

**PLANNING AND ZONING COMMISSION**  
**October 15, 2019**

The City of Jackson Planning and Zoning Commission met in special session in the Council Chambers of the Jackson City Hall at 5:15 p.m. on October 15, 2019 to continue the public hearings and discussion that began on October 7, 2019. Those attending the meeting included Planning Commission members Chairman Randy Ringquist, Tim Beck, Dennis Hample, Dave Lappe, Bob Dorschner and City Zoning Administrator/Recording Secretary Dave Maschoff. Also attending was City Administrator Matt Skaret, Jay Moore of New Fashion Pork and Carrie Dorschner. (Planning Commission members Nathan Peterson and Donnie Schoenrock were absent.) (A quorum of the Planning and Zoning Commission was present.)

**CALL THE MEETING TO ORDER**

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Chairman Randy Ringquist asked for a motion to open the meeting.

**BECK/DORSCHNER moved and it was unanimously carried to open the October 15<sup>th</sup> Planning and Zoning Commission meeting.**

**APPROVE THE MINUTES FROM THE SEPTEMBER 9, 2019 PLANNING AND ZONING COMMISSION MEETING**

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Chairman Ringquist asked if there were any comments or criticisms regarding the September 9, 2019 Planning and Zoning Commission minutes.

**LAPPE/HAMPLE moved and it was unanimously carried to approve the September 9, 2019 Planning and Zoning Commission minutes.**

**CONTINUATION OF PUBLIC HEARING ON THE VARIANCE APPLICATION OF NEW FASHION PORK OF JACKSON, MINNESOTA. IN THE VARIANCE APPLICATION, NEW FASHION PORK PROPOSES TO CONSTRUCT A 120' BY 80' BY 18' COLD STORAGE SHED FOR MATERIALS AND EQUIPMENT ON THEIR PROPERTY LOCATED AT 138 INDUSTRIAL PARKWAY IN JACKSON. THE VARIANCE APPLICATION SEEKS TO LOCATE THE SOUTHEAST CORNER OF THE BUILDING AT 7 FEET AND THE SOUTHWEST CORNER OF THE BUILDING AT 11.6 FEET OF THE REAR PROPERTY LINE. CITY CODE 153.042 REQUIRES A MINIMUM REAR YEAR SETBACK OF 20 PERCENT OF THE LOT DEPTH**

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Chairman Ringquist welcomed Jay Moore from New Fashion Pork to the meeting.

Ringquist asked if the variance request was discussed at the October 7<sup>th</sup> Planning Commission meeting.

Maschoff said it was. He noted informational materials were sent to the Planning Commission members. To refresh everyone's memory, Maschoff pointed out the site on a map where New Fashion Pork is proposing to construct their cold storage building.

Maschoff said all the adjacent property owners were notified of the public hearing. He said a notice of the public hearing was also published in the Jackson County Pilot and notices posted at the City Hall and Library. He said there were two comments that were received. Maschoff said one was from Mary Gilmore who was in favor of New Fashion Pork's variance application and had no objections whatsoever to the proposed building. He noted there's a small strip of land near New Fashion Pork's property that's owned by Jackson County. Maschoff said Jackson County sent him a letter that said the County Board of Commissioners have no objections to New Fashion Pork's building plans. Maschoff said those were the only comments that were received.

Ringquist said he drove by New Fashion's property and it appears the proposed building is really where it needs to be. He said it's pretty evident it lines up with things and makes sense. Ringquist asked if anyone else had driven by the site.

Beck and Hample said they had also looked at the site.

Hample said he thinks it looks good.

**BECK/LAPPE moved and it was unanimously carried to recommend to the City Council to approve the Variance Application from New Fashion Pork to construct at 120' by 80' by 18' cold storage shed for materials and equipment on their property located at 138 Industrial Parkway in Jackson. The Variance Application will allow the southeast corner of the building to be located at 7 feet and the southwest corner of the building at 11.6 feet of the rear property line. City Code 153.042 requires a minimum rear yard setback of 20 percent of the lot depth.**

Maschoff informed Moore that the Planning Commission's recommendation would be on the City's Council's October 15<sup>th</sup> agenda.

