

PLANNING COMMISSION
June 10, 2019

The City of Jackson Planning and Zoning Commission met in regular session in the Council Chambers of the Jackson City Hall at 5:15 p.m. on June 10, 2019 with the following Commission members present: Chairman Randy Ringquist, Tim Beck, Dennis Hample, Dave Lappe, Robert Dorschner and City Zoning Administrator/Recording Secretary Dave Maschoff. Also attending was City Administrator Matt Skaret. (Planning Commission members Nathan Peterson and Donnie Schoenrock were absent.) (A quorum of the Planning Commission was present.)

CALL THE MEETING TO ORDER

Chairman Randy Ringquist asked for a motion to call the June 10th, 2019 Planning Commission meeting to order.

LAPPE/DORSCHNER moved and it was unanimously carried to open the meeting

APPROVE THE MINUTES FROM THE FEBRUARY 11, 2019 PLANNING AND ZONING COMMISSION MEETING

Chairman Ringquist asked if there were any corrections or additions to the February 11, 2019 Planning Commission minutes. Hearing none, Ringquist asked for a motion to approve the minutes.

BECK/LAPPE moved and it was unanimously carried to approve the February 11, 2019 Planning and Zoning Commission meeting minutes.

DISCUSSION ABOUT FENCES ON PROPERTY LINES

MRES Jackson Distribution Maintenance Foreman Jeremy Boogerd explained there was a recent question about a fence. He said the Electric Department installed an electric cable in the right-of-way next to the fence.

Boogerd noted at previous places he's worked, fences were set back two feet from the property line. He explained the Electric Department now installs a lot of utilities right on the property line. Boogerd noted there are a lot of existing utilities that are on property lines in other developments.

Boogerd said he spoke with City Zoning Administrator Maschoff about fences and was informed that in the City of Jackson there are no setbacks for fences off the property line. Boogerd said he was told there was a recent vote by the Planning Commission to change the rule regarding fence setbacks. Boogerd said he understood the vote ended in a tie and the Planning Commission Chairman cast the tie-breaking vote which resulted in the no-setback provision for fences remaining in place.

Boogerd said he and a couple other utility representatives were wondering if the setback issue could be revisited to see if there could be a setback for fences of two to three feet from the property line.

Boogerd explained the Electric Department tries to install a lot of electric lines right along the property line the best they can. He said it would help to have a setback for fences.

Boogerd said residents who wanted to install a fence along the property line could file a variance and if there are no utilities located there, a fence could be put up. He said if utilities do exist along the property line, Boogerd said it could be explained to the property owner not to install a fence right along the property line because the utility lines are located right underneath the property line. Boogerd explained if there was a fault in the line, it would be simpler for the Electric Department to access the lines if there wasn't a fence right on top of them. He said in that case it would be better to have the fence two feet off the property line.

Ringquist noted before fence posts get installed, the property owner has the requirement to call Gopher One.

Boogerd said property owners are required to call Gopher One. He pointed out the property owner can hand dig down and find the wire and put the fence right next to the wire if it was along the property line.

Ringquist said conceivably.

Boogerd said he was just wondering if the issue of setback for fences could be revisited. He understands the Planning Commission didn't have the information regarding utility lines when the vote was taken regarding the setbacks for fences from property lines.

Ringquist said when the issue about fence setback was discussed; he doesn't think anyone was discussing the placement of utility lines. He asked Boogerd if there are easements for these utility lines.

Boogerd said easements were obtained when high-voltage cable was installed. However, he said there's usually not an easement when the Electric Department installs secondary lines. For example he said for such things as installing a line going out to a street light, or maybe there's two sets of lines going right down a property line between houses and the lines split and go to each house. Boogerd explained because it's a service line to your exact house there's no easement required. He said the electric line is kept on the property line so the Electric Department isn't going through everyone's yard and it keeps it nice and square in case anyone wants to do an addition, add a shed or whatever, or plant trees.

Ringquist said the Planning Commission had several discussions about the idea of where property owners can place fences. He said as a matter of fact the Planning Commission dealt with that for months. Ringquist said the reason he voted the way he did is because it would be opening a new can of worms which would not allow anyone to install a fence along their property line. He explained he still thinks property owners are required to put the fence on their property but they can put it right along the property line. Ringquist said it's their fence and it's on their property. Ringquist said his thought process would be if the Electric Department has an easement, the Electric Department was there first.

