

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

PRESENT: Chairman Water Linder, Commissioners Barbarajean Brandt, Kent Carlson, Scott Hemink, John McGary and Pete Onstad

ABSENT: Chairman Bob Werneiwski

OTHERS PRESENT: Council Liaison Josh Hackney and Zoning Coordinator Gus Karpas

MINUTES OF November 15, 2011

Motion by Commissioner Carlson, seconded by Commissioner Brandt, to approve the minutes of November 15, 2011 as presented. Motion carried 5-0-1. Commissioner Hemink abstained.

PUBLIC HEARINGS

VARIANCE – Request from Chris and Nora Guerrero, 19100 Rutledge, to demolish and existing non-conforming home and construct a new single family home into the required front and exterior east side yard setbacks.

The proposed home would encroach eight feet, two inches (8'-2") into the required thirty-five front yard setback and ten feet, one inch (10'-1") into the required twenty-five foot exterior east side yard setback.

Zoning Coordinator Karpas presented his staff report outlining the proposed project. He said he recommended approval for the variance requests related to the setback encroachments but recommended denial for the location and increased height of the proposed trellis.

Chairman Linder opened the public hearing.

Zoning Coordinator Karpas read a letter from Charles Watson, 19150 Easton Road, opposed to the request because he felt it was too large for the lot and a letter from Ed Kinne, 19100 Azure Road supportive of the request.

Hearing no further public comment, the hearing was closed.

Commissioner Brandt asked if the trellis would be attached to the house. Mr. Guerrero said it would be and the intent was to enclose the area with wood slots creating a ceiling. Chairman Linder asked about the height of the garden wall the trellis would be place on. Mr. Guerrero said it would be about three or three and a half feet. Brandt asked why it would be considered part of the principal structure. Zoning Coordinator Karpas said it did not meet the requirements, such as having a full frost footing or being enclosed to qualify as part of the principal structure.

Commissioner McGary asked if the trellis was going to have footings. Mr. Guerrero said it would have post footings.

Commissioner Hemink said he liked the scale of height and physical size of the project. He feels the overall spirit of the ordinance has been met. He asked if there was going to be a wall along the street side of the property and if so, would it be at the same grade level. Mr. Guerrero

said there is a plan for a future wall and that the grade would not be altered prior to placement. Hemink asked about the area below the trellis and whether it would be concrete. Mr. Guerrero said there would be a concrete slab under the trellis. Hemink expressed concern about the placement of concrete since it is more permanent in nature than a fence. He noted that neighbors change over time and he's concerned there could be future issues with the placement of the trellis.

Commissioner McGary asked about the footing around the trellis. Mr. Guerrero said there would be a floating slab. McGary said he liked the plan and appreciated the design approach given the type of lot. He said he has some reservations about the garden wall and trellis. He said setback and height requirements for fences and walls have to do with aesthetics and maintenance.

Commissioner Onstad asked about the proposed length of the trellis. Mr. Guerrero said it would be about fourteen feet in length. Onstad said he also liked the scale of the project and feels it will add to the neighborhood. He also has an issue with the location of the trellis, but is overall in favor of the plan.

Commissioner Carlson agreed with the comments of the other Commissioners in supporting the proposed home. He discussed the right-of-way area between the property line and actual edge of the road, noting there is a lot of open space. He questioned whether the home could be repositioned to create a large west side yard setback. He is overall supportive of the home request and feels it will be a nice addition to the neighborhood.

Commissioner Brandt feels the proposed house and trellis is too for the lot. She said the plan is beautiful but she's not supportive of it.

Chairman Linder said the applicant did a good job placing a house of that scale on a lot that size. He said the expansive right-of-way area between the property line and paved edge of the road plays a factor in his decision to support the request. He said that even though he understands what the applicant is trying to do with the placement of the trellis, he can't justify a variance for height on the property line.

Mr. Guerrero asked if he were to just place a six foot fence on the line, would he need any further approvals. Zoning Coordinator Karpas said no approvals are necessary as long as the adjacent property owner waives the height requirement.

