

MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

DATE: November 16, 2006

SUBJECT: PC 06-29: 230 & 236 East LeMoyne Avenue – Request for Continuance

The petitioner has requested a continuance to our next meeting of December 7, 2006. As a supplement to the items previously presented to the Village Board, staff offers the following additional information pertaining to PC 06-29.

Background:

Staff had been working with the petitioner to see what possibilities were available to subdivide the properties at 230 & 236 East LeMoyne into three legal lots of record. From a lot area and lot width standpoint, the properties could be subdivided into three lots of record by right through an administrative plat of subdivision. However, as the petitioner was seeking to allow the existing houses to remain, staff informed the petitioner that both the existing houses and the new house would have to meet the full provisions of the Zoning Ordinance. This includes meeting the 35-foot rear yard setback provisions. The detached garage on 236 East LeMoyne would have to be moved or removed.

In the initial discussions with the petitioner, staff noted that provided that all of the Zoning Ordinance provisions are met, the subdivision could be approved. However, staff noted that the plat would need to be reviewed so that we could determine that the code provisions are being followed.

Staff also noted the provisions set forth in Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be approximately at right angles or radial to the adjacent street. Recognizing that if they were to divide the property using a 90-degree line off of Craig Place, it would result in the existing house at 230 East LeMoyne being 31 feet off of the new lot line. However, staff and the petitioner noted that as the adjacent property lot lines are not exactly at right angles, the petitioner should review what possibilities were available to subdivide the property and meet code. Staff noted that if the proposed interior lot line was consistent with the intent of this provision even though it was not exactly at a 90 degree angle, it

could be supported and approved. Staff also alternatively suggested that additional property could be acquired from the abutters north of the property to address this issue.

The petitioner continued to work with staff and submitted a concept resubdivision plan. In review of the plat (essentially the plat that was submitted to the Village as part of the public hearing), staff noted that the angle of bend appeared to be significant. However, as the code provisions uses the term “approximately”, staff questioned whether the proposed resubdivision was actually in keeping with the intent of the code. Ultimately, staff asserted that the degree of bend is significant enough that it is really in not in keeping with the intent of the provisions. As such, staff informed the petitioner that as an administrative plat, staff could not approve it as it does not meet all of the provisions of the Ordinance. In order to receive approval, the petitioner would have to apply for and receive a variation from the Subdivision and Development Ordinance provisions. If the Board ultimately felt uncomfortable with granting the relief from the subdivision regulations, relief could be granted from the Zoning Ordinance for the 230 East LeMoyne property to remain as is.

In consideration of the petition, staff’s concern was that gerrymandered lot lines could create an undesirable precedent, particularly when done to circumvent the Zoning Ordinance provisions. The petitioner further testified at the public hearing that the intent of the petition was to keep the houses so not be obligated to demolish the house at 230 East LeMoyne. Staff notes that there are a number of actions that could be undertaken by the petitioner without granting any zoning relief, including:

1. Modify the existing house at 230 E. LeMoyne to meet the 35-foot setback requirement.
2. Move the house on 230 E. LeMoyne to meet the rear yard setback.
3. Demolish the house at 230 E. LeMoyne in its entirety.

Staff believes the relief included within the petition was based exclusively upon the actions of the petitioner and that a hardship did not exist that would prevent compliance with Village Code. As such, staff ultimately did not support the petition and the Plan Commission concurred with the recommendation. In their findings, the Commission noted that the proposed lot division would be inconsistent with past lot divisions in the neighborhood.

The petitioner is considering on allowing deed restrictions on the 230 and the 236 E. LeMoyne properties preventing demolition for a specified time period. In this manner, the existing homes would remain.

Recommendation:

Staff recommends that a continuance be granted until December 7, 2006.