Boogerd noted a lot of the lines installed were installed before he became the MRES Jackson Distribution Maintenance Foreman and he doesn't know if there are easements or not.

Ringquist said even if there aren't easements, if a property owner is going to chop through their own utility line that's servicing their house it's kind of their own fault.

Boogerd said the property owner should have had a utility line locate done. He said if there's no easement and the line is that far onto their property the property owner may say to move it off their property because there isn't an easement.

Ringquist noted however that the line is for the property owner's house and if they want it moved, the property owner could have to pay for installing a new service line somewhere else for their house.

Ringquist said he wouldn't want to open that whole can of worms that the Planning Commission talked about over and over and over again because of a few disputing parties or even a couple disputing parties.

Boogerd said no one is disputing the setback of fences issue with him right now.

Ringquist said that's the reason the whole discussion about the setback of fences happened before.

Boogerd said for him personally, if a setback of fences off the property line was in place now and the Electric Department would install lines right down the property line in the future and someone wanted to install a fence, they could be informed that in the City of Jackson a fence has to be two feet off the property line. He said from his perspective and utility installer, it would just alleviate disputes later on.

Ringquist said he recalls one of the big issues of why the Planning Commission did not require a setback of a fence from the property line is what if a property owner installs a fence two feet from the property line; who's going to mow the two feet on the other side of the fence. He said there may have been other issues as well of not requiring a two foot setback from the property line.

Boogerd noted his neighbor has bushes that are located five feet inside his property line and sometime his neighbor mows it and other times Boogerd said he mows it.

Ringquist noted that is what happens on his yard, but what happens when the neighbors don't like each other. He said that's what the Planning Commission was dealing with when the issue was previously discussed.

Beck also noted what if the property next door is sold and the neighbors change.

Ringquist explained that's his recollection of why the Planning Commission made the decision they did. But Ringquist said it was a close call because there are issues.

Lappe asked Boogerd how the Electric Department would check to find out if there are easements on these power lines.

Boogerd said some of them would be documented with the County and all the easements he's done he's worked with the City Attorney.

Lappe asked about the older easements in place before Boogerd started working with the City of Jackson.

Boogerd said he would have to go to the Courthouse and search through records.

Ringquist said he doesn't believe that typically utility lines for an individual house get easements. He said it's only if the line is serving more than one property or for other people.

Boogerd said there are not easements for individual houses. If the Electric Department is going to run a street light wire in between two houses, Boogerd said he talks to both property owners and asks if they can run a pipe and wire between the properties without disturbing anything to get to the street light. He said if the property owners say no, he'll find an alternative route and if both of them say yes, the Electric Department installs the line.

Ringquist said there should be easements for anything that's not a service line to an individual house. He noted if the Electric Department has the easement and they are there first, the property owner is not able to make the Electric Department move the line. Ringquist said if the property owner wants to put in a fence they have to see where the line is located and put the fence on their property far enough away to not bother the line.

Boogerd noted they would need to keep the fence away the width of the easement.

Ringquist said if someone puts a fence within the easement and utility work has to be done; the property owner will have to move their fence.

Boogerd noted the easements have to be paid for.

Boogerd said he just wanted to provide the information to the Planning Commission if the fence setback issue was ever going to be revisited.

Skaret asked what if an older public utility line was located along the property line and didn't have an easement and the property owner said they were going to install a fence up to their property line and come within two inches of the utility line.

Boogerd said the property owner could and would have every right to do so.

Ringquist noted as long as the property owner doesn't damage the line.

Boogerd pointed out if the utility line is already there and property owners put a fence on each side of the line, now you can't get any equipment or any shovels or anything to get in there to dig it up to fix it. He said then you're looking at more expense to shut off the line for an undetermined amount of time while they bore in a new line.

Ringquist asked whose fault is it if for not getting the easement if it's a line serving more than one person.

Boogerd said it's the person who installed the line 20 years ago who's not around anymore and doesn't care.

Ringquist noted another problem is if one person puts up a fence two feet from their property line and the neighbor doesn't like the looks of it and decides to put up their own fence two feet from their property line and now you have four feet of space between fences and who's going to mow it.