Moore said he would attend the City Council meeting. He thanked the Planning Commission.

**CONTINUATION OF THE PUBLIC HEARING ON AMENDING ORDINANCE 153.037 ALLOWABLE USES E(2) AND DEFINITIONS: 153.005 ACCESSORY BUILDINGS**

Ringquist asked if this agenda item was discussed at the October 7<sup>th</sup> meeting.

Maschoff said it was. He noted City Attorney Brad Anderson was present to explain the proposed amended ordinance. Maschoff said Anderson explained even if a person owns two platted lots together, the City wants to make sure things are recorded at the courthouse so when someone sells and someone buys the property in the future, the two lots can't be broken up. He explained if the adjacent lot has an accessory building on it and it's split off from the lot that has the residence on it, the accessory building will then be out of compliance. Maschoff said Anderson attended the October 7<sup>th</sup> meeting to explain that. He said if the proposed amended Ordinance receives the blessing of the Planning and Zoning Commission, it would come up for first consideration by the City Council on October 15<sup>th</sup>.

Maschoff noted Commission members Tim Beck and Bob Dorschner attended the October 7<sup>th</sup> meeting and heard Anderson's explanation.

Beck said he thinks Anderson's explanation made sense. He said you can build a garage on an adjacent lot that you own next to the lot where your residence is located. However, Beck said if you ever split the two lots and sell the lot with just the accessory building on it you could never do anything else with the accessory building unless you decided to build a house or convert the accessory building into living quarters. Beck said he couldn't buy the lot separately that has the accessory building on it. He said the lots need to stay combined unless you going to build a house.

Ringquist asked if Mr. Anderson felt that the language was clear that it would do that.

Beck said yes.

Lappe asked if that would work with the different ways the lots are measured in Jackson.

Beck said yes. He said according to Anderson's explanation, that wouldn't make any difference. Beck said the two lots are still going to be two separate tax parcels, but it will be registered at the courthouse as one parcel.

Maschoff said we've always been hung up on metes and bounds and platted but actually the situation holds true even for two adjacent platted lots. He explained even if one person owns both lots, in essence there's still two lots.

Skaret said the same would hold true with platted or unplatted lots. He said if a person bought the empty lot next to him or bought a house next to him and tore it down and decided to build a storage shed on the lot, the person could combine the lots as one tax parcel, but they are always going to be two separate lots unless you go through the process of replatting it and that's quite a process. Skaret said as Maschoff noted, as long as it's recorded that those parcels can't be sold separately, then we're fine.

Beck said if the original owner keeps the lot with the garage on it and sold the lot with house on it that's OK, but he can't turn around and sell the house lot to one person and sell the lot with the garage to someone else.

Ringquist asked so a person could sell the house lot and keep the lot with the garage on it separate?

But in that case, Maschoff pointed out the garage would then be a non-conforming structure unless you would build a house on that lot or put living quarters in the garage.

Ringquist asked what would be the impetus to making the person fix the garage or shed if it's a non-conforming structure.

Hample noted it would be a violation of City Code if it wasn't maintained.

Ringquist asked how many tickets have you seen issued regarding that.

Hample said not many.

Beck pointed out Dorschner's case where he has two adjacent lots. Beck said if Dorschner wants to put a garage on one lot, but at some point in time wants to build a house on the lot that has the garage on it, he could sell the other lot that has a house on it.

Lappe noted that's if he builds a house. He said but what if you sold your house and didn't do anything with the adjacent lot and just left the garage on it.

Beck said as it was explained by Anderson, if the garage stays on the lot by itself, the person can't do anything to it unless living quarters are added or a house is built on the lot. He said the person with just a garage on the lot can't add onto the garage. Beck said the only way the person could add onto the garage is if it had actual living quarters.

Ringquist said but the person could continue to use the garage.

Beck said the person could continue to use the garage as it is.

Ringquist said his understanding concerning what they had talked about was once you did that, those parcels would become inseparable unless you build living quarters on the lot with the garage and then it could be separated.

Maschoff noted in some of the cases that have been proposed, the property owner wants to build the accessory building over the lot line which then kind of cements it in as far as making the lots inseparable. He in those cases the lots will be inseparable.

Maschoff said we're looking at potential situations of lots being separated 20 or 30 years from now. He said most likely those currently proposing to build an accessory building on an adjacent lot will probably live on their property as it is for another 20, 30 or 40 years before it's sold. Maschoff said the property may be sold at that time as one without any problems. But, Maschoff said never say never.

Regarding the other amendment to the ordinance, Maschoff noted the Planning Commission has discussed in the past increasing the allowable floor space for an accessory building in a residential area from 720 to 1,000 square feet.

Ringquist said he thinks the Planning Commission members have all been in agreement on that but it's the other proposed amendment to the ordinance regarding building accessory buildings on adjacent lots that's been the sticking point.

Ringquist said it's the Planning Commission members that make the motion regarding this.

Lappe asked if this still means the lots have to be adjacent lots.

Maschoff said the lots have to be contiguous and can't be across the street or anything like that. He noted the amended ordinance also states that the property owner must apply to the City to have an exception approved by the City to insure all other aspects of the City Code will be addressed and to ensure homogeneity in neighborhoods throughout the City so any accessory building conforms to the rest of the neighborhood.

Ringquist asked if there's still an issue that's pending on this topic as we speak.

Maschoff said Jeff Broitzman's variance application is but that's all contingent on the amended ordinance going through first and second readings by the City Council.

Regarding Broitzman's variance application to construct an accessory building, Maschoff said Broitzman attended the October 7<sup>th</sup> Planning Commission meeting. He said Broitzman stated at that meeting he's going to construct the proposed building himself and it's now going to become a spring project.

Skaret explained the City Council would have first consideration of this ordinance at their meeting tonight (October 15<sup>th</sup>) and second consideration at their November 5<sup>th</sup> City Council meeting. He said then the Planning Commission could then go back and make a formal recommendation to the City Council on Broitzman's variance application.

Ringquist said the proposed amendment doesn't read real clear to him. He said to him, the ordinance should say if you build a new garage on the adjacent lot, then you can separate them rather than saying you can sell the house and still keep the garage and it would be non-conforming.

Beck said what he thinks Anderson was saying regarding non-conforming is that, for example, he could keep the garage himself, but he can't sell that lot with that garage to someone else because then it becomes a non-conforming structure. He said that's how he understood it.

Ringquist said that would make sense as to the explanation, but still does that make it OK?

Lappe pointed out you're still going to end up with a lot with just a garage on it.

Ringquist noted which will get run down because the guy that owns it can't do anything with it.

Beck said the owner can't do anything to it unless he builds a house there.

Skaret explained what you can typically do on a non-conforming building is maintenance like painting or putting a new roof on it. He said you can't make the building bigger or change the footprint of it.

Ringquist said so if he really wanted just a garage and not a house, he would just have to find two adjacent lots and build a garage on the one lot and sell the house on the other lot and he could still have the garage.

Skaret noted that would be kind of a roundabout scenario.

Ringquist said he doesn't know if most people would do that. He said the amended ordinance just doesn't quite match what he was expecting. Ringquist said the Planning Commission members make the motions.

Lappe said he thought that once you put the garage on the lot, the property had to be sold as one unless you built living quarters there and then you could separate the parcels. He said if the person is going to sell the property, what teeth do you have that the person builds living quarters there.

Skaret suggested action on the amended ordinance could be tabled for further clarification.

Ringquist said it could be tabled for modification of the language to make it clear the parcels are inseparable unless.

