

OFFICIAL PROCEEDINGS
OF THE
PLANNING-CITIZEN ADVISORY COMMISSION
CITY OF LOWELL, MICHIGAN

For the Regular Meeting of the Planning-Citizen Advisory Commission on Monday, October 26, 2009 at 7:00 p.m.

The Meeting was called to order at 7:00 p.m. by Chair Folsom and the City Clerk called the Roll.

Present: Commissioners Green, Hall (arrived at 7:16 p.m.), Jahnke, Noall, Schrauben and Chair Folsom.

Absent: Commissioner LaPonsie.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Building Inspector Doug Hopkins, Councilmember Jeff Altoft, Mayor Jim Hodges and Water Distribution Supervisor Bob Robinson.

IT WAS MOVED BY GREEN and seconded by JAHNKE to excuse the absences of Commissioners Hall and LaPonsie.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

IT WAS MOVED BY GREEN and supported by NOALL to approve the minutes of the regular meeting of September 28, 2009 as written.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #1. **APPROVAL OF AGENDA.**

IT WAS MOVED BY JAHNKE and seconded by SCHRAUBEN to approve the agenda as written.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #2. **PUBLIC HEARINGS.**

- A. Establishment of a group day care home at 807 Bowes - Special Use Permit – set public hearing date (11/23). Debra Baldwin wishes to upgrade her day care from family (up to six children) to group (up to twelve) located 807 Bowes. The State requires there be a curriculum available with care of more than six children. Currently, as an added bonus, she already provides an educational background for the six in her care. Baldwin noted she has an associate's degree in child development and is currently seeking a bachelor's degree.

Chair Folsom asked if any type of facility inspection would be done by the State. Baldwin responded the State would inspect the daycare center to ensure she is in compliance in all the required areas.

IT WAS MOVED BY GREEN and seconded by JAHNKE to set a public hearing on November 23, 2009 to consider a special use permit for the establishment of a group day care home at 807 Bowes.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #3. NEW BUSINESS

A. Site Plan review

1. Schneider Manor (725 Bowes) – construction of a 76' x 36' maintenance building – preliminary review of options. Leo Pfaller, resident of Schneider Manor and President of Lowell Area Housing, explained the Manor is in the process of negotiating with Senior Neighbors to buy their property east of the creek, between Grand and Bowes Road.

The Manor's storage facilities are currently located in the garages of Senior Neighbors and will be forced to vacate. The current storage space is approximately 2,000 square feet and is very full. Schneider Manor wishes to place its new storage facility near Grand Street and Building D of the Manor. Pfaller provided a draft of the proposed office and maintenance building. Presently, the office is located in an apartment. However, it does not meet the need for a conference room.

Options A and B were presented to the Commission. Both are near the intersection of Grand and Brook Streets. Option A would set on the property without a variance, while option B would need a variance. The board wishes to proceed with option B in order to save a large red maple tree. The overall layout of the building differs dependent upon which option is recommended.

Pfaller requested insight from the Commission before proceeding.

City Manager Pasquale stated he has spoke with Pfaller on several occasions. If the variance is pursued the Commission would provide a recommendation to the City Council, acting as the Zoning Board of Appeals, who can grant the variance.

Pfaller noted the building will match the existing buildings.

Pasquale stated Randy Ossewaarde, 250 Brook, has raised a few concerns.

Chair Folsom inquired regarding the heavy line shown at the north end of option B. Pfaller explained the back side of lot 21 shows a 216 foot dimension across, which is Ossewaarde's property line. The street to the left of the heavy black line was abandoned in the 70's or 80's. Pfaller was unsure why the area next to lot #21 was not abandoned. If the street were to be abandoned now, half would go to Ossewaarde and the other half to Schneider Manor. The heavy black line adjacent to the asphalt (dotted line) is presently a 16" sanitary sewer, which runs through the property. The utilities within the easement (street right of way) include the power line, water main, sanitary sewer, three electric lines, phone line and fiber optic cable. It extends almost to the south area of the street. The dotted line to the far left sets up the restricted area to be able to build with the setback. Bowes Road is the primary street, therefore this would be a backyard setback of 25 feet.

Commissioner Jahnke asked if there had been any discussion regarding quit claiming the street. Pfaller responded Ossewaarde would receive half the property, if the street was vacated. Pfaller noted he has offered Ossewaarde \$1000 for 33 feet x 100 feet of property. Mrs. Ossewaarde has indicated they do not want Schneider Manor to build because it would obstruct their view. However, as property owners, the manor should have a right to build where they want. They do not propose to close the street unless the property is acquired.

Pfaller explained option B would place the building in the north/south direction.

Jahnke explained all six of the variance criteria needs to be met in order for the variance to be granted. Jahnke did not believe the street would be a public street beyond what is needed for Schneider Manor. Jahnke would consider the street and how it is affecting the situation in order to meet at least three of the six criteria.

