

**PLANNING AND ZONING COMMISSION**  
**September 9, 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 September 9, 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, Jeff Broitzman, Dave Hargan and Joan Hargan. (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 September 9, 2019 Planning Commission meeting to order and to open the meeting and public hearing.

**LAPPE/HAMPLE moved and it was unanimously carried to open the meeting and open the public hearing.**

**APPROVE THE MINUTES FROM THE AUGUST 12, 2019 PLANNING AND ZONING COMMISSION MEETING**

---

Chairman Ringquist asked if there were any comments or any changes to the August 12, 2019 Planning Commission minutes. Hearing none, Ringquist asked for a motion to approve the minutes as drafted.

**LAPPE/BECK moved and it was unanimously carried to approve the August 12, 2019 Planning and Zoning Commission minutes as drafted.**

**PUBLIC HEARING ON THE VARIANCE APPLICATION OF JEFF BROITZMAN WHO RESIDES AT 100 OAK AVENUE IN JACKSON. IN HIS APPLICATION, BROITZMAN PROPOSES TO CONSTRUCT A 54' BY 40' SHED ON HIS PROPERTY AT 100 OAK AVENUE WHICH WILL BE 5 FEET FROM THE NORTH REAR PROPERTY 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.**

---

Ringquist said in his Variance Application, Jeff Broitzman is looking to modify the setback from his rear property lot line for a building he wants to construct.

Ringquist asked Zoning Administrator Maschoff if notices of the public hearing on Broitzman's variance application were sent to adjacent property owners.

Maschoff said 18 notices were sent out to adjacent and surrounding property owners. He said the notice of the public hearing was also published in the Jackson County Pilot and posted at the Jackson City Hall and Jackson Library.

Ringquist asked Maschoff if he received any comments or criticisms about Broitzman's variance application.

Maschoff said he had one resident who owns property at 501 Riverside Drive stop by the Zoning Administrator's office to seek information on what the public hearing on the variance application was all about. He said the person wasn't commenting necessarily about Broitzman's variance application but was asking about what was taking place regarding the public hearing. Maschoff said he explained the public hearing was part of the variance application process.

Maschoff said the other comments he received about Broitzman's variance application were from Dave Hargan who is present at the public hearing. He said no other comments were received.

Ringquist asked Planning Commission members if they all had an opportunity to look at Broitzman's property where he's proposing to construct his building.

Planning Commission members indicated they had.

Ringquist asked Broitzman to explain what he's proposing and the reason for seeking a variance.

Broitzman explained he wants to construct a building to use for storage and as a workshop. He said he first thought it was a 10 foot setback from the property line and then found out the rear setback is 25 percent of the lot depth. Broitzman said that setback won't work for his plans. He pointed out the further the building sits back on the lot the better the driveway will work.

Ringquist said when he drove by and looked at the property he noticed it was a pretty steep embankment to the north. He asked Broitzman where the property line was located in conjunction to where that steep embankment is.

Broitzman said the property line is where the steep embankment is.

Hample asked if the property line was located where the cut currently is in the embankment.

Broitzman said the property line is pretty close to that cut.

Ringquist asked if Broitzman was proposing to build something that was bigger in square footage than what's allowed.

Maschoff said that was correct. He explained in this situation, the lot where Broitzman's residence is located is zoned residential and where he wants to build his storage shed is zoned Agricultural Residence. Maschoff said Broitzman's proposed 54' by 40' building would be allowed in an Agricultural Residence Zone without a variance.

Ringquist said he understands in this situation, we have the same issue that was previously discussed regarding a different property where there are two adjacent lots that are described by different legal descriptions. He noted in the past that has created problems with people building a separate structure on an adjacent lot because of the Code requirements in the City that doesn't allow a garage to be built on a separate lot without a residence.

Ringquist said in the past the Planning Commission was talking about making a requirement that if it was ever allowed to build on adjacent lots, that it would be also recorded at the courthouse that those two lots could never be separated again. He said we don't want garages sitting on separate lots. Ringquist said that was the consensus of what the Code says right now. He said that's where the Planning Commission left off when they discussed this issue the last time it came up.

Ringquist said it was pointed out to him that the City Attorney has drafted a proposed ordinance that deals with the separate lot issue. He asked Maschoff if the proposed ordinance has been shared with the rest of the Planning Commission.

Maschoff said the proposed ordinance was available after the agendas and supporting materials for the September 9<sup>th</sup> meeting were sent out. He said copies of the proposed ordinance have been distributed to Commission members at today's meeting.