Boogerd said if the Electric Department's line was located between the two fences he'd be happy. He said he wouldn't mow it but he'd be happy to have those fences two feet away from the property line so he could get equipment in to repair any problem with the line.

Ringquist said the setback of fences from the property line was discussed by the Planning Commission. He said there were some comments by Commission members that they liked the idea and there was discussion about the potential of allowing fences to be placed along the property line if they had permission of their neighbor.

Boogerd said that's been typical in other cities he's worked in.

Ringquist said the Planning Commission decided to just leave things alone rather than change things that might occur. He said the issue was all discussed for one or possibly two property owners.

Skaret noted it could be written into the ordinance that a person can install a fence up to the lot line provided there's a written agreement and notarized statement between the property owners.

Ringquist noted that was talked about but the ordinance was left as is.

Skaret said if the Planning Commission wanted to take action it could be written into the ordinance that a property owner could put a fence up to the property line if there was an agreement and notarized statement between the two property owners.

Ringquist said conceivably an easier way that would more match things that were done last time would to change things that would say the property owner can place their fence up to their property line. He said he doesn't like saying on the property line because that takes some of your neighbor's property. Ringquist said if the neighbor doesn't want a fence; the person needs to build it on their own land. He said it would be up to the property line so long as it's a minimum of six inches away from existing utility lines or something like that.

Ringquist said explained to Boogerd that's what the Planning Commission has discussed about the placement of fences in the past. He said if there's a need to revisit the issue, the Planning Commission certainly can.

Maschoff said Boogerd said he wanted to attend the meeting and explain the situations he runs into.

Ringquist asked Boogerd how often the Electric Department runs into an existing line that's a situation.

Boogerd said the Electric Department runs into situations sometimes when two garages are close together. He said they will bore a line through in those situations. Boogerd noted the overhead electric lines had easements in resident's backyards and now those lines are being buried in those same easements.

Ringquist said he understands Boogerd's frustration.

Boogerd said he's also trying to be proactive to help the next Electric Maintenance Foreman 25 years from now and help them long term. He said it's not just the Electric Department, but other utilities as well.

Ringquist also noted the other big problem in so many areas of the community is that there are setbacks for garages and houses that are in effect, but so many of these lots are undersized that the setbacks are almost never met in the older part of town. He noted going with a setback of two feet on either side of a property for a fence; there isn't room in most of these places. Ringquist said concrete driveways are in the way, garages are in the way or trees or bushes are planted right down the property line.

Boogerd said he just wanted to bring to the Planning Commission his perspective on the issue.

Ringquist said he wishes the Planning Commission would have been aware of Boogerd's point of view when they had their multi-month discussion on this issue.

Boogerd said he's been in Jackson for five years and thought every City had a minimum two foot setback from the property line.

Ringquist said not every City does have a setback. He said the Planning Commission researched many, many different City codes and they are all over the board.

Ringquist said it's his understanding that if there's a utility easement and somebody wants to install a fence, they are subject to that easement. He said if someone puts their fence in the utility easement and the utility has to be dug up for some reason; the fence will have to be removed.

Lappe said if there's an issue down the road that Boogerd really feels that something needs to be done regarding the setback of fences, then the Planning Commission will have to take a look at it. But if it's an issue they don't have to address right now, Lappe said he's rather not change the current ordinance because it would just be opening up a can of worms.

Ringquist noted the vote was a tie last time to change the ordinance and he broke the tie regarding setbacks.

Ringquist said it's not that the Planning Commission is against what Boogerd has explained, but it's just that the Commission just went through the setback discussion and the decision was to not change the current ordinance. He the issue could certainly be revisited if there's a change in the reasoning, that's the Planning Commission's job.

Boogerd thanked the Planning Commission for listening to his comments regarding the setback for fences in regards to utilities.

DISCUSSION ABOUT REZONING THE PROPERTY AT 803 FOURTH STREET (FORMER SACRED HEART CLINIC) FROM SERVICE BUSINESS TO R-3

Maschoff explained the Sacred Heart Clinic in Jackson closed in November of 2018. He said someone has been looking at converting the former clinic into a 20 bed dorm for students who attend Minnesota West Technical and Community College in Jackson.

