

**VILLAGE OF CHAGRIN FALLS  
BOARD OF ZONING APPEALS  
August 13, 2019**

Members present: Freshman-Johnson, Holdren, Kraemer, Loomis, Lipp  
Also present: Flynn, Jamieson, Edwards

The meeting was called to order at 7:00 p.m. by Secretary Rachel Freshman-Johnson.

**SWEARING OF WITNESSES**

All were sworn in.

**CHAGRIN FALLS EXEMPTED VILLAGE SCHOOL DISTRICT, 77 EAST WASHINGTON STREET - REQUEST FOR A VARIANCE TO SECTION 1123.04(b), YARD AND BUFFER REGULATIONS, PERMANENT PARCEL NOS. 932-07-014A, 932-07-014B, AND 932-08-013.**

Mr. Jamieson said this is in the Parks and Institutional Zoning District. Section 1123.04(b) requires poles, including light poles, to have a minimum buffer depth to a residential district line of 40'. We are here today because through the process of the construction there were changes made to the exterior parking lot lights that were not identified until the lights were put up. Review of the detailed lighting plan found that the old light poles had been removed and new light poles have been put up with new light fixtures that are slightly higher, one to two feet, than the old poles. The location of the poles changed slightly, also. The changes rendered the lights as new so we couldn't grand-father them in as the same as the old lights. Eight of the light poles on the site plan are within the required buffer areas requiring variances. Each of those poles, and the distance of each, were specified in the zoning review letter that you all received.

Robert Hunt, School Superintendent, said the light on East Washington and the lights in the parking lot are very important for safety and security not only for our students but our community also.

Beth Aaron, Architect, said the intent always, with the site lighting design, was to keep the parking lot as close to existing as possible. There had to be some adjustments because of the addition that took up some site area so there couldn't be light there any longer. So when we did that, we did reposition them slightly but I think you can tell from this that a lot of the lights were actually pushed back a little bit from the residential lines. We did try to move them as much as we could, obviously we had parking and fire lanes that had to be considered. We had a very tight site constraints in which we could place the light fixtures. We did reduce, we went from 19 light fixtures down to 16. The old lights were LED as well. The decorative lantern lights were high intensity fixtures so now we do have LED fixtures, which are required by code. Right now all of the light fixtures are LED. The light fixtures had been replaced in the parking lot previously and these are very similar to what had

been there. They are 1' or 2' taller, which gave us a greater spread of illumination. Ms. Kraemer said is that the reason you could reduce the number? Ms. Aaron said exactly. Mrs. Freshman-Johnson said are the lights dimable? Ms. Aaron said yes. Mrs. Freshman-Johnson said do you have a lighting plan that is a general schedule that obviously at certain times they need to be adjusted? Mr. Hunt said right now we are at 100%, not dimmed, and we have been at 100% throughout the construction. Mrs. Freshman-Johnson said I am talking about when they are on and when they are off. Mr. Hunt said they would be on at 6:00 a.m. or 7:00 a.m., dimmed to 50% at 11:00 a.m. until 4:00 a.m., and then brought back to 100%. Ms. Kraemer said they never go below 50%? Mr. Hunt said correct, there are standards in terms of what is recommended for safety and security. Mrs. Freshman-Johnson said were the previous lights on a similar schedule? Mr. Hunt said they weren't dimable but they were on a similar time schedule. Mrs. Freshman-Johnson said you reviewed this plan with safety experts and local police and they agreed that 24-hour lighting is not needed. Is this safety plan that has been reviewed? Did they recommend anything different? I know that police and fire have both been actively engaged in all conversations regarding constructability, the design, all of safety protocols, as well as lighting. Ms. Aaron said certain lights have to be on all the time in the building and outside of the building for safe egress to and from the building. It doesn't matter what time of day it is, it is a requirement in the code. Those lights are the ones that are attached to the building and they are around the doorways and then also some decorative one. The site lighting in the parking lot, we recommend that they stay on at all times and that is to prevent vandalism and for safety. When the lights are at 100% they are for visual ability to keep people from tripping. The 50% is a little bit lower than what is recommended for safety, but it a level that is recommended for security so that if you are parked there late at night and you are walking to your car you can see somebody approaching you. Ms. Kraemer said the 50% dimable includes perimeter lighting and inside the parking lot as well? There purposes no difference in terms of what the level of lighting is for those lights? Ms. Aaron said right, the intent is for them to all either be on or dimmed but there are a few zones where some could be dimmed and others could be programmed to be left at 100%. Mr. Hunt said we are kind of going through that process now of what makes sense. We want to talk to local residents. With this system we have a lot more flexibility and we have the ability to dim at different times and reset times.