Ringquist said the thought he is having is since the Planning Commission is having a public hearing today on this very same ordinance, it almost seems silly for the Planning Commission to rule on this ordinance and then have a public hearing again in a month on the same thing. So at this point in time, Ringquist said the Planning Commission still doesn't have the ability of letting somebody build a garage or storage building or whatever on an adjacent lot if the lots are described separately because they can't legally be joined together.

Ringquist said since the Planning Commission can't really rule on that yet, this whole issue is going to sit until we get back on it. He said it has to.

Maschoff said action on Broitzman's variance application would be contingent upon whatever action the Planning Commission takes.

Ringquist noted action on the proposed ordinance from the City Attorney won't happen for another month so Broitzman's variance application will be contingent upon or revisited either way. He informed Broitzman the Planning Commission could not give approval to his variance application right now anyway.

Maschoff said he mentioned to Broitzman that the proposed ordinance combining lots with different lot measurements for zoning purposes was currently in the works and any action regarding his variance application would be contingent upon the proposed ordinance first being approved by the Planning Commission and then by the City Council.

Ringquist asked Dave and Joan Hargan if they had comments they wanted to share regarding Broitzman's variance application.

Dave Hargan said he has a concern he would like to share with the Planning Commission. Hargan referred to the diagram of the lots that was distributed to the Planning Commission members. On the diagram, Hargan pointed out he and Joan's property went all the way down the hill along Ballard Avenue.

Hargan said back in about 2012, Broitzman wanted to construct a building so he and Broitzman switched 100 feet of property along Ballard Avenue for 100 feet up on the opposite end on Circle Drive. Hargan explained he was looking for access over the boulevard and Broitzman was looking for land to build his shop, so it worked out. Hargan said it wasn't too long and Broitzman needed another 25 feet so it ended up he gave him 125 feet.

Hargan explained Broitzman came and saw him and his wife Joan maybe a month ago to see if they would sign a variance to let him build right on the property line. Hargan said he didn't think that sounded good. He said it could lead to one thing or another.

Hargan asked the Planning Commission members if they had driven by to look at the property. He pointed out the cut in the embankment which is the property line. Hargan said he went to see Broitzman about building on the property line. He said he was shocked to see how it was dug down. Hargan noted they were nice established Oak trees. He said Broitzman excavated under the root system. Hargan said the trees are going to go down. He said the high winds a couple weeks ago caused one of the Oak trees to fall down. He said now he has a nice good mature Oak tree laying down.

Hargan said he doesn't know about digging right on the property line. He said he knows there is a setback. Hargan showed a picture of the fallen tree to the Planning Commission members.

Hargan said that bank is going to have to be addressed.

Hargan said setback, no setback, shop, no shop, whatever; he wants to see things put back to take care of it. Hargan asked Broitzman what he has in mind. He said that's an issue.

Hample said that was his thought also. He said he drove by the property. Hample asked if there's some kind of a retaining wall that needs to be done.

Broitzman explained if he gets the building put five or ten feet or whatever from the bank it's going to be LiteForm eight feet up and then it will be buried and the building will be the actual retention of the bank.

Hargan said he had a second question of Broitzman about how high the sidewalls of his proposed building would be.

Broitzman said the sidewalls would be 16 feet high.

Hargan said to relate to how high that would be, look at the buildings at the fairgrounds that has big buildings. He said that's a lot of building.

Hargan said he talked to Maschoff. He pointed out less than two years ago there was a Planning Commission meeting regarding rezoning the property where the earth home is located on Fairview Drive from Residential to Ag. Hargan asked are we Residential or Ag. He said that's a crazy building 16 feet high. Hargan said before he was able to look down to the river, now he's going to look down to a building.

Hargan said he's kind of down on this whole thing. He said he would like to see a plan to take care of that wall plus that Oak tree that was knocked down.

Ringquist said the issue with the tree is an issue between neighbors.

Hargan said he was thinking the City has an ordinance that someone cannot dig on a property line. He noted if the ordinance isn't followed.

Ringquist asked if the City has an ordinance that says a property owner can't dig on their property.

Hargan noted the setback of 25 percent of the lot depth, or in this case 25 feet from the property line.

Ringquist said building 25 feet away from the property line is different than digging.

Dorschner noted a person can put a fence up to the property line.

Hargan said this matter is a long ways from putting up a fence.

Ringquist said he looked at the bank at the property line and said that's a big issue.

Hargan said the bank is an issue.

Ringquist said if Broitzman's variance is allowed, the future may remedy the steepness of that bank. He said that bank was going to be a mess as it rained and things sluffed off.

