

City of Bay Village
PLANNING, ZONING, PUBLIC GROUNDS AND BUILDINGS COMMITTEE
April 18, 2016
City Hall Conference Room 6:30 p.m.

Member Present: Councilwoman Karen Lieske, Chairman
Councilman Marty Mace
Councilman Paul Vincent

Others Present: Law Director Ebert
President of Council Koomar
Councilman Dave Tadych
Councilman Marty Mace
Mr. Bob Lyons, Property Maintenance Inspector
Director of Operations Landers

Audience: Dick Majewski, Lydia DeGeorge, Richard Fink, Kevin Moriarity, 569 Humiston; Mark Chernisky, 23016 Lincolnshire; Jenny Hartzell, 577 Humiston, John Meaux, 506 Humiston. (Additional Humiston Rd. residents may have been present, but did not sign in.)

Mrs. Lieske called the meeting to order at 6:30 p.m. Mrs. Lieske welcomed the residents of Humiston Road in Bay Village to this meeting.

Review of Codified Ordinance Chapter 1351 – Determination of Grade Lines

Mrs. Lieske stated that she has requested copies of the plans for Sublot No. 11 on Humiston Road and any information that can be provided. Appreciation was expressed to Law Director Ebert, Director of Public Safety/Service Thomas, and Property Inspector Lyons for being present this evening. Mrs. Lieske stated that she is very disappointed Chief Building Official Cheatham could not be present this evening, stating that he had a prior commitment. Before moving forward with review of Codified Ordinance Chapter 1351, there needs to be a discussion with Mr. Cheatham and Mr. Thomas at the same table, but in the meantime there will be a review with Messrs. Ebert, Lyons, and Thomas to translate some of the documents provided regarding Sublot No. 11 on Humiston.

Law Director Ebert stated that there has been a process initiated since the last meeting with an engineering firm called Bramhall Engineering who does plan review, foundation check, and final grade for the City of Avon Lake. Mr. Chris Howard of Bramhall Engineer met with Mr. Thomas, Mr. Lyons and Mr. Cheatham last week. Once a building application has submitted by any resident they would immediately be told to call Director of Public Safety/Service Scott Thomas, who would in turn call Bramhall Engineering to review the plans relative to grade issues. Once the grade issue has been approved and the grade determined, Bramhall would inspect it at the pouring of the foundation, wall review, and also be there for the final grade.

Regarding the issue concerning the house that is presently being constructed on Humiston Rd, Polaris Engineering submitted information to CT Consultants. Mr. Bob Greytak of CT Consultants disapproved their submitted plan, and revisions were submitted to CT Consultants on Friday, April 15, 2016.

What is here tonight for review are the original plans, which, according to Mr. Bob Lyons, Property Inspector, seem to deviate from the original engineering. Rather than bringing Bramhall Engineering in on these plans, the City's Engineer, CT Consultants will continue the review of Polaris Engineering revisions to decide if they meet the criteria.

There is a stop work order currently in effect. The City is looking at the two adjacent parcels, one on either side, to see what can be done with the grade and the aesthetics from the neighborhood standpoint. Mr. Ebert stated that their understanding is the reason the grade was raised was to get gravity flow because of the sewers, which is the responsibility of the homeowner or the builder, not an acceptable reason for raising the grade.

Mr. Ebert stated that he received a letter from the attorney for Mr. Pavicic, the builder, who wants to meet with the Law Director and the Mayor. Mr. Ebert asked Director Thomas to be present at the meeting since the Mayor will be out of town.

Mr. Ebert stated that the current ordinance gives the authority to make the necessary corrections. The next step would be to meet with engineer Greytak to see what, if anything, can be done to correct the present situation, and what can be done about the adjacent properties. There is a stop work order on the two adjacent lots. Until finding a remedy for the current house under construction, and until that is resolved that will not be an occupancy permit or final grade.

Mr. Vincent asked for further comments about the plans deviating from the original engineering.

Mr. Ebert stated that it appears the house elevation in the revised plan was raised 17 inches. But, when you look at the numbers on the original submission, and you go to the site to look at it, there is more than a slight difference.

Mr. Vincent asked when and how the raised grade was brought to the City's attention. Mr. Lyons stated that Mr. Cheatham set up a meeting with Service Director Thomas and Mr. Lyons last week. The Mayor also had a complaint about the home, which also became part of the meeting. Mr. Chernisky stated that he reported it the second week of February. The revised topo came in on February 17, 2016.

Mrs. Lieske asked if someone went out when the revised topo came in. Mr. Lyons stated it never came to the City's attention until that meeting last week. It was in the hands of the Building Department.

Mr. Lyons stated that up until eight or nine years ago, the City had former employee Jim Wasniak, who actually set and checked grades. After Jim Wasniak retired, the grade was set and

checked by an outside engineering firm, Jim Resak. Following Jim Resak, it went to CT Consultants. That went away a little over a year ago.