Randy Ossewaarde, owner of 21, 24, 25 lots, explained Pfaller has approached him concerning abandonment of Grand Street and has made an offer which would allow the building to be constructed in the north/south direction. He noted a large sycamore tree, that is at least 30 years old and very much a part of his view would need to be cut down. Ossewaarde and his wife are very concerned the building will deteriorate the value of their property. He understands the thoughts of why they want to build in this particular location, due to the utilities. However, he believed building it to the north of the property would also provide adequate room. Ossewaarde did not feel comfortable with the amount of money being proposed and requested an assessment of the value of the property. He noted they have lived on the property for more than 30 years. In that time, the manor has taken down the entire wooded area, which was the prime reason why they moved to this location.

Pasquale confirmed Ossawarrde wanted an appraised value of Grand. Ossawarrde responded yes, 33 feet from the center line of Grand to his property line. His property lines run 100 feet. Therefore, he is asking for an assessment of 33 x 100 feet.

Commissioner Green commented on the idea brought up by Jahnke regarding a quit claim deed. If a quit claim deed is provided to one property owner, does the City give compensation to the property owner on the other side? Pasquale responded ordinarily there are no dollars exchanged on a vacation of a property. If there were any dollars it would go from the property owner to the City.

Pasquale explained there are times when the assessor is asked to give an opinion. However, this is not the easiest property to provide an assessment due to it being a vacated road. Ordinarily an assessor would look at similar sales, recent sales and compare.

Jahnke stated he would be reluctant to recommend approval of the variance, but he does believe there is potential to at least meet 50% of the criteria. However, it is difficult without an application to review.

Green wanted to review the application. However, he favored the building running north/south in order to save at least one of the trees.

Commissioner Noall was inclined to be supportive of option B to save a tree. However, she would like to see the criteria for the setback and the application.

Commissioner Schrauben wanted an option C. He was torn but agreed with what Jahnke was saying. It is hard to technically justify granting a variance, but it also seems like B would make more sense than A. There are just too many unknowns.

Commissioner Hall agreed with either option. He would prefer option B. Hall noted both trees were planted by Schneider Manor. The new building would enhance the area and additional trees could be planted.

Folsom agreed with Schrauben and would prefer an option C. Though, he does not like either plan, he would favor option B.

Pfaller noted Schneider Manor is a non profit organization and does not have much money to hire an engineer. He would prepare the plans and stamp it after acceptance from the City. Pasquale explained Pfaller needs to follow the check list to meet the criteria for a site plan. The City still requires a review from a planner at Williams & Works.

B. Variances – Recommendations to the Zoning Board of Appeals - none

Item #4. ANY OTHER BUSINESS/ON GOING BUSINESS

A. Ordinance to include temporary garages in residential districts – review of proposed draft. Over the past several months, the Commissioners have reviewed and discussed a proposed ordinance which would allow temporary garages in residential districts.

At the conclusion of last month's discussion on the issue, Commissioner LaPonsie offered to provide a draft which would allow soft sided structures with size limitations.

City Clerk Morlock noted LaPonsie believes another public hearing should be held because of the time frame.

Commissioner Green commented on the note sent by Hopkins regarding garages and definitions. The wording in the draft provided by LaPonsie is slightly different.

Based upon what Hopkins read, carports would not be allowed.

IT WAS MOVED BY GREEN to set a public hearing. No second. Motion died.

City Manager Pasquale asked if the Commission wanted the draft put in ordinance form. Chair Folsom inquired if it had to be placed in ordinance form before a public hearing is held. Pasquale stated a public hearing can still be held to receive comments. However, it needs to be in ordinance form before the Council can consider it.

Commissioner Schrauben believed it would be good to get public comments. At some point he would like to review all structures less than 600 square feet as there is nothing which refers to structures between 200 and 600 square feet.

Commissioner Hall questioned if the dimension of 12 feet was measured to the inside of the eave. Jahnke stated it includes the eaves. However, the Commission is referring to 12 feet for height. Hall commented this then makes the overall structure which is allowable 16 feet. He did not agree with this. Hall believed an eave on a garage was only 8 feet.

Hopkins noted the discussion included measurements to the eaves. Twelve feet in height is being considered to allow for RV storage. One would want to measure from the peak. There are different roof designs which determine the maximum height. In most cases, it can not go higher than the primary residence.

Schrauben believed the Commission should use the definition of height as defined as in Section 2.09 of the code. He wanted the number to fit the purpose.

Jahnke suggested putting a double height dimension with a maximum of 12 feet to the eaves and 15 feet to the highest point. This can be changed next month when a public hearing is held.

Hall saw no reason for these buildings and he did not believe it added any property value.

Schrauben stated Section 4.09 G mentions a dwelling shall be provided with one accessory building or garage. He questioned if the whole intent was to allow temporary garages and that perhaps properties which do not have such an accessory building would possibly be allowed a large temporary building functioning more as a garage. Pasquale would rather encourage a permanent structure rather than a temporary.

Folsom asked if the Commission wanted to provide the draft into ordinance form. Green and Jahnke said yes, with a maximum overall height of 12 feet. Schrauben did not believe it was ready for ordinance form. If the Commission will deal with anything above 200 square feet, the entire range should be covered.

IT WAS MOVED BY GREEN and seconded by SCHRAUBEN to table the issue until the November 23, 2009 regarding the ordinance to include temporary garages in residential districts.

