

Village of Commercial Point
Public Hearing: Mr. Rings Out Building Variance
May 2, 2016

Mayor Joiner called the meeting to order. Administrative Assistant Baldwin took roll call with the following members present: Mr. Sadler, Mr. Townsend, Mr. Geiger and Mr. O'Neil. Mr. Laxton and Ms. Evans were absent.

Mayor Joiner introduced Mr. Paul Rings. Mr. Rings presented a presentation for the council. A copy of the presentation will be attached to the approved meeting minutes. Mr. Rings said he is a resident in the village. He lives in the backside of Foxfire Golf course. He said the reason he is here this evening is asking for a variance for a 15-foot height extension on his out building. It will be 28-foot in height including a cupola. He said he will use the building for equipment storage for maintaining the land. He said he has 5.8422 acres. He would like to be able to pull hay wagons in and out which requires a 14-foot sidewall. He said he is requesting a variance for the second time. He believes the first one was denied with no violation of the Commercial Point variance criteria and believes it was a personal decision, not professional. He said he has learned since rezoning from commercial B-1 to residential R-1 in October 2006 his property meets all the zoning qualifications to be agricultural-residential. He said it was recommended by Mayor Joiner to file for a variance rather than apply for re-zoning. He feels it is fair because it is not a traditional piece of property of the village because he does have 5.8422 acres. He said there are no deed restrictions on this plat of land. Mr. Rings displayed and provided council with a map of the property. Mr. Townsend asked Mr. Rings to show them where his house is located on the map. Mr. O'Neil asked to review the Ordinance Mr. Rings referred to in his presentation. Mayor Joiner asked Mr. Rings if he brought a copy of the Foxfire deed restrictions. Mr. Rings said his property is not considered a part of Foxfire and has no deed restrictions. Mr. Sadler confirmed with Mr. Rings that he accesses his house by driving through Foxfire. Mr. Rings said yes. Mayor Joiner said if he remembers correctly, Mr. Little has a red barn behind it. Mr. Rings said it is Mr. Albright's and his building sits approximately 50-70 feet from where his building will be and exceeds the 15-foot height, but it is part of the Township. Mr. O'Neil asked if that was in the township. Mr. Rings said part of Mr. Albright's land is in the village and part in the township and the building is in the township. Mayor Joiner asked if anyone in the audience was adjacent to Mr. Rings property? No one responded. Mr. Sadler asked if he would be conducting any business out of the building? Mr. Rings said no; all he will use it for is to store his agricultural equipment that he uses to maintain his property. Mr. Geiger asked about the amount of square footage in the building? Mr. Rings said it is a 48x60 building with a porch on one side. Mr. Geiger confirmed it is under the required footage and the only reason he is asking for a variance is because of the height. Mr. Rings answered, correct. Mr. Sadler asked if he was going to rent it. Mr. Rings said no. Mayor Joiner said he has someone from the village asked if it was for a church. Mr. Rings said no. Mr. O'Neil said it was presented before and declined and he felt it was personal, why did he feel that? He said it was not because his father in law was the mayor but at the time the solicitor was Mr. Crites and he walked the council through a line of vigorous questions and brought in the village council and went to the Duncan Factor Rules and walked through each one. He said he was not violating any of the rules and each council member said you cannot see the building from the road and that night three of them voted against it. Mr. O'Neil asked if council votes no, will he come back to the next council? Mr. Rings said more than likely if the council votes no, he would either try to rezone it to agricultural or appeal it. Mr. Sadler asked if there is a second story. Mr. Rings said

