

GREENWOOD PLANNING COMMISSION
WEDNESDAY, May 15, 2013
7:00 P.M.

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, Kristi Conrad, David Paeper and Douglas Reeder

Absent: None

Others Present: Council Liaison Bill Cook, City Attorney Kelly and Zoning Administrator Gus Karpas.

2. APPROVE AGENDA

Commissioner Beal moved to accept the agenda for tonight's meeting. Commissioner Paeper seconded the motion. Motion carried 5-0.

3. MINUTES - April 17, 2013

Commissioner Conrad moved to approve the minutes of April 17, 2013 as presented. Commissioner Beal seconded the motion. Motion carried 4-0-1. Commissioner Paeper abstained.

SPECIAL MINUTES – April 25, 2013

Commissioner Reeder moved to approve the special minutes of April 25, 2013 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0-2. Commissioners Beal and Conrad abstained.

4. PUBLIC HEARING

Jim Pastor, 5100 Greenwood Circle, variance requests to construct a new single family home on a non-conforming foundation which encroaches into the minimum required exterior east side, west side and rear yard setbacks and exceeds the maximum permitted impervious surface.

Section 1120:15 of the Zoning Ordinance requires a minimum exterior east side yard setback of thirty feet. The applicant proposes an exterior east side yard setback of eight feet for the proposed deck attached to the reconstructed single family home. The proposal requires a variance of twenty-two feet of the exterior east side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum west side yard setback of fifteen feet. The applicant proposes a west side yard setback of eight feet, two inches for the proposed deck attached to the reconstructed single family home. The proposal requires a variance of six feet, ten inches of the west side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum rear yard setback of thirty-five feet. The applicant proposes a rear yard setback of nine feet for the proposed attached garage. The proposal requires a variance of twenty-six feet of the rear yard setback.

Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is proposing an impervious surface area of 46.5% and is seeking a variance to exceed the maximum permitted impervious surface area by 16.5%.

Zoning Administrator Karpas summarized the request. He said the applicants are requesting variances to demolish an existing non-conforming single family home down to the foundation and

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construct a new single family home on the existing foundation with additions onto the north and front of the home and the inclusion of a wrap-around deck beginning at the midpoint of the east face of the home and wrapping around the entire front of the home, terminating six feet onto the west face of the home. The proposed alterations would encroach into minimum required east exterior side and west side yard setbacks, encroach into the minimum required rear yard setback, exceed the maximum permitted impervious surface, and exceed the maximum permitted grade alteration with the installation of a new driveway to access the proposed attached garage. The applicant proposes to remove an existing non-conforming accessory structure located within the required west side and rear yard setback on the north side of the property.

Chairman Lucking noted the change from the previous plan with the removal of the existing detached garage and the attachment of a one stall garage to the north side of the house and asked the applicant if he was comfortable with the amount of space that provided. Jim Pastor said he would have to be and said they also had the detached garage at the bottom of the hill to provide additional parking and storage. He feels removing the garage makes the property look better.

Rob Ruel, the applicants Draftsman introduced himself and said he could answer any questions if necessary.

Commissioner Paeper said his concern about the project is the hardcover, noting it appears the applicant is trying to get too much on the lot. Commissioner Beal agreed, wondering if the applicant gave any serious consideration of the suggestion for the vacation of city right-of-way to increase the lot size. Chairman Lucking felt the deck was too large. Beal agreed, saying he had no issue with the size of the house itself. Mr. Pastor said the process of vacating the city property would take too long and the idea behind the deck was to give the house some width so it wouldn't look like a double wide trailer.

Chairman Lucking discussed increasing the width of the attached garage and permitting an increase in the north side encroachment in exchange for removal of the detached garage on the south side of the property. He said it's a matter of practicality when the property comes up for sale, most people would like more attached garage. He said he is willing to give more house than deck. Mr. Pastor said the encroachment on the west side is minimal and is for looks, the east side encroachment is for access to the deck from the front door. Lucking said he didn't want to increase the non-conformity on the west side. Mr. Pastor noted it is currently a vacant lot and most likely would remain that way. Lucking said he would prefer to remove that portion of the deck and add that portion of hardcover to the garage. Commissioner Paeper said he doesn't follow Lucking's logic since it's not the Commission's responsibility to follow market conditions.

Mr. Pastor said he would like to keep the east side deck. Chairman Lucking said the ordinance permits a front stoop. Commissioner Beal said the east side deck would be more important in keeping the aesthetics since it would be the most visible when people drive around the curve.

Commissioner Paeper asked about the impervious surface calculation in regards to the driveway. Mr. Pastor said they are not known yet and cannot be calculated until they know what garage is approved.

Chairman Lucking asked if there was anyone from the public who would like to comment on the request.

Chris Thiss, 5090 Greenwood Circle, likes what Mr. Pastor is proposing, even the increase in the garage on the north side of the home. He said he will work with Mr. Pastor on grading for access to his garage since they share a driveway. He is supportive of the request.

Jeff Ruegemer, 5105 Greenwood Circle, discussed the functionality of the deck on the aesthetics of the home. He understands the concerns about hardcover, but said there are a lot of non-

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conformities in the neighborhood. He said, even though he looks directly at it, he's not concerned about the lower garage. Commissioner Beal asked, if given choice, would you like to see the lower garage removed and a larger attached garage on the north side of the home. Mr. Ruegamer said he really didn't have an opinion on this request, though an attached garage typically makes more sense. He said the garage is not the main issue with this property.

Hearing no further comments, Chairman Lucking closed the public hearing.

Commissioner Beal said he keeps hearing the same concern, let's keep the structure from looking like a double wide trailer. He said there's more interest in that than in forcing conformity with the impervious surface standards. Commissioner Paeper agreed, but said that needs to be reconciled with the ordinance. Beal said the east and south portions of the deck can prevent the double wide look and permit the removal of the west side deck.