Mr. Thomas commented that CT Consultants fee was high due to the distance they travel from Mentor. Mr. Thomas noted that the fee for Bramhall Engineering will be covered by a deposit by the builder, as has been done in the past. He also noted that it is not unusual for the builders' engineers to submit a topo, and if those plans are followed, then there are no issues. A four-step process will now become the routine and will be topo review, pre-pour, wall measurement, and final grade. Mr. Cheatham has put together a list of instructions to be given to all builders when they submit applications.

Mr. Vincent asked if SAFEbuilt, Inc. has an in-house engineer. He was informed that they do not. Mr. Vincent asked if the City had an in-house engineer when they operated their own Building Department. Mr. Wasniak was not an engineer, but knew how to set grades.

Mrs. Lieske confirmed with Mr. Thomas that these plans for the home on Humiston did not come to his department, even though Chapter 1351, Grade Line, states that no building permit shall be issued until grade lines have been determined by the Director of Public Service and Properties. Mr. Thomas stated that he never saw the plans, and neither did Mr. Lyons. Mr. Ebert stated that Bramhall will actually go out to the site. It appears that the grade was amended from the original plans. This should have been referred to Mr. Thomas's department, who would in turn have contacted an engineer to set grade. Somehow, there was a lapse. A complaint came in and the engineer's report was reviewed by CT Consultants, who said that it cannot be approved. We now have to look for a correction to the problem with the grade, and how the neighboring property will be affected.

Mrs. Lieske noted that information received from neighboring cities indicates that if there is a problem and something needs to be done to correct it, and the builder didn't take care of, liens may be placed on the property. Mr. Ebert said this is something that can be considered for the future. We are also looking at having three or more lots submitted to the Planning Commission as a subdivision approval. We have to resolve in our ordinance the lots that were pre-code, pre 1950. We are seeing now in Bay Village where people are buying small houses, or cottages, and demolishing the homes to build new, larger homes. We are looking at the ability, without denying property rights, of putting minimum square footage on pre-code lots, and minimize this type of situation going forward.

Mr. Greytak has advised that there will not be a problem with the storm sewers for the three lots with additional homes because of the size of the storm sewer.

Mr. Mace asked if Mr. Thomas was given any means to sign off on the work of CT Consultants when they were establishing grade. Mr. Thomas stated that he was signing off on their work. Jim Resak's work was prior to Mr. Thomas' time with the City. After CT Consultants was discharged from this duty, Mr. Thomas did not receive any further engineering grade to review. He noted that communication was a problem and that is where it became an issue. He was not informed by Mr. Cheatham of grading that was to be done on building projects. Bramhall is

going to be doing the establishment of grades and Mr. Thomas will sign off on it. Mr. Ebert stated that someone in-house may be trained for inspections going forward and for reading grade plan.

Mr. Vincent asked about the \$55.00 fee included in Mr. Cheatham's list of instructions to builders. Mr. Lyons stated that the \$55.00 is the grade setting fee that has been in place for years. It will be left as an administrative cost for overseeing. This fee is for the Service Department, and not SAFEbuilt, Inc.

Mr. Vincent asked about the Wolf Road property grade that was mentioned at the April 11, 2016 meeting. Mr. Lyons stated he checked the property and it is within one-half inch of grade.

Mr. Vincent asked about reviewing the new-builds for the past twelve months. He would like to know if any of the grades have been missed, as part of the assessment of what we will do next. Mr. Lyons and Mr. Thomas will review and provide that information.

Mr. Vincent asked if the date and name of the person who reported the Humiston Road home being too high can be obtained.

Mr. Tadych asked if the grinders and pumps for pumping sewage are in the second set of plans for the Humiston Road home. Mr. Tadych stated that he believes the grinders and pumps were in the original set of plans. Mr. Tadych asked who inspects the actual foundation that is put into the house. Mr. Lyons stated that the Building Department inspects the foundation. Mr. Tadych stated that he has heard there are at least five four-foot cracks in the walls of the existing house on Humiston, already. If that is true, there might be a real gap here in what is going on. Mr. Ebert stated that the Building Department will have to be contacted regarding this.

Mr. Tadych asked who is responsible for knowing whether or not one of those pumps is going to be placed. He was informed that SAFEbuilt, Inc. would be responsible, and would also be responsible for the quality of the walls. Mr. Lyons stated that the normal procedure for the cracked foundation would be to have an engineer determine if those cracks are structural and will be a problem. The engineer would sign off on that report. The Building Department is looking at forms and looking at enforcing bars. Cracks can happen and should be evaluated by an engineer. The engineer can be obtained by the builder but when he signs off he assumes responsibility.

Mrs. Lieske stated that Mr. Cheatham, Mr. Thomas, and Mr. Lyons will be requested to be present at the next meeting of the Planning and Zoning Committee to be sure there is proper dialogue in this matter.

Mark Chernisky stated that it is his understanding there was a fault with somebody from the City not making an inspection on the depth and physically measuring the depth on the footers to coincide with the engineer's report. The builder came in and decided on his own to deviate from the plan in order to eliminate the injector sanitary pump, raising the whole foundation. Mr. Ebert stated that Mr. Chernisky's understanding is correct.