Village of Commercial Point
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there is a second story and it is for hay and storage. Mr. Sadler asked if he has plans to convert it to living space and will there be utilities? Mr. Rings said no he will not have living space and yes, there will be electric. Mr. O'Neil said he understands it is not a part of Foxfire but it is. He said technically when you drive back there it is in Foxfire and has a Foxfire address. He asked if it seems normal for a 30 foot building to be built there? Mr. Rings said honestly you will not be able to see it. He said he has a 30-foot mobile mound in his front yard to separate him from Foxfire Estates. Mr. O'Neil said he understands that but what he is getting at is Mr. Rings is still an R-1 and he does have a little more land than the average house in Commercial Point. What is to say if council approves it, how do they tell someone else with a ½ acre in town no if they want to build the same building? Mr. Rings said his question is, has council put an ordinance on that ½ acre in the village? Mr. O'Neil said he has a concern about setting a precedence. Mr. Rings said he does not believe they are setting a precedence. Mayor Joiner said he is going on record that he does not believe it is the business of any village or leadership thereof to place personal opinion or theory or your own personal thought, you have to follow the law. He said you have to look at what the law says, look at the neighbors and asked if anyone is in disagreement. He said if a person owns 5+acres of ground, they should be able to enjoy that piece of property as our laws see fit. He said we have nothing on the books that would keep this building from being built. Mr. O'Neil said except for the Zoning that says it can't be any bigger than 15 feet. Mayor Joiner said the height is the question that we are discussing and he does not see how that should be construed as being a negative. Mr. O'Neil asked if a building like this could be detrimental to anyone's property value? Mayor Joiner said he does not see how anything on 5.8422 acres could be detrimental to anyone. Mr. Geiger said there are two people who can see it and they are Mr. Hammond and Mr. Albright. Mayor Joiner said he has talked to Mr. Albright and he has no issues. Mr. O'Neil said he understand what he is going to do but it is still a building that will be double the size on an R-1 property that is currently zoned the same as his house. Mayor Joiner said you must use common sense that a person is not going to build a 25 foot building high on a residential lot like theirs. He told Mr. O'Neil you are on the Zoning Committee. Mr. O'Neil said they are reviewing the Zoning book and see what needs to be rewritten to make it the best for the village. Mr. Sadler said in their initial analysis there are not many 5 acre lots. Mr. O'Neil said correct but what if the next person with 4.5 acres comes in and wants a building like this. Mr. Sadler said it is a case by case basis. Mr. O'Neil asked are we setting a precedence if we approve? Mayor Joiner said no, he thinks as a legislative body to have to look at each property on a case by case basis. He said we have to look at each case as its own independent finger print. He said we cannot sit and legislate against a person because we don't think it is improper. He said if all he has is a height restriction by 10 feet, how can we tell him no? Mr. Sadler asked if there is a style restriction by Foxfire. Mr. Rings said there are no restrictions on their property. Mr. Sadler said he is not in Foxfire as the deed goes but his access is through Foxfire. Mayor Joiner said if you drive through Foxfire there are many styles of homes. Mr. Sadler asked Mr. Rings if he has a picture of the style. Mr. Rings presented the picture and said it is not the exact building but similar. Mr. O'Neil asked where the barn doors will be located. Mr. Rings showed them on the drawing. Mr. O'Neil asked how it will be on the lot. He said it will line up with his house. Mr. O'Neil asked if there will be any office space. Mr. Rings said no. Mr. O'Neil said he heard its intention was to have an office in for future use. Mr. Rings said there has never been a conversation about an office. Mayor Joiner said he heard the same rumor and it was specially pointed at the former Mayor. Mr. Hammond responded that he has a very large office in

Village of Commercial Point
Public Hearing: Mr. Rings Out Building Variance
May 2, 2016

