

**CALL TO ORDER:** Chairman Werneiwski called the meeting to order at 7:00 p.m.

**PRESENT:** Chairman Bob Werneiwski, Commissioners Barbarajean Brandt, Kent Carlson, Scott Hemink, Walter Linder (7:09) and John McGary

**ABSENT:** None

**OTHERS PRESENT:** Council Liaison Keith Kask and Zoning Coordinator Gus Karpas

## **1. MINUTES OF January 19, 2010**

Motion by Commissioner Carlson, seconded by Commissioner Werneiwski, to approve the minutes of January 19, 2010 as presented. Motion carried 5-0.

## **PUBLIC HEARINGS**

**VARIANCE – Ben and Anne Pratt, 4045 Hillcrest Court, (R-2, 40,000)** variance requests to rebuild and enlarge an existing front entryway, to construct new pergola shade structure and construct a new second story addition, all which would encroach into the required front yard setback.

The requested variances are to rebuild and enlarge the existing front entryway which would encroach approximately twenty-one feet into the required fifty foot front yard setback, to construct a new pergola shade structure that would encroach approximately twenty-one feet, two inches into the required fifty foot front yard setback and to construct a second story addition which would encroach twenty feet, two inches into the required fifty foot front yard setback.

Zoning Coordinator Karpas presented his staff report. He said the request was to rebuild and enlarge the existing front entryway, to construct a new pergola shade structure and to construct a second story addition. The proposed alterations would not increase the existing encroachments. He said he recommended approval for the requests for the proposed entryway and second story addition and denial of the request for the pergola and outlined his findings.

Ashley Mitlyng, Kuhl Design presented the request. She described the project, stating that the proposed pergola would be placed by the kitchen door and is intended to direct people to the front door.

Chairman Werneiwski opened the public hearing.

Shirley Hogan, 3993 Hillcrest Road, asked for clarification of the second story addition. Ms. Mitlyng explained it would be placed over the existing footprint and would not create a further encroachment.

Hearing no further comment, the Public Hearing was closed.

Commissioner Hemink asked how a pergola is treated in the ordinance. Zoning Coordinator Karpas said it was treated as an accessory structure and had to comply with the required setbacks.

Commissioner McGary commented that the front stoop was an aesthetic improvement and felt the pergola was one also. He said he had no problems with the entire proposal, including the pergola.

Commissioner Hemink asked if there was going to be a patio under the pergola. Ms. Mityng said there would be.

Commissioner Carlson asked if the applicants had a landscaping plan, noting the pergola may not direct people to the front door. Ms. Mityng said they haven't developed one yet, but that the pergola was intended to provide more privacy to the kitchen area. Mrs. Pratt said she has always been interested in transitional spaces for homes and the pergola would provide a nice transition from the interior to the exterior of the home. Carlson said he was in support of the entire project.

Chairman Werneiwski was in agreement and said he viewed the pergola as a patio area with a trellis over it.

Commissioner Brandt said she was unaware the city regulated pergolas like an accessory structure since they are an architectural design feature in nature, much like a patio, which are not regulated by a setback. She said she was in favor of the request.

Commissioner Linder said he was in favor of the request as presented.

**ACTION:** Motion by Commissioner McGary to recommend the City Council approve the variance requests to rebuild and enlarge the existing front entryway which would encroach approximately twenty-one feet into the required fifty foot front yard setback, to construct a new pergola shade structure that would encroach approximately twenty-one feet, two inches into the required fifty foot front yard setback and to construct a second story addition which would encroach twenty feet, two inches into the required fifty foot front yard setback, as presented for 4045 Hillcrest Court, based on the findings presented by staff. Commissioner Werneiwski seconded the motion. Motion carried 6-0.

**VARIANCE – Jim and Betsy Anderson, 20125 Cottagewood Avenue, (R-3, 20,000)** variance requests to demolish the existing three season porch and construct a new four season porch in its place on the existing footprint which would encroach into the required east and west side yard setbacks, encroach into the required lake yard setback and exceed the permitted impervious surface area.

The requested variances are to encroach nine inches into the required fifteen foot east side yard setback, encroach three feet, four inches into the required fifteen foot west side yard setback, encroach forty-one feet into the required one hundred foot lake setback and to exceed the maximum permitted impervious surface area by 11.5%.

Zoning Coordinator Karpas presented his staff report. He said the request was to demolish the existing three season porch and construct a new four season porch in its place on the existing footprint. The proposed project would not increase the existing encroachments. He said he recommended approval for the request and outlined his findings.

Ryan Smolik, representing the applicant was present to answer questions.

Commissioner McGary asked if the intent was to keep most of the foundation. Mr. Smolik said it was and there was one area in which the block was broken and needed to be repaired.