Maschoff noted there have been a couple of issues that have arisen since the proposal to convert the building to dorms came about. He said the electrical service has to be upgraded and understands that's been estimated at \$40,000. Maschoff noted he was also informed by the Building Inspector that because the building is over 6,000 square feet in size, it must also have a fire sprinkler system installed. He said if the building is over 4,500 square feet, it has to have a fire sprinkler system installed.

Because of those requirements, Maschoff said the cost for the project has changed and doesn't know if the proposal to convert the building to dorms will come to fruition or not.

Maschoff said if plans for the dorm did proceed, the property is currently zoned as Service Business and is contiguous to the area to the west and north that is already zoned as R-3 (Multiple Family Residence District). He said if the property had to be rezoned for accommodate for dorm housing, it would not be spot zoning but could be added to the existing R-3.

Maschoff said he wanted to give the Planning Commission the information if the proposal comes forward in the future.

Ringquist asked if the Planning Commission rezoned or took some sort of action years ago to allow Dr. Alvero's clinic to be converted into a dorm.

Maschoff said looking at the current zoning map; it shows Dr. Alvero's building is still listed as Service Business. He said he will look in the property files and minutes to see what action may have been taken.

Ringquist commented what action was taken at that time to allow Dr. Alvero's clinic to be converted to a dorm should apply to what is being proposed for the former Sacred Heart Clinic.

Maschoff said he will check on what action was taken in the past.

DISCUSSION UPDATE REGARDING AMENDING THE CITY'S NOISE ORDINANCE TO ALLOW MUSIC/ENTERTAINMENT AFTER 10 P.M. WITH PRIOR CITY COUNCIL APPROVAL

Ringquist said he read the minutes of the last Planning Commission meeting and thought the Commission members did a good job discussing all of the important issues.

Maschoff said just to simplify matters maybe there's a difference between a business having a musical event and a person in a residential area having a band in their backyard. He said the City doesn't get too many requests for a band in someone's back yard. In the past five years, Maschoff recalled a request to have a band in someone's backyard but the event never was held as far as he knows. Maschoff said something can be brought forward at a future meeting for consideration.

Ringquist said he would like the idea of someone wanting to have a band in their backyard to obtain a permit and be required to get the permission of their nearest neighbors.

Maschoff said it would also be up to the person hosting the event to allow plenty of time to obtain the permit and get approval from the City Council.

Ringquist said if the City Attorney wants to draft a proposed ordinance it can be brought before the Planning Commission for consideration.

PUBLIC HEARING TO CONSIDER THE VARIANCE APPLICATION OF GREGORY AND PHYLLIS McKEOWN. IN THEIR APPLICATION, THE McKEOWN'S PROPOSE TO CONSTRUCT AN ADDITION TO THE ENTIRE FRONT OF THEIR HOME LOCATED AT 306 MORRISON AVENUE IN JACKSON. THE NEW ADDITION WILL BE 18 FEET FROM THE EDGE OF THE MORRISON AVENUE RIGHT-OF-WAY. CITY CODE 153.041 REQUIRES A 30 FOOT SETBACK FROM A MINOR STREET RIGHT-OF-WAY IN A RESIDENTIAL ZONED DISTRICT.

Maschoff said since the McKeown's had made their variance application they were informed by their contractor that he wouldn't be able to get to their project until spring of 2020.

Maschoff said since there is time, he could put some marker flags in McKeown's front yard to give the Planning Commission members a better vision of how far the front of the house will be expanded towards the Morrison Street right-of-way. He said the public hearing could be continued until the July 8, 2019 Planning Commission meeting. Maschoff said that has been done in the past in a case where a quorum of the Planning Commission was not present.

Lappe said he would like to see the variance application tabled and the public hearing continued until the Planning Commission members have a better view of what's being proposed.

Ringquist said he thinks it's important to maintain a consistency of the front of each house so they are in a row and no have one house that sticks out an extra eight feet out from the rest of the houses on the block. He noted that the front of the house fits the consistency of the rest of the house on the block.

Maschoff said there was a little leeway in the variance application so the setback may actually only be 19 or 20 feet from the edge of the Morrison Avenue right-of-way.

Beck said it would be helpful to have the property flagged to see what's being proposed.

Skaret asked if the McKeown's property could be flagged.

Maschoff said he would contact the McKeown's to flag their property before the next Planning Commission meeting.

