

OFFICIAL PROCEEDINGS
OF THE

PLANNING-CITIZEN ADVISORY COMMISSION
CITY OF LOWELL, MICHIGAN

For the Regular Meeting of the Planning-Citizen Advisory Commission on Monday, August 24, 2009 at 7:00 p.m.

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

Present: Commissioners Green, Jahnke, LaPonsie, Schrauben and Chair Folsom.

Absent: Commissioner Noall.

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 LAPONSIE and seconded by SCHRAUBEN to excuse the absence of Commissioner Noall.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY LAPONSIE and supported by GREEN to approve the minutes of the regular meeting of July 27, 2009 as corrected.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY GREEN and supported by JAHNKE to approve the minutes of the August 10, 2009 special meeting as written.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

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

IT WAS MOVED BY GREEN and seconded by LAPONSIE to approve the agenda as written.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #2. **PUBLIC HEARINGS.**

- A. Amending Zoning Ordinance text to include Group and Commercial Day Care Homes and Facilities as a Special Use in the R-2 and R-3 districts – hold public hearing and recommend to the City Council. As mentioned at the special meeting of August 10, a special use application for commercial day care at 529 Avery incorrectly stated its zoning as R-1 instead of R-2. In reviewing the ordinance text, only R-1 allows such special uses. As a proposal, R-2 and R-3 district would include group and commercial day care homes by special use. City Manager

Pasquale noted group or commercial day care centers consists of 7 to 12, whereas six children or less requires no special approval.

Commercial Day Care Centers, as a special use, are mentioned and ordinarily would be approved, but these need to have a special review by the Planning Commission.

Applicant Julianne Schied understood this is a new law which the State passed within the last few years. Zoning information is required from daycare facilities having 7 to 12 kids. Schied noted the daycare has been open for 10 years.

Kelly Sarniac of 12345 McPherson wanted her son to continue attending at the daycare center. He has established a relationship there and it would be very upsetting if she had to enroll him elsewhere. She asked for support from the Planning Commission.

Commissioner Jahnke asked how long the business has been in operation. Rich Curtis, who owns the house, believed daycare began in approximately 1997. His ex wife started a daycare center when they bought the house.

Curtis explained a new license is necessary because Schied is purchasing the house.

City Clerk Morlock noted the State has not contacted the City once in the last 20 years regarding daycare licensing.

Jahnke stated this has been an ongoing business since before the ordinance was established which makes one consider grandfathering the business into the ordinance.

Schied explained the licensing agent indicated the new law has been effective for a couple years.

Chair Folsom considered this to be a new business rather than one being grandfathered into the ordinance. The location is the same, but there is a new owner.

There were no further public comments.

IT WAS MOVED BY LAPONSIE and seconded by JAHNKE to recommend to the City Council amending the zoning ordinance text to include group and commercial day care homes and facilities as a Special Use in the R-2 and R-3 districts.

YEA: Commissioners Green, Jahnke, LaPonsie, Schrauben, and Chair Folsom.

NAY: 0. ABSENT: Commissioner Noall. MOTION CARRIED.

Pasquale explained Schied provided an application for a special use. A hearing date could be set for the pending zoning ordinance approval.

LaPonsie believed it would be worth while for the property owner and business owner to review the nonconforming use. She would be more comfortable setting a public hearing tonight so they are not delayed.

Jahnke believed it would be wise to state it is a non conforming use and then act on the Special Use Permit.

Folsom suggested it be referred to City Attorney Wendt, if there is no clear cut information.

Jahnke suggested proceeding with a special use and consider if it can be grandfathered in.

IT WAS MOVED BY GREEN and seconded by JAHNKE to set a public hearing for September 28, 2009 to consider a special use permit for 529 Avery, subject to approval of the zoning.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY LAPONSIE and seconded by SCHRAUBEN to set a public hearing for September 28, 2009 to allow group and commercial daycare as a special use in the SR District.

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

- B. Ordinance to include temporary garages in residential districts - tabled, public hearing held recommendation to the City Council. Building Inspector Doug Hopkins assembled some information and called ICC who actually writes the code before the State makes their changes. The commentator only lists concrete as being an acceptable answer. He spoke with the representative from ICC who suggested playing the gray area, which would be to allow hard surface such as compacted dirt. The code states the area must be sloped allowing spills to move toward the main entry door.

Bob Robinson of 130 N. Center also spoke with the State who concurred gravel would be fine under the right circumstances.