Commissioner Brandt asked if the structure would maintain the existing height. Mr. Smolik said that was correct and the only reason they would be removing the roof flashing was to replace it. He said he hopes to use many of the existing rafters on the new addition.

Chairman Werneiwski opened the public hearing.

Zoning Coordinator Karpas read a letter into the record from Doug and Marlene Berg, 4230 Jefferson Street. The letter stated they were not necessarily opposed to the request but feel it is incumbent upon the city to adhere to the current zoning ordinances to protect the environment.

Hearing no further comment, the Public Hearing was closed.

Commissioner Linder commented the proposal would be a visual and structural upgrade on the property. He noted there would be no change in the size of the structure and was in support of the request.

Commissioner Brandt noted it appeared that something, like a sidewalk, had be removed from around the porch and asked if it was included in the original hardcover calculations and if it would be replaced. Mr. Smolik said a sidewalk was removed and was not going to be replaced. He said there would only be some stepping stones around the door. Brandt said she was in support of the request.

Chairman Werneiwski said he was in favor of the request since they were essentially rebuilding what was is already there.

Commissioner Carlson disclosed that he is a friend of the applicant. He said he supports the request and any request that includes keeping the original structure on a property and investing in upgrades.

Commissioner McGary views the proposal as a repair with improvement. He believes it would make the property nicer and is in support of the request.

Commissioner Hemink agreed and was in support of the project.

**ACTION:** Motion by Commissioner Werneiwski to recommend the City Council approve the variance requests to encroach nine inches into the required fifteen foot east side yard setback, encroach three feet, four inches into the required fifteen foot west side yard setback, encroach forty-one feet into the required one hundred foot lake setback and to exceed the maximum permitted impervious surface area by 11.5%, as presented at 20125 Cottagewood Avenue, based on the findings of staff. Commissioner Linder seconded the motion. Motion carried 6-0.

## **NEW BUSINESS**

Council Liaison Kask said the City Council adopted a one hundred and twenty day moratorium on new cell towers to allow the City to address the current ordinance. He said the Council would like the Planning Commission to discuss three issues regarding cell towers, the appropriate notification radius for tower requests, the permitted height of towers and the suitability of tower placement on city owned properties, including any property the City may want to exclude.

He said the City Council will hold an open forum at the next meeting to allow the public to comment on issues related to cell towers.

Commissioner Brandt said she was still unclear on the city's obligation under the Federal Act. She feels the city's obligation should be the starting point on any discussion. Council Liaison Kask said the City's Attorney has said he can't cite when the City has been deemed "reasonable" in terms of the number of towers, but has informed the City it can be deemed arbitrary if it is denying sites that would be beneficial to residents.

Commissioner Hemink said issues such as location and height are directly tied to the issue of coverage radius, which varies from different technologies. He asked if it would be reasonable to limit the number of poles at a given site.

Commissioner Linder commented that limiting the number of poles may lead to larger poles to accommodate more carriers, which would also cause visual issues.

The Commission discussed what would be a reasonable notification radius for new towers. Zoning Coordinator Karpas said he wouldn't have a problem expanding it to five hundred feet, versus the existing three hundred and fifty feet, but anything beyond that, he would want to require mailing labels submitted by the applicant.

Commissioner Brandt felt there should be a mechanism to notify all residents, such as the newsletter, as a courtesy. Zoning Coordinator Karpas there are potential time issues related to that since the city has a certain State mandated time limit to act on the request. He said a public hearing notice is already placed in the paper and that it would be costly notifying all residents.

Chairman Werneiwski agreed and didn't feel a special mailing should be required for tower requests. Commissioner Carlson asked if the intent was to use the newsletter as a tool to notify residents that a tower was going up, rather than as a notification of the meeting. Commissioner Brandt said it would be more of an information tool.

Commissioner Linder expressed concern about the timing of an application and the distribution of the newsletter. Commissioner Hemink agreed and said it could cause inconsistency in notification. Linder said it's a practical matter and that in most cases the only people concerned about the placement of a tower are those who are near it. He said he was concerned about the Chowen's Corner site because of its visibility to the community as a whole. He noted the City is not in the habit of notifying residents when there are changes or alterations to City owned properties.

Commissioner Hemink supported a five hundred foot radius, which would be consistent with the maximum radiuses in neighboring communities. Chairman Werneiwski suggested a radius

based on the height of the tower, such as a ten foot radius for each foot of height. Commissioner Linder didn't know if that would be necessary, but would support a five hundred foot radius, since the additional one hundred and fifty feet would bring in more properties.

Commissioner Brandt felt all residents should be notified. She questioned the need for notification since there doesn't appear to be much that can be done when residents do comment. Commissioner Linder disagreed saying he felt the city did place restrictions on the last application.