Commissioner Reeder likes the idea of a two stall garage and is not sure of the functionality of the south garage. He's not sure it adds much to the property. He feels the deck on the west side of the property does add to the property and is necessary.

Commissioner Paeper asked about obtained the city property. Mr. Pastor said he's not interested and has no intention of pursuing that option.

Commission Conrad said she's struggling. She noted that under state statute the Commission must allow the garages as they stand and cannot force the applicant to "swap" them for an attached garage. She's not sure the west side deck adds anything aesthetically to the house. Mr. Pastor said the house would be out of character with the others along that side of the street. Conrad said she would like to see the impervious surface calculation as it would actually be. She has not issue with the deck as proposed on the east and south sides of the home.

Mr. Pastor said he doesn't understand the resistance he feels from the Commission. He said the only thing he's trying to do is take a property that is run down and make it look better.

Chairman Lucking is supportive of the request as present with the exception of the west side deck. He noted the driveway would have to be a minimum of two cars wide to permit the storage of two vehicles off the street as required by the city code.

Commissioner Beal would like to see a corrected table of the impervious surface area provided to the Council.

Motion by Commissioner Beal to recommend that the Council approve variance requests to construct a new single family home on a non-conforming foundation which encroaches twenty-two (22) feet into the minimum required thirty (30) foot exterior east side yard setback, the garage that encroaches one (1) foot into the required fifteen (15) foot west side yard setback and twenty-six (26) feet into the required rear yard setback. The motion would permit a variance to exceed the maximum permitted impervious surface to the extent necessary to place a driveway in compliance with the ordinance and does not include approval of the request encroachment for the west side deck. The motion is conditioned that the applicant submit a completely updated impervious surface table for the City Council's review. Reeder seconded the motion.

Commissioner Paeper stated for the record he was uncomfortable with stretching the impervious surface as much as proposed with this request, he is also uncomfortable with giving the option to the applicant that he further extend the attached garage to the north, creating a greater encroachment that what is being proposed. He does not believe the applicant can clearly meet the practical difficulty standards, but he will support the request because the property is so unusual.

Chairman Lucking called the question. Motion carried 5-0.

5. NEW BUSINESS

Discuss – Creation of R-1C District – Amendment of Greenwood Zoning Ordinance Code, Chapter 11, Creating an R-1C District which would encompass the current Old Log property, allowing the current permitted principal, accessory and conditional uses and reestablish the current uses of the property (Theatre, Restaurant, Event Center) as conditional uses.

Zoning Administrator presented the ordinance noting the recent adoption of Ordinance 216 removed Theaters as a conditional use within the R-1A District. By doing so, Theater uses, the most notable being the Old Log Theater, has now become a legal nonconforming use which is regulated by Section 1145 of the city code. The immediate concern was the ordinance currently does not address Restaurants or Event Centers in the R-1A district and there currently are no definitions for “Theater” or “Restaurant.”

Greg Frankenfield introduced himself to the Planning Commission and informed them he was going to close on the Old Log property in the next couple of days. His intent is to operate the business essentially as it has operated for the last 50 plus years.

Commissioner Conrad asked if the existing homes on the property would also be rezoned. Mr. Frankenfield said the home was located on its own lot. Karpas how many PIDs encompassed the entire Old Log property. Mr. Frankenfield said two. Karpas said the legal description for any newly created zoning district would be defined as those two PIDs are defined.

Zoning Administrator Karpas asked if rezoning the property would be considered “spot zoning.” City Attorney Kelly said the property encompasses over 11 acres and rezoning the property would not constitute rezoning. He said the property has always carried the R-1A standard, this use would expand the uses to include not only theatres as a conditional use, but also event centers and restaurants. He said it could also be used as a zone for future cluster development without the fear of opening up the entire R-1A District to such a use.

Council Liaison Cook said the challenge is to support the theatre and make it economically viable while being aware of potential unintended consequences. City Attorney Kelly said it is up to the city on how much elasticity it wants to put in the ordinance. He said that would be determined by the specific attributes of the property such as the wetland area, existing impervious surface area, etc.

Commissioner Reeder asked if that information would be required in the ordinance. Mr. Kelly said it would. Reeder asked why the city is doing this now, especially since this property has operated in the same manner for years. He asked if the property owner has to accept a rezoning. Mr. Kelly said the property owner is permitted to comment on the proposed rezoning, but the city is not denying his use by the rezoning. He said the city is trying to work with the applicant.

Commissioner Conrad asked if the theatre can currently operate given it is not allowed as any type of use in any of the zoning districts. Mr. Kelly said it could, it just can't expand.

Commissioner Reeder said the theatre already operates under a conditional use permit giving the city control. He doesn't understand the need for the change. Chairman Lucking said it's a way to permit and control additional uses without allowing them in the entire city.

Zoning Coordinator Karpas said the Planning Commission has a joint meeting with the City Council following this meeting and further discussion can be held at the meeting. He informed Mr. Frankenfield that he was welcome to come to that meeting since it is a public meeting. Mr. Frankenfield declined but said he is willing to work with the Planning Commission and City Council through this process.

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6. LIAISON REPORT

Council Liaison Cook summarized the final decisions made by the Board of Review, said the Council adopted the Home Occupation ordinance, has begun the process of creating a "theatre district" with the draft R-1C ordinance and is continuing its discussion on the creation of a Lake Improvement District which would have taxing authority to fund milfoil removal in St. Alban's Bay.

7. ADJOURN

Motion by Commissioner Beal to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 8:23 p.m.

Respectively Submitted
Gus Karpas - Zoning Administrator