LAPPE/DORSCHNER moved and it was unanimously carried to table the McKeown's variance application and continue the public hearing on July 8, 2019.

OTHER

Maschoff said he was contacted by Steve Harnden who has property along Riverside Drive on the road leading to the City dump. He said the area is zoned as Agricultural Residence. Maschoff said Harnden wants to erect two 288 square foot sheds on his property that he assumes will be used for storage.

Maschoff noted that in June of 2015 the Planning Commission approved a Conditional Use permit for Steve Harnden to continue to rent buildings for storage that were already on the property formerly owned by the late Wayne Nesmoe at 801 Riverside Drive. He said inside storage is not allowed in Agricultural Residential zoned areas but because the buildings had already been used for that in the past, the Planning Commission granted and the City Council approved a Conditional/Interim Use Permit to continue to do so.

Maschoff said his question was does the Conditional/Interim Use Permit that was approved in June of 2019 allow for new buildings to be added that can be rented out.

Ringquist said the Harnden's Conditional/Interim Use Permit in June of 2015 allowed for continued use of the existing buildings that were already on the property. He said in his opinion it did not cover new buildings to be constructed and rented out.

Maschoff said he didn't know if the Harnden's current Conditional/Interim Use Permit would also include any new buildings.

Beck thinks it would be better if Harnden should obtain a new permit.

Ringquist said Harnden did the correct thing when he purchased the property and requested to continue renting out storage in the buildings as has been done in the past. He said the permit did not say anything about new buildings being constructed to be rented out.

Maschoff asked if that mean he needs to apply for a new Conditional/Interim Use Permit with conditions that he can now add buildings to be rented out.

Ringquist asked if rental storage units are allowed in an Agricultural Residence District.

Maschoff said it is not allowed.

Ringquist said then he can't.

Beck said Harnden's property would need to be rezoned so he could rent out storage space.

Ringquist noted Harnden could rent out storage space if his property was zoned as Service Business. He said that may be the answer to rezone it so it would give Harnden a wider range to do what he wants with his property.

Ringquist noted Harnden's property is just off of Highway 71.

Maschoff and the Planning Commission members viewed the zoning map of the City.

Beck noted the City stored materials on the property years ago.

Lappe said he thinks the property was even used to store cars for the City as an impound lot when Nesmoe owned the property.

Beck said he thinks it would be better if Harnden sought to rezone the property and he could then use it for what he wants to.

Ringquist said Harnden would still need to come into City Hall to get a permit, but at least it would be an allowed use.

Ringquist said what would be the problem to have Harnden's property rezoned as Service Business considering where it's located.

Lappe noted a building permit issued to Harnden in 2015 noted it was a garage from a home on Springfield Parkway to his property at 801 Riverside Drive to be used for Harnden's business property.

Ringquist said that would be an allowed use.

Maschoff said a building permit was also issued for a building in 2018 which may also been used for Harnden's business equipment.

Maschoff said he needs to check to see if the new buildings are for his business items or to rent out.

Skaret said he spoke with Harnden a week earlier and was under the impression they would be used for storage rental. He said Maschoff could check with Harnden to see what he plans to use for the buildings.

Ringquist said it would be best if Harnden's property was rezoned if he wants to have inside storage rental.

Maschoff said under Service Business, inside storage rental would be a permitted use.

Skaret said Harnden would have to apply to have his property rezoned.

Question about variance for garage addition

Maschoff said he had a question from someone looking into purchasing a house on Frost Avenue and was wondering if a variance could be sought to add a garage stall to a current detached two stall garage that faces out to the alley. He said the person was asking if he would be using up too much green space and if seeking a variance would be possible. Maschoff said he looked at the property and even with the addition, there would be 31 feet of green space remaining between the garage and the property line. Maschoff said he has looked at the property and thinks seeking a variance would be possible. Maschoff said the person hasn't purchased the property yet. He said a variance may be needed for the size of the garage in a residential area.

Ringquist said the person could seek a variance for the size of the garage or for the amount of the green space allowed which have been granted for other cases in the past.

ADJOURNMENT

With no further business, DORSCHNER/BECK moved and it was unanimously carried to adjourn the meeting at 5:56 p.m.

David A. Maschoff, Zoning Administrator