Commissioner Carlson asked if Commissioner Brandt thought the placement of towers should be an administrative process. Brandt said it might as well be if citizen input goes for naught.

Chairman Werneiwski feels the process is working well as it is currently set up.

The Commission agreed that the notification radius should be expanded to five hundred feet. Commissioner Hemink feels the applicant should provide the mailing labels for all notices.

The Commission discussed the issue of height. Chairman Werneiwski asked how the current one hundred foot limitation was arrived at. Council Liaison Kask said it was based on feedback from carriers and a review of neighboring cities requirements. He noted that some cities have a lower height requirement, but have other amenities, such as water towers, in which to locate antennas. Commissioner Brandt said issues of base size and equipment sheds also needs to be considered and included in the ordinance.

Commissioner Carlson asked if the City had to accommodate all vendors. Kask said he did not believe so.

Commissioner McGary felt if the maximum permitted height was lower, it would give the City more control when reviewing applications, since vendors would then need a variance.

Commissioner Hemink thought the City could limit the number of locations and allow higher towers based on the zoning of the property.

Council Liaison Kask said the City doesn't want to get a reputation as being difficult to work with, especially since it benefits financially from towers. Commissioner Linder added that people are going to want the services provided by these carriers.

Chairman Werneiwski did not feel there was a need to change the existing height requirements. Commissioner Hemink suggested basing the allowable height on the type of tower constructed. Werneiwski said towers tend to become "invisible" over time.

The Commission agreed to maintain the existing height requirements.

The Planning Commission discussed the suitability of placing towers on city owned properties. Council Liaison Kask said the intent of limiting placement on city owned properties was to avoid a situation where private land owners were competing for towers. The City felt the restriction would limit placement and protect the residential character of the City.

Commissioner Hemink looking at the shape of the city, would it be reasonable to limit the number of sites to one each on the north and south sides of the city and one in the middle. He feels the city should look at all the available property and declare which it deems as suitable for cell towers.

Chairman Werneiwski doesn't see how the City could exclude sites, noting that a tower done right could even be constructed in Thorpe Park. Commissioner Carlson said the market will dictate the location of towers.

Commissioner Linder feels it's appropriate to discuss tower placement in the City parks. Commissioner Brandt feels if the city has the authority to exempt parks, and they were gifted to the city as a park, they should be exempt.

Council Liaison Kask noted that most of the land owned by the city was either donated through park dedication, because it had no real value to the developer, or through tax forfeiture. He said the city needs to delineate the difference between actual parkland being used as a park and land owned by city.

Commissioner Linder feels it may be an unreasonable restriction to exempt City parks. Commissioner Brandt said towers in the parks impact the residents and if the city has the authority to exempt them, it should. Council Liaison Kask said the placement of towers in parks could benefit the city through requirements to enhance the existing amenities in the parks. Commissioner Hemink is concerned there's no guarantee of a benefit, noting that future Councilmembers may not have the same mindset of the existing Council. Commissioner Carlson believes public outcry would motivate future Councils to act in a manner that is beneficial to the City.

Commissioner Carlson believes the Park Committee should inventory the City owned properties and determine what technically is a park in their view.

Commissioner Hemink said the City could exclude parks and still gain a benefit to the parks by using the funds from other tower sites. He said there would still be sites available without including the park land.

Chairman Werneiwski questioned about citizens who could possibly be excluded from coverage by exempting the park land, noting they are citizens too.

Commissioner Brandt asked if the intent was to amend the existing ordinance. Commissioner Hemink said the City has an obligation to control the placement of towers beyond what the ordinance currently regulates. He agrees with Commissioner Carlson that the Park Committee should inventory the existing park land and then start the process of eliminated those not deemed suitable. Council Liaison Kask said he would like the Park Committee to label the park land as to their suitability for tower placement based on their current use and its value to the community. Commissioner Carlson said a joint meeting could be held to discuss their findings. Chairman Werneiwski doubts there can ever be a consensus.

Commissioner Linder said if towers are limited to the smaller park site, more adjoining properties would be impacted.

Commissioner Linder said there has been a lot of discussion about excluding land, but reminded the Commission there is going to be a desire by the residents for access for all wireless services.

Commissioner McGary said the City could require a variance for all towers. Zoning Coordinator Karpas said that was avoided because the hardship criteria could never be met.

The Commission agreed to request that the Park Committee inventory the park lands and then hold a joint meeting to try and reach a consensus on which properties would be deemed unsuitable.

#### **LIAISON REPORT**

None

#### **ADJOURNMENT**

Motion by Commissioner Werneiwski to adjourn the meeting. Commissioner Hemink seconded. The motion carried 6-0. The meeting adjourned at 9:05 p.m.

Respectfully submitted,  
Gus Karpas  
Zoning Coordinator