Mrs. Freshman-Johnson said only some of the lights are in a buffer. Do you know how many of the 16 are? Mr. Jamieson said 8. Mrs. Freshman-Johnson said were the 8 lights that are in the zoning buffer replacing lights there were existing, nonconforming? Mr. Jamieson said I believe so, yes. Mrs. Freshman-Johnson said I want to be clear on the variance that these lights, although nonconforming the previous lights that were in those places, were also nonconforming. Mr. Hunt said some of them were not even on our property.

Ms. Kraemer said on the two entrances there are lights on each of those and that are sort of old fashion looking. Is that just sort of an entrance feature but has the same illumination as the others? Ms. Aaron said no, it has different illumination but it is used for illumination so it serves a dual purpose but there were decorative, historic looking light poles there.

Mrs. Freshman-Johnson said I just want to make sure that we understand the variance. There are

some lights that seem like they would have been close to the buffer but aren't because of different zoning. The school has three different zones that surround it. Mr. Jamieson said there are four different zoning districts that abut it and they all have different buffer regulations. Mrs. Freshman-Johnson said so the one that is on the sidewalk on East Washington Street that is why that is not included in the variance? The one that is at the bottom of your page. That doesn't need a variance because that is in the office district? Mr. Jamieson said the property to the west is zoned office, even though it is a residential home and the buffer requirement is 5' there. Mrs. Freshman-Johnson said and so that meets the buffer requirements.

Mrs. Freshman-Johnson said so the variance will seem significant because the 40' is obviously not met in the actual residential zone, which is on Philomethian? Mr. Jamieson said for those, correct.

Omar De La Cruz, 83 East Washington Street, addressed his concerns regarding the illumination onto his property.

Mrs. Freshman-Johnson said do you have any insight on how you selected heights for lights? Ms. Aaron said there are some standards and it also has to do with throw and how the metrics play out and then we also look at local ordinances. Mr. Holdren said what is our height restriction? Mr. Jamieson said we don't have a current height restriction under the code. Mr. Holdren said do we have an illumination code? Mr. Jamieson said we do not. Ms. Kraemer said do we know if they are exactly between 1' and 2' taller or are they all 2' taller because Mr. De La Cruz is noticing a difference based on the height. Ms. Aaron said based on looking at the pictures, some of the concrete bases kind of vary on the site and then the other thing that also has changed on the site slightly has been with the grade. Ms. Kraemer said so it could be a pole that is not that much higher but appears that because of the height at which it is being set up. Ms. Aaron said it didn't change dramatically the grading but in certain locations to get proper site drainage and that kind of thing. Ms. Kraemer said do you think that that area might have been one of those areas? Those two poles on the south side. Ms. Aaron said the area that impacted the most was along Philomethian in terms of grading. That is our fire access lane so we have to be very precise and careful about the grading there and to make sure that the fire trucks can get access to the back of the school.

Mrs. Freshman-Johnson said I also want to note that the three lights in concern, one of the lights is not in consideration for the variance today. The one in the front. There are two, unfortunately on this side where your house is, replacing one light so two taller lights replacing one.

Kathryn Garvey, President of the School Board, said the code is in process of being revised and there is quite a bit more with regard to lighting in the new code. Is it accurate that our project falls completely under the old code and that this board is really looking at our compliance with that code? Mrs. Freshman-Johnson said yes, absolutely.

Mrs. Freshman-Johnson said is there a way to put a shield on the south side of the lights or do they have to provide a 360 illumination? Ms. Aaron said the parking lot lights, not the decorative ones, those are actually, those LED fixtures are kind of programmed to distribute the light where they

distributed. They have actually been oriented to throw more light onto the school side than on to the residential side. In order to manipulate the light throw of those lights it would mean taking out the lights and replacing them. That is kind of a significant cost. It is a change that is possible but it is really more about the fixture itself. You can get them where they throw a circle or you can get them when they throw in one direction and these have been selected to project into the school parking lot predominantly.

Ms. Kraemer said so you are saying that there is very illumination or at least it is programmed to illuminate in one direction but obviously the impact is based on just the height and the fact that it is casting a light on a parking. Could you remove any? Ms. Aaron said not without changing the fixture. Ms. Kraemer said could you program a fixture that would cast a semicircle of light? Ms. Aaron said that is kind of what is there now.

Tom Basista, 73 East Washington Street, said the light fixture by East Washington, the old lantern was flush mounted to the ground and this one is raised up. This is a typical fixture that you would see in a commercial parking lot; it does not belong on a residential street. He said his neighbor, Cheryl, has glare issues also. Mrs. Freshman-Johnson said we are reviewing only facts before us that affect the variance request, which this is not a part of. We won't be addressing that topic at this meeting.