Mr. Chernisky stated that the remedy of this is on the builder. Mr. Ebert expressed agreement. The City is not liable for anything. Mr. Chernisky asked if the City would be liable for the gap in the process. Mr. Ebert stated that the builder deviated from the plan that was approved by the Building Department.

Mr. Vincent asked if we can have the engineer, CT Consultants, or Bramhall, verify that these plans were not submitted 17 inches higher than they should have been.

Mr. Chernisky asked if the new ordinance draft for setting grade will be just for new homes or also inclusive of additions or remodels. Mr. Ebert stated that it will just be for new homes. Mr. Chernisky stated he wants to make sure the ordinance is worded that way.

Mr. Chernisky asked if the \$800 mentioned in the ordinance is a fee or a deposit. Mr. Lyons stated it is a deposit and the charges are drawn from the deposit. Bramhall will charge \$125 for plan review, \$150 for foundation check, \$150 for final grade, and \$150 for the fourth step. The balance of the deposit is returned after all costs associated are paid. This deposit is in addition to permit fees.

Lydia DeGeorge stated that a couple weeks ago Mr. Cheatham said that the way the City was doing it was that Bob Greytak was setting the grade, and somewhere along the line, the powers that be, or people in authority, went back to letting the builder set the grade. Is there going to be something in the ordinance that prevents powers that be or a person in authority to doing this, and nobody knows, and all of a sudden we have a big problem. Can the ordinance be worded so that this does not happen?

Mr. Ebert stated that the original discussion when SAFEbuilt came into the City a smaller engineering firm in Westlake, Jim Resak, was hired. There was a change to CT Consultants and there was an issue about the price. Mr. Ebert stated that no one in the City said that, but somehow it stopped and we were going to go somewhere else because CT's price was too high. That somewhere else never happened and no one said anything about that gap.

Ms. DeGeorge said that Mr. Cheatham stated that CT Consultants went by the wayside because builders were unhappy with the price. What if builders are unhappy with Bramhall's \$800 price? Mr. Ebert stated that we are reasonable at the price with Bramhall Engineering. There is a contract with Bramhall Engineer that can be reviewed every year. We are hoping to have someone in-house do the checking as well.

Mr. Richard Fink stated that he sat in a couple of meetings when the Building Department said that were complaints about the fees being too high, and the Building Department assured the City they were capable of doing that checking so they did not have to use CT Consultants. There was an extended discussion.

Mr. Fink stated that one of the Humiston residents expressed about drainage going north. Mr. Ebert said that the drainage won't leave the property. Mr. Fink stated that if you look at that

visually it seems almost impossible that the drainage could be stopped within his property. Mr. Ebert stated that a retaining wall will have to be used. Mr. Fink stated that the hydrostatic pressure on the wall will be significant and you do not want the wall to fail. Mr. Fink stated that he understands the engineering sign-offs, but Polaris Engineering is the builder's engineer and he submitted some fairly questionable plans on grading and some very vague plans. It would not surprise Mr. Fink at all if, the builder's engineer, a small engineering firm, signs off under pressure for a foundation. He stated that he would think the City would want to have an independent review.

A Humiston Road resident asked what prevents a builder from doing something different than their approved plans. Mr. Cheatham stated that we cannot tell them to dig it out. The resident asked if someone from the City is going to be there when they pour the foundation. Mr. Ebert stated that he respectfully disagrees with the statement that you cannot force someone to dig it out because of the economic impact. It can be enforced. A stop work order can be placed before they continue to build and incur additional cost.

A Humiston Road resident asked if the \$800 deposit is high enough to prevent someone from rather than asking permission beforehand to ask for forgiveness afterwards. Mr. Ebert stated that if the work is not done properly the recourse the builder has is to go to the Board of Zoning Appeals. Also, the occupancy permit would not be issued.

Mr. Vincent verified with Mr. Ebert that a fine has been added to the draft of the new Chapter 1351. Mr. Vincent asked if the City has charged anyone with a minor misdemeanor in regard to Chapter 1351. He noted that if we confirm that these additional plans weren't submitted and someone just decided to go 17 inches higher, we should institute charges. Mr. Ebert will confirm with Mr. Cheatham.

Mr. Ebert will have additional information by the end of this week. Mr. Ebert suggested having the next meeting of the Planning and Zoning Committee after the final result of what is going to be done from CT Consultants who will relay that to Polaris Engineering so the residents know the final outcome.

Mr. Tadych asked if Mr. Chernisky's suggestion of dropping the floor in the garage was considered. Mr. Ebert will check with the engineer. Mr. Tadych asked to be informed of the date the foundation was poured.

The meeting adjourned at 7:32 p.m. Mrs. Lieske thanked everyone for their attendance and said the next meeting will be posted when a date is confirmed.

Karen Lieske, Chairman

Joan Kemper, Secretary