TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
July 8, 2020
6:30 P.M.

CALL TO ORDER: The Planning Commission Meeting was called to order at 6:30 PM.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	CHARLES LINDELL	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	JOSE MATTHEWS	ABSENT
COMMISSIONER	MARY STEPPI	PRESENT
COMMISSIONER	JOHN POCKETS	PRESENT
COMMISSIONER	JOHN JAREMCHUK	PRESENT
COMMISSIONER	SCOTT SHELTON	PRESENT

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the minutes from the June 2, 2020 Planning Commission Meeting

ACTION: Commissioner Mathews was absent, and a vote could not be made on the June meeting minutes due to not having a quorum. No motion to be made.

VOTE: **No Vote**

NEW BUSINESS:

Appointment of 3 new Planning Commission members, John Pockets, John Jaremchuk, and Scott Shelton.

Review Petition 20-11, Tax Parcel Number 1900-500-388

Code Officer Scott Allen read the summary analysis.

Mr. Ferrante explained that he is looking to build a 15'x16' structure on the rear of his residence for his elderly mother. He stated he wanted to make the addition a family/bedroom for his mother.

Chairman Lindell inquired about flood plain issues on this property.

Code Office Allen responded that no there is not.

Commissioner Jaremchuk questioned the difference in what the resident had put on their application about being 29% coverage and increasing it to 33% versus the town stating Mr. Ferrante is at 30% coverage and will increase to 36% coverage if approved.

Mr. Ferrante stated that when he did the calculations on his property and the percentage of coverage, he did not include his driveway in his calculations.

Commissioner Jaremchuk asked Code Office Allen is the legal non-conforming based on lot coverage.

Office Allen stated that is correct.

Commissioner Anderson requested Mr. Ferrante to describe the structure and material of what he is trying to build.

Mr. Ferrante said his current house is Stucco, but he is going to place an expansion joint and add the addition but will use siding instead of stucco due to moisture issues. He will use 6-inch gutters all the way around with 3x4 downspouts going down.

Chairmen Lindell asked will storm water run off affect any of your neighboring properties.

Mr. Ferrante responded with no its should not.

Commissioner Steppi asked what would be used to enter the property via steps, a patio or such of which is that in the lot coverage calculation.

A brief discussion was had about an additional deck being built on the property, but Mr. Ferrante said at this point I am only requesting to build the addition and that he would be building wooden steps.

Councilman Hurst stated he believed the property is in the 6th district and he has heard nothing for nor against the petition.

Town Manager Giles stated that this is already a legal non-conforming use. He stated that 225-31 B&C, in addition 225-35 prohibits expanding on a legal non-conforming use. Also, the resident has not filled out the hardship questions and in fact if this was filled out it reads that personal medical issues is not considered a hardship to qualify for a variance.

Commissioner Jaremchuk asked Town Manager Giles to provide the code details where it states the Board of Adjustment cannot approve an already legal non-conforming variance request.

Town Manager Giles requested code office Allen to review and provide it.

Mr. Shavico asked isn't it the purpose of Public servant to serve the public and that Mr. Ferrante has an ill mother and has a need to build this room for her. That when is this more about the public then a bureaucracy?

Town Manager Giles stated that I was only giving the Planning Commission guidance of the codes/law of the town.

Mr. Shavico said this is not a law that these are just codes. That there is a difference between a law and a code.

Town Manager Giles stated that when a code gets adopted is done by an Ordinance and an ordinance has the effect of law.

Mr. Shavico stated it still dues not make it a law. He asked who side Town Manager Giles is on.

Town Manager Giles said I am not on either side.

Councilwoman Personti made comment that with all the code changes in the years that almost all properties are legal non-conforming, but the Planning Commission is here to make sure they remain with in the scope of a harmonious community. She is in full support of what Mr. Ferrante is doing in taking care of his mother and supports him building the addition.

Commissioner Steppi asked why we are hearing the petition if the Board of Adjustment does not have the authority to approve the expansion of a legal non-conforming parcel.

Town Manager Giles stated the code office does not have the authority to deny the petition.

Commission Jaremchuk asked Town Manager Giles does the Board of Adjustment have

the authority to approve/deny the petition, He feels that they have both authorities and is approving the petition to be forward to them and he supports it.

Mayor Thompson made a comment that there is a council meeting tomorrow night addressing the code 225. That there are 2 other sections being discussed and whether there needs to be modifications.

ACTION: Commissioner Jaremchuk made a motion to approve Petition 20-11 that it meets the harmonious development intent of Section 225-9 and that it is within the intent of the NPDES permit and that it does not affect the Comprehensive Plan. The motion was seconded by Commissioner Anderson.

VOTE: 6 in favor, 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Matthews – absent, Steppi – Yes, Jaremchuk – yes, Pockets – yes, Shelton, yes

Review Petition 20-12, Tax Parcel Number 1900-100-179

Code officer Scott Allen read the summary analysis.

Code officer Scott read the 2 emails that were submitted in support of Mr. Andrews fence. One from Michael Sendlinger and one from Jessica Lewandowski.

Mr. Andrews explained he installed a 6' high fence from the rear of his property line to the frontal plane of the existing dwelling. He spoke to a former Elsmere Code Officer about the requirements and was told what he wished to do was within the town code and that he did not need a permit.