Omar De La Cruz said increasing the lighting at 4:00 a.m. seems like really bad news for us. Ms. Kraemer said I would think that there would be some reason to look at a later start time, especially when you are not in the Winter months.

Mr. Newell said if this variance were to pass, I guess like all existing lights, and then we change our code would everybody have to come into compliance? Mr. Jamieson said no, they would be considered preexisting nonconforming.

Mrs. Freshman-Johnson said for the two lights that are on the south side of the building, am I correct in measurements that the variance they need, those two lights particularly need, is very small meaning if they move them 1' there would be no variance required on those two? Mr. Jamieson said no, 40' is required. On this map this has the exact footage of nonconformity to the closest residential line. Mrs. Freshman-Johnson said so they are picking up a few feet from the previous lights but there is one light there instead of two. Ms. Kraemer said but they are a little bit further.

Mrs. Loomis said and the position that was chosen is because of the fire lane? Ms. Aaron said yes.

Mr. Holdren said is it possible to put all these lights within the setbacks? Ms. Aaron said there is no possible way to do that.

Moved by Ms. Kraemer, seconded by Mr. Holdren that we except the variance request for 77 East Washington Street relative to Section 1123.04(b), Yard and Buffer Regulations to allow the 8 lights, which are currently nonconforming, in the newly configured parking lot, which is a reduction of

lights on the overall site from 19 to 16 lights and 8 of those lights are currently nonconforming. I would recommend that we approve the variance request to allow that lighting. In terms of meeting the requirements under our code, there is not a way to reasonably and safely illuminate the parking lot of the Intermediate School without the requested variance. And, obviously, it has been a school and it continues to be school and I think the community benefits by the fact that there has been a wonderful attempt to restore and maintain a historic school structure within the community. I think the variance is substantial. It is a pretty large requirement to have it 40' from the residential lot lines but we need to consider the fact that the previous lighting was more within those setback and if they hadn't done this structure and hadn't removed the lights the existing lighting, there would have been more of them, and more would have been outside the boundaries of our current code requirements. I don't believe that the essential character of the neighborhood would be affected by the granting of the variance. I think there has been substantial discussion tonight about the need to have continued conversation with the community as there is more experience with illuminating the parking lot and as the lighting facilities are utilized I think there needs to be continued dialog between the residents and the school district to be able to accommodate some of the concerns that the residents have and it sounds as if that is an ongoing process. Obviously it is not going to adversely affect the delivery of governmental services. Obviously the school district owned this property without knowledge of a need for a zoning variance. There is not a feasible way to deal with this problem other than the granting of the variance. The intent of the zoning code will be upheld by granting the variance. There is not a self-created situation that requires this variance but it is actually an attempt to restore and replace an aging school building with one that is going to be a real asset to the community and to the next generation. So, for those reasons, I would move that this variance request be granted.

Freshman-Johnson: I vote aye. I want to state that the existing nonconforming lights they have attempted to really replace with better use of technology, less light, they though through placement, and I think they are bettering the lighting that was there before. Perhaps we didn't realize that the lighting plan before wasn't as great as it could have been. In addition, they have made it better by having less lights placed outside the buffer zone. I also want to state that safety, to me, is a number one concern. This is our center or town and our school and in light of things that happen in today's world I think starting with a 100% lighting plan and making it safe and working it our way down to figure it out is a good plan. It is brand new, I know you are going to work with the residents here, they have valid concerns. I know they live close to the school but safety in this area is so important that I think it is okay that we've started one place and will continue to widdle it to where it needs to be to satisfy hopefully a win solution for all of those involved and they have been doing those types of things throughout this whole project. So, I encourage that to continue to come to the right plan for the schedule, the dimming, and all those things keeping safety the absolute number one most important factor here.

Lipp: I would vote in favor of granting the variance for the reasons stated and I

would also agree with Mrs. Freshman-Johnson's emphasis on the importance of safety and security as one of the reasons for granting the variance.

Loomis: I vote in favor of the variance for the same reasons.

Kraemer: I vote aye for the reasons stated. I would encourage everyone to look at the schedule of when those lights go on at 100% and when they are reduced and whether that timing could be changed and maybe it is worth an ongoing meeting and communications with the folks on the street. But, I would vote aye.

Holdren: I will vote aye also. I just want to reiterate that even though the variance sounds like it is granted doesn't mean that they can disobey the nuisance ordinance so you can still work with them to make sure that there is no glare on your house.

Mrs. Freshman-Johnson said this action will be final within fifteen days unless appealed to Council by a petition of three or more Council members.

The meeting adjourned at 7:46 p.m.

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Rachel Freshman-Johnson, Secretary  
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