his home, which he often worked out of while he was mayor. Mr. Hammond said just for the record, he no longer owns his company and will be moving into retirement. He said they are connected because they are family but that is Mr. Rings home, property and barn. Mr. O'Neil asked if equipment will be driving in and out or kept on his lot. Mr. Rings said currently when he works hay he does have to travel across D&L, which is on Borror Road. He asked if he could come across his land and was told yes. Mr. O'Neil said he is not a farmer, but in talking about harvesting hay, how tall does it get when it is ready to harvest? Mr. Rings said the village does not allow more than 12 inches and he cuts twice a year. Mr. O'Neil asked if you still bail it? Mr. Rings said yes. Mr. O'Neil said it seems like he is an R-1 but wanting to do the farm stuff and agriculture would be a better fit. Mr. Rings said it would but didn't know that was available. Mr. O'Neil said it seems it would be better to do a lot split with agricultural on the back half. Mayor Joiner asked if that is what we are here to talk about. Mr. O'Neil said it is a little piece of what he thinks. Mayor Joiner said that is fine but we need to concentrate on the barn. Mr. Rings said if we were looking at a lot split and the back half being agricultural, he is not sure how he would get the barn on that property because it is on a hill. Mr. O'Neil asked if he has ever been cited for having the grass being too tall? Mr. Rings said he has not been cited but has received a letter and he was well within the cut days of our zoning. Mr. O'Neil said he has never seen it but he has heard there have been issues with the height of the grass. Mr. Rings said that is when he was trying to get the hay established. Mayor Joiner said with it being part of the Foxfire community, he would be reserve to open it up to agricultural because at that time it is less restrictive. He believes getting the variance on the height, there are still enough restrictions on the property that he is not going to harm the other home values. Mr. O'Neil said his biggest concern is setting a precedence. He said in the future if someone else ask for the same and is denied how do you answer why? Mayor Joiner said he respects what he is saying but we have to look at each case on an individual basis. He said we can only deal with what we are looking at this time. Mr. O'Neil said it needs to be talked about that this could come up in the future. Mayor Joiner opened it up to public comments. Mr. Hammond said his only comment is this is a professional decision made by council. He said everyone knows he pushed for 4 years to work on the zoning book. He said council has the authority to put in the zoning book the acreage break point. He said most is 5.01 is the norm of the acreage point break. Mayor Joiner asked if Mrs. Albright has anything to say? Mrs. Albright said no, she is just here to listen to the guidelines and follow them. Mr. Geiger asked if she or Jim have any objections to the height of the building. Mrs. Albright said she did not hear what the height was. Mr. Rings told her 25 feet to the peak and a 3-foot cupola on top. Mr. Albright said she cannot speak for her husband, she asked what the current regulations are. Mr. O'Neil said the current regulations are 15 feet. Mrs. Albright asked it is in the village. Mayor Joiner said it is in the village. Mrs. Albright asked so we have to go by the village rules? Mayor Joiner said that is why he is asking for a variance. Mayor Joiner said the question, is it offensive? Mrs. Albright said she cannot speak for her husband and would have liked to have known about this meeting, it was hear say. Mr. O'Neil said he called Fiscal Officer Hastings today and emailed the mayor and also Solicitor Hess. He said the letters only went out to adjacent property owners who were in the corporation limits. He said he does not agree with this and does not know if this is the legal way. He said he thinks if you touch the property, you should get a letter. He said in his mind he does not feel this is correct. Mr. Hammond said your rules and regulations only apply to those in the village and they are in the township. Mayor Joiner said we govern the Village of Commercial Point. He said we have to abide by the laws set forth in the village and Fiscal Officer

Village of Commercial Point
Public Hearing: Mr. Rings Out Building Variance
May 2, 2016

Hastings did everything she was supposed to do according to the rules. Mr. Hammond said his understanding is that Jim had no objections in the previous request before council. Mr. O'Neil said he spoke with Mr. Albright today at 2:00pm and he directly has no objections, but does have concerns on what precedence it sets. Mayor Joiner said he spoke with Jim and had lunch with him. He said the precedence again goes back to what has been discussed, it has to be looked at on an individual basis. Mayor Joiner polled the council members to see if anyone had additional questions, none did.

Mr. O'Neil made a motion to adjourn, seconded by Mr. Geiger. Meeting adjourned.

Gary Joiner, Mayor

Wendy Hastings, Fiscal Officer

*Minutes provided by Paula Baldwin, Administrative Assistant