Chairmen Lindell asked Code Office Allen how we got to where we are with the petition today.

Officer Allen responded that Mr. Andrews was misinformed, and he went out to perform a Cease and Desist and realized the fence was already completed. He then spoke to Mr. Andrews and advised there are two options either bring the fence into conformance or file a hearing with the Planning Commission and Board of Adjustment.

Chairmen Lindell asked Office Allen for clarification as to what part of the fence is not in conformance.

Officer Allen responded that in fact a corner lot is considered all frontal property and should be no greater than 4 feet in height per section 225-8P but as per code 225-8C no fence should be higher than 2 feet with in the required 30 feet sight triangle measured from the intersection of Vilone Rd. and Vilone Pl. street line.

Commissioner Jaremchuk asked Town Manager Giles the town made the mistake but

we, the towns position, is that the petitioner should suffer due to the towns mistake?

Town Manager Giles responded no I as the Chief Code Officer of the Town this is warranted for a variance.

Chief Laura Giles stated that she does not believe that the fence impairs the view of the joining roads.

The following residents attended the meeting and were in complete support of the fence being installed and said that Mr. Andrews should not be penalized, that he performed his due diligence with speaking the Towns' former employee.

4 Vilone Pl. Marian Manning, 10 Vilone Pl. David Ciamaricone, 11 Vilone Rd. Vince Shavico, 12 Vilone Pl., Megan Spitzer, 23 Vilone Rd. Christina Dibiaso, 25 Vilone Rd, Linda Gess, 11Olga Rd. Jessica Lewandowski, 20 Olga Rd, Pat Paoli, 7 Alfred Ave. Erika Jones, 8 Alfred Ave, David Lutes, 9 Alfred Ave Jim Andrews, 11 Alfred Ave, Debbie Fetzer, 22 Alfred Ave Nicole Jones, 2 Marvilo Ave, John Bennion, 21 Rigdon Rd Louis Matos, 21 Rigdon Rd. Nicole Matos, 2138 Brandywood Dr., Kevin Gant, 1206 Spruce Ave., Rebecca Owens.

ACTION: Commissioner Steppi made a motion to approve Petition 20-08, that it meets the harmonious development intent of Section 225-9 and that it is within the intent of the NPDES permit. That the petition will benefit the homeowner as aging in place. The motion was seconded by Commissioner Anderson.

VOTE: 6 in favor, 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Matthews – absent, Steppi – Yes, Jaremchuk – yes, Pockets – yes, Shelton - yes

Review Petition 20-13, Tax Parcel Number 1900-200-305

Code Officer Scott Allen read the summary analysis.

Mr. Wilde stated he is looking to increase the size of his driveway by 275 square feet due the fact that his car has been hit several times and there is very little parking space in the area.

Chairmen Lindell asked was there any discussion about building the additional driveway pervious material?

Mr. Wilde responded everyone in the neighborhood has asphalt and his already existing

driveway is asphalt so he just planned on using asphalt. He spoke to his HOA, Roseanne Disabatino and she approved from her perspective the expansion of the driveway.

Mrs. Disabatino spoke and completely approved the expansion so that Mr. Wilde can get his vehicle off the roadway, so it won't be hit again.

Chairmen Lindell asked Mrs. Disabatino if in any of their meetings has the conversation of pervious versus impervious material for the driveways has been discussed. Her response was no it has not.

ACTION: Commissioner Jaremchuk made a motion to approve Petition 20-13, that it meets the harmonious development intent of Section 225-9 and that it is within the intent of the NPDES permit. The motion was seconded by Commissioner Shelton.

VOTE: 6 in favor, 1 Absent Motion carried

Lindell – Yes, Anderson – Yes, Matthews – absent, Steppi – Yes, Jaremchuk – yes, Pockets – yes, Shelton - yes

OLD BUSINESS:

Review of the Comprehensive Plan

Mr. O'Neil stated that the Utilities chapter is still incomplete. Also, there a few other places that have been highlighted for review.

Town Manager Giles recommended the Planning Commission to review and update the Comprehensive plan and have it ready for 1st and 2nd read for Council's August meeting and 3rd and final for September meeting.

There were several conversations about cleaning the town storm drains and overall storm management and the overall look of the town.

Mayor Thompson made a comment about the Planning Commission and that it is not against residents. Its job is to enforce the code based from 225-9. That brings anger from the residents. The remedy for that is to bring it to council discuss it and its applicability's across all town's districts. Then determine if modifications need to be made. That where we get into an issue is if one resident is treated one way and another resident is treated differently. If there is a hardship that it needs to be clearly defined in the application process. If it does not clearly state that it doesn't comply.

Commissioner Steppi made a comment that in the future there needs to be a better review of

the petitions before the Planning Commission receives them.

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: Commissioner Jaremchuk made motion to adjourn the meeting. The motion was seconded by Commissioner Anderson.

VOTE: **6** in favor, 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Matthews – Absent, Steppi – Yes, Jaremchuk – yes, Pockets – yes, Shelton - yes

At this time, the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the July 8, 2020, Planning Commission meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

CHARLES LINDELL, CHAIRMAN

ROBERT ANDERSON, SECRETARY