Hopkins also referred to what should be considered a temporary building. He noted hard sided is allowed, but soft sided also needs to be considered. Commissioner LaPonsie confirmed hard sided would be allowed as a temporary structure. Hopkins responded yes, it would be allowed as a permanent structure. This is constructed with every day building materials. He noted the structure may not need a hard surfaced if it is less than 600 square feet.

Robinson noted he spoke with the State who indicated gravel was approved non flammable material.

Steve Flohr of 703 E. Main recently installed a soft sided garage. He believed garages conceal many items which would otherwise be an eyesore. Flohr presented pictures taken throughout the City of individuals storing items outside with no garage.

Jahnke did not see a problem with soft sided units. Much of what would be allowed for a temporary structure is already being allowed as a building. The question is does the City want an ordinance that covers soft sided/temporary buildings. LaPonsie agreed. She was conflicted on the soft sided, noting part of the former commission was very much against it.

LaPonsie wanted to think about the issue further. Commissioner Schrauben agreed. He wanted to look further into the differences between hard and soft sided. Commissioner Green stated he has never had an issue with the soft sided structures.

LaPonsie asked if size limits were placed on soft sided structures other than meeting setbacks. Hopkins explained the zoning ordinance states a structure 600 square feet or more requires it to match what is there. However, a structure less than 200 square feet does not require a building permit.

LaPonsie inquired if the current ordinance addresses maintenance issues. Hopkins responded no. However, he would like to add such language; similar to a fence being maintained once it is installed.

Folsom agreed further discussion was necessary and suggested the issue be tabled.

The issue was tabled until the September 28, 2009 meeting.

Item #3. NEW BUSINESS

A. Site Plan review – none

B. Variances – Recommendations to the Zoning Board of Appeals

1. 414 N. Monroe – David Jordan – front yard setback variance for covered porch. David Jordan wished to construct a porch addition to his home located at 414 N. Monroe. The porch would be wrapped to the front of the house and to the south.

Commissioner LaPonsie questioned when the original porch was removed. Jordan was unsure. The porch would match up to the porch south of his which is Frank Martin's house (406 N. Monroe). It would set approximately 18 feet from the right of way. The average setback in the block is 22 feet.

Building Inspector Hopkins noted the ordinance states the setback has to meet the average of what is there. He does not by 4 feet.

The Commissioner reviewed the following criteria necessary to grant the variance:

- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. By a vote of 3 to 2, the Commission believed this condition had been met.
- b. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. By a vote of 5 to 0, the Commission believed this condition had been met.

- c. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. By a vote of 5 to 0, the Commission believed this condition had been met.
- d. The variance will no be significantly detrimental to adjacent property and the surrounding neighborhood. By a vote of 5 to 0, the Commission believed this condition had been met.
- e. The variance will not impair the intent and purpose of this Ordinance. By a vote of 5 to 0, the Commission believed this condition had been met.
- f. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant. By a vote of 5 to 0, the Commission believed this condition had been met.

IT WAS MOVED BY JAHNKE and seconded by LAPONSIE to recommend to the Council approval of the front yard setback variance request for a covered porch at 414 N. Monroe

YEA: 5. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #4. ANY OTHER BUSINESS/ON GOING BUSINESS

- A. Outdoor Lighting Ordinance – further review. The issue was tabled until September 28, 2009.
- B. Joint signage ordinance with Lowell Charter Township – update – deferred from previous meetings. The issued was tabled until September 28, 2009.

Item #5. **BUILDING INSPECTOR REPORT.** Commissioner LaPonsie noted there is an inflatable pool at the corner of West and Bowes with no fence around it.

Building Inspector Doug Hopkins noted Roger Cahoon is beginning to proceed on his project. LaPonsie questioned if any information had been provided regarding use of the parking lot. Hopkins would check with Cahoon.

Item #6. **PUBLIC COMMENTS.** DPW Director DesJarden asked when considering soft sided storage sheds would this cover commercial businesses and public facilities. He is considering assembling up a salt bin. He wanted the Commission to think about this.

Item #7. **COMMISSIONERS COMMENTS.** Commissioner LaPonsie asked if the underground tanks were removed at the gas station next to Ball's. City Manager Pasquale stated this has already been done. However, there is still some contaminated soil.

Commissioner Schrauben appreciated the good discussion held during the Planning Commission meetings. It is valuable knowledge for everyone.

IT WAS MOVED BY GREEN to adjourn at 8:24 p.m.

DATE:

APPROVED:

Douglas L. Folsom, Chairman

Betty R. Morlock, City Clerk