

PLANNING COMMISSION
October 9, 2018

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 October 9, 2018 with the following Commission members present: Chairman Randy Ringquist, Tim Beck, Dave Lappe and Robert Dorschner, City Administrator Matt Skaret, Becky Carpenter, Cheri Gilbert, Dennis Henrichs, Dave Hargan and City Zoning Administrator/Recording Secretary Dave Maschoff. (Planning Commission members Dennis Hample and Donnie Schoenrock were absent.) (A quorum of the Planning Commission was present.)

CALL THE MEETING TO ORDER

Planning Commission Chairman Randy Ringquist asked for a motion to call the October 9, 2018 meeting of the Planning and Zoning Commission to order.

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

APPROVE THE SEPTEMBER 10, 2018 PLANNING AND ZONING COMMISSION MINUTES

Chairman Ringquist asked Commission members if there were any comments or changes to the minutes of the September 10, 2018 Planning and Zoning Commission minutes.

LAPPE/BECK moved and it was unanimously carried to approve the September 10, 2018 Planning and Zoning Commission meeting minutes.

PUBLIC HEARING ON THE VARIANCE APPLICATION OF STEVE AND BECKY CARPENTER WHO RESIDE AT 610 PARK STREET IN JACKSON. IN THEIR APPLICATION, THE CARPENTER'S PROPOSE TO ERECT A 3 FOOT TALL DECORATIVE WALL ALONG THEIR SOUTH PROPERTY LINE. THE WEST END OF THE WALL WILL BE LOCATED ABOUT 4 FEET FROM THE CURB. THE WEST PORTION OF THE PROPOSED WALL WILL EXTEND 8.5 FEET INTO THE PARK STREET RIGHT-OF-WAY. CITY CODE 153.041 REQUIRES STRUCTURES TO BE SET BACK 30 FEET FROM THE STREET RIGHT-OF-WAY.

Chairman Ringquist asked Commission members if they had looked at the site of the proposed fence along Carpenter's south property line.

Beck said the only issue he had with the proposed fence is that it will be located on the north side of Carpenter's neighbor's property. He noted when the wind blows the proposed wall will create a snow fence and dump more snow in the neighbor's driveway.

Ringquist said the proposed fence will be fairly close to the neighbor's driveway.

Becky Carpenter pointed out there had been heavy shrub bushes between the properties which were just removed this year. Carpenter said didn't know if the fence will cause any issues.

Beck said the fence or wall will allow snow to blow over it.

Ringquist asked Carpenter what kind of decorative structure it will be. He asked if it would be a rod iron fence that the wind will blow right through.

Carpenter said they were planning to construct a three foot tall brick wall to be tied into the landscaping they have already done.

Lappe asked if the wall would affect any utility lines.

Maschoff said he spoke to Street Superintendent Phil Markman about the proposed wall and it will not affect any utility lines.

Ringquist asked Maschoff if notices about the October 9th public hearing had been sent to adjacent property owners and whether any comments had been received from anyone.

Maschoff said notices were sent to adjacent property owners and no comments had been received.

Ringquist asked if there were anyone present at the meeting who wanted to comment on the Carpenter's variance application.

No one was present at the meeting to comment on the variance application.

Maschoff asked Carpenter if they had their property surveyed.

Becky Carpenter said they were going to have Zieske Land Surveying survey the property to exactly know where their south property line is located. She said Zieske's said they were going to survey the property this week.

Ringquist asked if there were any other comments regarding Carpenter's variance application.

LAPPE/DORSCHNER moved and it was carried on a 3 to 1 vote to recommend to the City Council to approve the Variance Application of Steve and Becky Carpenter to erect a 3 foot tall decorative wall along their south property line. The west end of the wall will be located about 4 feet from the curb on Park Street. The west portion of the proposed wall will extend 8.5 feet into the Park Street right-of-way.

Voting in favor of the recommendation were Planning Commission members Randy Ringquist, Dave Lappe and Robert Dorschner.

Planning Commission member Tim Beck voted against the recommendation.

Ringquist said the Planning Commission's recommendation will be considered by the City Council at the Council's October 16, 2018 regular meeting.

DISCUSSION ITEM - CHERI GILBERT TO DISCUSS ISSUES WITH HER NEIGHBOR

Randy Ringquist said as he has done in the past, he would remain silent during the discussion because Gilbert's neighbor is an acquaintance of his so he's not going to make any comments.

Gilbert asked if the Planning Commission had received any information from the City Attorney regarding the three questions she had at the September 10, 2018 Planning and Zoning Commission meeting. She noted it has been a month since she made her inquiries.

City Administrator Matt Skaret said he had spoken with the City Attorney. He said one of the questions was about the clause in the City ordinance about causing damage to the neighboring property and that's not what the ordinance refers to in this type of situation. Skaret explained what the ordinance refers to is, for example, if someone was doing a project and they struck a tree and the tree fell on the neighboring house or something like that. Skaret said the City Attorney noted that the ordinance Gilbert was asking about does not pertain to her case.