Motion by Commissioner Hemink to recommend the City Council approve the variance requests to encroach eight foot, two inches into the required thirty-five foot front yard setback, five feet into the required fifteen foot west side yard setback and ten feet, one inch into the required exterior east side yard setback for the proposed single family home as presented for 19100 Rutledge Road. The proposed use is in harmony with the purpose and intent of the ordinance, the applicant is proposing to use the property in a reasonable manner, the plight of the landowner is due to circumstances unique to the property and the request will not alter the essential character of the neighborhood. It was noted the impact of exterior east side yard variance is minimized due to the location of the proposed structure to the actual edge of the paved surface of the road which exceeds the required setback. Commissioner McGary seconded the motion. Motion carried 5-1. Commissioner Brandt voted against the motion.

Motion by Commissioner Onstad to recommend the City Council deny the variance request to exceed the maximum permitted fence height of six feet by three feet, ten inches. The proposed use is not in harmony with the purpose and intent of the ordinance, the plight of the landowner is self created in that the desire to create an aesthetic outdoor area does not prevent the reasonable use of the property and the proposal would alter the essential character of the neighborhood. Commissioner Hemink seconded the motion. Motion carried 6-0.

ORDINANCE - Public Hearing for Ordinance 13-59, Amending Section 1310.08 of the Zoning Ordinance as it Pertains to the Regulation of Fences. Changes include a clarification on how height is measured, permitted location of fences and height of fences within a front yard.

Zoning Coordinator presented the proposed ordinance amendment stating the existing ordinance has been amended based on the comments of the Planning Commission at their November meeting.

Chairman Linder opened the public hearing. Hearing no public comment, the hearing was closed.

Commissioner Hemink said he disagrees with the need for the current setback requirement for fences between three and a half feet and six feet. Commissioners Linder and McGary agreed. McGary said the setback creates a significant loss of side yards. Hemink noted that a minimum four foot fence is necessary to keep dogs and children in the yard.

Chris Guerrero, 19100 Rutledge Road, said there is also a concern about who maintains that portion of property on the outside of the fence.

Commissioner Hemink asked about the application of the ordinances where a property has multiple street frontages. Chairman Linder said the city can't realistically design an ordinance that takes into account the conditions of all properties in the city.

Commissioner Hemink said the permitted three inch separation from grade is restrictive. Chairman Linder noted the ordinance is actually being loosened up in that case since there currently is not any allowance for grade in determining height of a fence. Commissioner Onstad believes it is important to put a specific grade separation in the ordinance otherwise someone will take advantage of the overall height limitation.

Commissioner Brandt said it is reasonable to assume people would naturally put fences on the property line, but believes the setback was established for maintenance reasons. She feels fences have become problematic because there is no limitation on their length or location, especially in front yards. She feels eliminating the required setback would only encourage more fences.

The Commission discussed the proposed three foot height limitation for front yard fences. A majority of the Commission supported an amendment to allow a fence of three and half feet in the front yard.

Chairman Linder said the ordinance needs to balance property owners' desire for fences and aesthetic impacts. He said he is generally in favor of the proposed changes.

The Commission discussed the current setback for fences over three and a half feet in height. A majority of the Commission was in favor of removing the setback requirement since it, in essence, takes away property from the property owner installing the fence if the adjacent neighbor doesn't agree to allow it on the property line.

Motion by Commissioner Hemink to recommend the City Council approve Ordinance 13-59, Amending Section 1310.08 of the Zoning Ordinance as it pertains to the regulation of fences, with the following amendments, that the permitted height of front yard fence be increased from three feet to three and a half feet and that the setback requirement for fences over three and a half feet along the side and rear property lines be removed. Commissioner Onstad seconded the motion. The motion carried 5-1. Commissioner Brandt voted against the motion.

NEW BUSINESS

None.

LIAISON REPORT

Council Liaison Hackney reported that the Council has begun reviewing the liquor control ordinance in conjunction with the proposed zoning amendment. He said the Council has made a few minor adjustments to both ordinances and will review them again at their January meeting.

Commissioner Onstad asked about the proposed St. Therese development. Councilmember Hackney informed those who were unable to attend the work session prior to the last Council meeting that representatives from St. Therese addressed the Council regarding a mixed use senior care facility. The Council indicated that they weren't opposed to the project, but just wanted greater clarification on what exactly is being proposed and they wanted to see an overall development plan for the property, including any future proposed housing.

ADJOURNMENT

Motion by Commissioner Linder to adjourn the meeting. Commissioner Onstad seconded. The meeting adjourned at 8:20 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator