirements that are necessary, I can go ahead and sign off on that, call Mr. Rook -- because he's in charge tonight, he would be the individual to sign with me, and we could move forward. They wouldn't have to come back to Planning Commission.

SOLICITOR DUTTON: Correct, and yes, he would have to sign it.

MS. BORDNER: That would be great.

SOLICITOR DUTTON: But if you have any reservations you will have to come back to Planning Commission.

MS. BORDNER: Yes. If I had any reservations, we would come back; but I've already, basically, seen what they're going to do. So, I am pretty sure it's going to be perfect.

MR. HULETT: And that will be according to Item two (2) -- it will be a triangle cut out of my property?

MS. BORDNER: Yes, sir.

MR. HULETT: Thank you.

MAYOR HILL: I'll make that motion.

MR. SHAFFER: I'll second it.

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MR. ROOK: Roll call vote.

MS. BORDNER: Don Reider?

MR. REIDER: Yes.

MS. BORDNER: Richard Rook?

MR. ROOK: Yes.

MS. BORDNER: Bob Shaffer?

MR. SHAFFER: Yes.

MS. BORDNER: Arno Hill?

MAYOR HILL: Yes.

(ROLL CALL VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

PUBLIC COMMENTS:

MR. ROOK: That carries – any other public comments or questions?

MAYOR HILL: No, I hate to see, you know, this happen but I'm glad it came to a good conclusion.

(WHEREAS, THERE WAS NO FURTHER RESPONSE FROM THE BOARD OR FLOOR, AND PROCEEDINGS WERE AS FOLLOWS:)

ADJOURNMENT:

MAYOR HILL: Motion to adjourn.

MR. REIDER: Second.

MR. REIDER: Aye.

MR. SHAFFER: Aye.

MAYOR HILL: Aye.

MR. ROOK: Aye.

(VOICE VOTE: 4, AYE; 0, NAY; 0, ABSTAINED.)

MR. ROOK: We're adjourned.

(WHEREUPON, THE PUBLIC HEARING BEFORE THE LORDSTOWN VILLAGE PLANNING COMMISSION, IN THE ABOVE-CAPTIONED MATTER, CONCLUDED AT 7:00 P.M.)

Submitted by:

Approved by:

Kellie D. Bordner
Planning & Zoning Administrator

Richard Rook
Vice Chairperson