Gilbert asked what about if she can't maintain the wall on her garage. Skaret said then it's a civil matter between Gilbert and her neighbor.

Gilbert asked if the City Attorney provided any information regarding her question on City Ordinance 153.143. She said to her it spelled out her property and problem completely.

Maschoff asked if Ordinance 153.143 referred to fences in non-residential districts.

Gilbert said it did.

Maschoff explained after he spoke with Gilbert the other day, he took a copy of the September 10th Planning and Zoning Commission minutes to the City Attorney's Office and highlighted her questions. Maschoff said he has not received any information yet. Maschoff asked if Ordinance 153.143 pertains to residential districts.

Gilbert pointed out Ordinance 153.143 refers to *fences in non-residential situations and exceptional and unusual circumstances in residential districts*. Gilbert said the ordinance includes both non-residential and residential districts. Gilbert referred to the last line in the ordinance and read "*without providing a hardship a hardship and to improve the livability, appearance, and security of properties and their relationships to one another.*" Gilbert said to her, that describes what she has going on with her situation.

(Note of clarification: Exact wording in the ordinance states "without proving a hardship" instead of "providing a hardship" as was stated during the meeting.)

Maschoff said he highlighted that item in the minutes he provided to the City Attorney, but just hasn't heard back.

Gilbert noted here we are a month later and it's frustrating.

Gilbert pointed out there's also no siding on her neighbor's accessory building.

Maschoff said he understands the siding has been ordered and will be installed pretty quickly.

Gilbert said winter is coming and feels she will be looking at a wrap around the building all winter.

Dorschner asked about how long the building permit is in effect.

Skaret noted since the accessory building is under 200 square feet, it doesn't require a City building permit.

Maschoff said he understands the siding has been ordered and will be the same color as the house.

Gilbert asked Maschoff when the last time he heard the siding was had been ordered.

Maschoff said he heard that this morning.

Gilbert said she understood the Fire Chief would be at the Planning Commission meeting.

Maschoff said he spoke with the Fire Chief. He said as far as the Fire Chief knows, there's no Fire Marshall code regarding the neighbor's fence. Maschoff said if there was a fire at Gilbert's residence, the Fire Department would take the fence down if they needed to gain access.

Gilbert said the fence isn't the issue. She said the Fire Chief told her the neighbor's planter on the ground has to be removed because the Fire Department couldn't get through there to her property and no car should be parked along the property line.

Maschoff said he supposes if there was a fire, the Fire Department would rip the planter out of there.

Gilbert said the Fire Chief said the Fire Department can't move that planter and no car should be sitting there.

Maschoff said the Fire Chief had not mentioned the planter or car to him, but he would talk to the Fire Chief again.

Beck said as far as the fence is concerned, the Fire Chief told him the Fire Department would just rip it out if there was a fire. Beck said the Fire Chief didn't mention anything to him about the planter or car when he talked to him.

Maschoff said he would talk to the Fire Chief and ask him again.

Gilbert asked about getting a letter from the building inspector.

Maschoff said the building inspector is aware of the letter request, but he hasn't received a letter yet.

Gilbert commented no help again.

Skaret asked Gilbert if she has had any water problems.

Gilbert said she has not had any water problems. She pointed out someone told her she will have to go a year before it's determined if she'll have water problems. Gilbert said she will watch it. She's never had water problems before.

Dorschner said the Planning Commission's hands are tied. He said all the Planning Commission can suggest is for Gilbert to contact her lawyer.

Gilbert asked why the City's zoning ordinances aren't changed.

Skaret said the City is looking at some changes including amending the fence ordinance which would require a fence to be located two feet from the property line unless the adjacent property owner consents to putting the fence along the property line.

Henrichs said he would recommend the City form a committee to tighten up the standards on what people can get by with in Jackson. He said he and Gilbert would be happy to serve on that committee to provide information. Henrichs said right now the standards are so loose and so flexible that a person can do what they darn well please and the City doesn't have any structure to protect it. He said that's the problem the City has.

Lappe pointed out the other side is if the regulations become so strict, then people will complain it's their property and they should have a right to do what they want with it. Lappe said the Planning Commission just makes recommendations. He said what Gilbert has right now is a civil case. Lappe said there is nothing the Planning Commission can do. He said the Planning Commission will look at some of the things they suggested.

Beck said in reality there's nothing the City Council can do. He said it's going to have to be a civil case between Gilbert and her neighbor.

Skaret said based on the conversation he's had with the City Attorney; there really isn't a role for the Planning Commission in Gilbert's case as it stands. He said it's really a civil matter between Gilbert and the owner of the adjacent property.

ADJOURNMENT

With no further business, BECK/LAPPE moved and it was unanimously carried to adjourn the meeting.

David A. Maschoff, Zoning Administrator