YEA: 6. NAY: 0. ABSENT: 1. MOTION CARRIED.

B. Outdoor Lighting Ordinance – further review. Commissioner Jahnke noted the changes in the ordinance.

Chair Folsom did not want to act on the ordinance as he has other issues with it.

Jahnke noted G1 states public street lighting being exempt. It should state public street lighting shall not be required to meet the required average light output for lots. Everything else is still required. The only item outstanding is calculating the acreage and determining how many are needed per acre.

Under 17, public street lighting would be exempted from light trespassing.

The outdoor lighting issues were tabled until the November 23, 2009 meeting.

- C. Joint signage ordinance with Lowell Charter Township – update – deferred from previous meetings. Commissioner Jahnke noted issues would be discussed on November 10, 2009 at the joint meeting with the Lowell and Vergennes Townships Planning Commissions.
- D. Joint Planning Commissions Meeting – Tuesday, November 10, 2009. It was noted the meeting would be held at Lowell City Hall. Commissioner Noall would be attending.

Item #5. **BUILDING INSPECTOR REPORT.** Chair Folsom referred to 117 W. Main and asked if the sale was still in the process. City Manager Pasquale stated Greg Canfield is now the owner and has a deed for all three structures. Folsom asked if condemnation had been revoked. Pasquale responded yes. He and Canfield met with MDOT and reviewed all the issues. MDOT is now ready to proceed with the construction of the bridge after numerous meetings. Inspections have already been completed by Hopkins as well as two structural engineers. Bridge reconstruction should begin in the Spring.

Folsom asked if 422 E. Main was complete. Hopkins noted there have been no final inspections on it at this time.

Hopkins referred to the temporary structures and paved driveways being required for primary accessory buildings. He commented on a very small building which was permitted about three years ago. The question brought up was why does this not have to have a hard surface. Hopkins inspected the structure and compared the size of his car to the size of the building. If this building is not large enough for any vehicle to be stored, would it still be considered a primary accessory building? In theory, if it will be a primary accessory building it should be able to house, within reason, any vehicle.

Green referred to the statement made by Schrauben under Section 4.09 regarding the dwelling shall be provided with one accessory building or garage having a minimum dimension area of 10' x 20'.

Hopkins questioned the situation because a similar action occurred. Hopkins would consider such a structure a storage shed, but was unsure what it would have been considered three years ago. He did not see how any vehicle of reason could be used to park in there. Jahnke believed if such buildings are being used to house a car, then it should be considered the primary building. Hopkins noted the building is 254 square feet. Jahnke clarified the situation Hopkins is referring to is the only accessory building. Hall agreed with Jahnke and Schrauben that the square footage of buildings between 200 and 600 square feet should also be reviewed.

Steve Doyle, 706 Riverside Drive stated under accessory buildings, one is allowed two accessory buildings not to exceed 900 square feet. If the lot is 9000 square feet then the two accessory buildings should not exceed 1200 square feet. Doyle believed if a vehicle is placed into a building no matter the size, one would need a driveway. Jahnke explained a primary accessory building is the daily use of a vehicle.

Green and Noall agreed with Jahnke. Noall added a primary accessory building should have some type of driveway or pavement.

Jahnke wanted it noted the accessory building would not be considered a primary accessory building, unless its main purpose is the housing of a daily driven vehicle, regardless of size.

Item #6. **PUBLIC COMMENTS**. Bob Robinson agreed with the draft provided regarding storage units except for the 4th bullet point. The last sentence states units used to store motor vehicles must conform to State garage requirements. If he wants to continue to park his vehicle, he would need to provide footings and a concrete floor. He wished to strike the last sentence so he can continue to use the unit he has been using for the last eight years. Jahnke believed the State garage requirements did not require a concrete or hard surface as it can actually be gravel. As well, footings are not required. Hopkins noted this is correct.

Robinson asked about installing a carport. Hopkins noted the carport has to be more than 50% open and would have the fasteners which the manufacturers require. Carports do not actually house because these are not enclosed. One question was would carports require a hard surface. Hopkins noted a hard surfaced driveway is considered to be generally asphalt or concrete. This would include crushed concrete or asphalt. Hopkins explained a carport unit itself would not necessarily have to have a hard surface, but rather a non flammable surface. The driveway itself or primary accessory building would have to have a hard surfaced driveway to it.

Jahnke noted the definition could be modified to include housing or sheltering. Schrauben believed it would have to be considered an accessory building. If you are putting your car in there for daily use, it is a primary accessory building.

Steve Doyle believed a carport is an accessory building. If it houses a vehicle for regular use then a hard surfaced driveway is required.

By general consensus, the Commissioner agreed the ordinance states carports should have a hard surface.

Robinson asked if he would be allowed to keep his soft sided garage. Schrauben believed it fit what was drafted by LaPonsie.

Item #7. **COMMISSIONERS COMMENTS**. Commissioner Schrauben reminded everyone to vote on November 3, 2009.

IT WAS MOVED BY JAHNKE to adjourn at 8:46 p.m.

DATE:

APPROVED:

Douglas L. Folsom, Chairman

Betty R. Morlock, City Clerk