Maschoff noted Broitzman's plans are now delayed until spring so we have some time as far getting through the amended ordinance issue. He said action on the amended ordinance could be tabled.

Lappe said he would feel better if it could be clarified.

**LAPPE/DORSCHNER moved and it was unanimously carried to table action in order to seek further clarification on amending Ordinance 153.037 Allowable Uses E(2) and Definitions, 153.005 Accessory Buildings.**

**CONTINUE THE PUBLIC HEARING ON THE VARIANCE APPLICATION OF JEFF BROITZMAN WHO RESIDES AT 100 OAK AVENUE IN JACKSON. IN HIS APPLICATION, BROITZMAN PROPOSES TO CONSTRUCT AT 54' BY 40' SHED ON HIS PROPERTY AT 100 OAK AVENUE WHICH WILL BE 5 FEET FROM THE NORTH REAR PROPERTY LOT LINE. THE VARIANCE IS NEEDED BECAUSE CITY CODE 153.041 REQUIRES THE REAR YARD SETBACK FOR BUILDINGS TO BE 25 PERCENT OF THE LOT DEPTH IN AN AGRICULTURAL RESIDENCE ZONED DISTRICT**

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Ringquist asked if Broitzman's variance was going to be discussed at this meeting.

Maschoff explained because Broitzman's variance application is contingent on approval of the amended ordinance that was just discussed, there would be no action and no need to discuss the variance application at this meeting.

Ringquist said he would like to comment on Broitzman's variance application. Ringquist said part of me in looking at this situation and how any homeowner in the community would just go right up to the boundary line and cause damage on their neighbor's property paying no attention to the 25 percent setback rule should not be rewarded by just granting somebody that acted irresponsibly like that by us (Planning Commission) granting it. He said that's his comment.

Hample asked wasn't Broitzman talking about moving his shed now to a different spot?

Maschoff said that's what he was hoping for. He said he was hoping at the last Planning and Zoning Commission meeting that Broitzman was going to say he adjusted the location, but he hadn't.



Ringquist said historically the Planning and Zoning Commission doesn't let these variances go through when the neighbor is complaining either. But, he said he just thinks when somebody has actually caused damage to their neighbor's property without even considering what the Codes say, that's a violation that's worthy of not rewarding the applicant.

Beck said he has a little bit of an issue that Broitzman could move his proposed shed over by removing a few scrub trees. He said Broitzman has said that his wife doesn't want to look at the new shed. Beck said they don't want to look at it so they make their neighbors look at it.

Maschoff noted looking at Broitzman's property file, eleven years ago Broitzman had sought a variance and received it for building a shed that would have been located further over on the property and the building would have been four or ten feet shorter than the building he's proposing now. Maschoff said the proposed shed eleven years ago was never built and now we're dealing with this proposal.

Maschoff said the public hearing on Broitzman's Variance Application could be continued.

Ringquist noted that any decision on Broitzman's Variance would be contingent with the City Council dealing with the amended ordinance that was discussed earlier in the meeting.

Lappe also said before he would make a decision on Broitzman's Variance Application, he would like to have the neighbors attend the meeting before it's voted on. Lappe said he doesn't have a problem with the building itself, but concurred with Beck's comments about that Broitzman's don't want to look at the building, but their neighbors can look at the building. He said he would like the neighbors to work together a little bit. Lappe said if the neighbors were good enough to flip-flop some land to help Broitzman out, and now turn around and say we're going to build a building here and you can look at it.

Maschoff noted there's a lot in-between Broitzman's house and the lot where he wants to build his proposed shed. He said Broitzman could conceivably put the building on the residential zoned lot next to his house and then he would just need to get a variance for the size of the building.

Ringquist asked if there were any other items on the agenda.

Maschoff said there wasn't and thanked everyone for attending the meeting.

## **ADJOURNMENT**

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**With no further business, LAPPE/BECK moved and it was unanimously carried to adjourn the meeting at 5:35 p.m.**

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**David A. Maschoff, Zoning Administrator**