Hample noted anytime there's a heavy rain, there's a lot of water coming down that bank.

Hargan pointed out Broitzman's house is located on Lot 2. He said there's another lot between the house and the proposed building. Hargan noted where there are trees on Broitzman's property. He said he's heard several things about that.

Hargan showed a photograph of Broitzman's property to the Planning Commission members showing the location of the house, adjacent vacant lot and where Broitzman wants to build his proposed shed. He noted a tree line shown in the picture. Hargan said the tree line could be cut out and Broitzman could locate his proposed building on the lot where the house is. He said it's isn't like Broitzman is married to that triangle piece of property where he wants to build.

Maschoff asked Broitzman if his house is located on Lot One or Lot Two.

Broitzman said his house is located on the lot furthest to the west which would be Lot Two.

Hargan said there is a lot in-between where there would be room for Broitzman to construct his building.

Ringquist asked Broitzman if he's considered sliding the location of his proposed building to the west.

Broitzman said he actually first was going to have the proposed building further to the west closer to his house. Broitzman explained when he acquired more property through the land exchange with Hargan; he planned to locate the building where it currently is because he didn't want it next to the house.

Ringquist said so Broitzman considered moving it further west closer to the house, but decided not to do it.

Broitzman said that was correct.

Joan Hargan said the reason Broitzman doesn't want to remove the trees between the house and his proposed shop building is because his wife doesn't want to look at the shop building. Joan Hargan said Broitzman's wife doesn't want it close to the house. She told Broitzman that it's his property and he could relocate the proposed building.

Ringquist said he assumes the building could be repositioned on the property. Hample noted that the Hargan's don't want to look at the roof when they look down towards the river.

Ringquist said it kind of sounds like similar reasoning.

Joan Hargan said the City needs to figure out if we are agriculture or are we residential. She said that's getting to be a real high issue as time passes on. Joan Hargan said as far as she's concerned, we're losing land as we speak coming down the hill. She said years from now, we're going to lose ten more feet, and ten more feet and ten more feet if the erosion continues. Joan Hargan said it's just common sense.

Ringquist said this is the issue that he spoke of a little bit ago is that these are two lots that are different codes. He said one is Ag-Residential and one is Residential and they are adjacent and described differently. Ringquist said in the past it hasn't been a big enough issue that it's never really been figured out on what the Code allows and what it doesn't.

Hample asked if the property was coded as Ag-Residential back 100 years ago or what.

Ringquist said he thinks the whole TV tower hill was zoned as Agriculture at one time.

Dave Hargan explained behind the former TV tower site, there was a farm that went from Broitzman's and Hargan's property line straight north out to where Polaris is located and everything to the east where AGCO is located that was all part of that area.

Hargan asked Broitzman what he was thinking to go up and dig straight down on the property line.

Broitzman said he apologizes for that. He said he shouldn't have cut it so close. He explained his whole thinking was to get access to get the location of the building back. Broitzman said honestly since he and Hargan traded property he didn't know he would have any trouble with Hargan. He said he didn't know Hargan was going to be upset with the proposed location of the building. Broitzman said he thought since Hargan's house sat up so high further up the hill on Ballard Avenue he wouldn't care. He said obviously he was wrong.



Broitzman told Hargan he has insurance and he's willing to pay for the tree that fell. He also said he'll clean up the tree if Hargan would like.

Joan Hargan asked Broitzman what's going to protect them from losing more land during the interim of time.

Broitzman said if he can't build the building, he'll put dirt back along their property line. He said he has dirt available to put along the line. Broitzman said he's just waiting to see if he can build the building. He said if he can't, he guesses he'll have to put dirt back along the property line.

Joan Hargan told Broitzman that he can build his building; it's just going to have to be different.

Dave Hargan thanked the Planning Commission for hearing their concerns.

Ringquist said their concerns were similar to some of the things the Planning Commission thought.

Beck said he thinks the Planning Commission should table action on Broitzman's variance application until the proposed changes to the ordinance are made.

Ringquist agreed with Beck. He explained the Planning Commission has a proposed ordinance where they were going to change, potentially at the September 9<sup>th</sup> meeting, to allow a 1,000 square foot accessory building in a residential zoned area. Ringquist said now there's a proposal to add some additional language to it but the September 9<sup>th</sup> public hearing is not about that additional language.

Ringquist said what this additional language is designed to do is to allow somebody to build an accessory building on a lot adjacent to another lot that they own where there's two different legal descriptions that are completely different legals because it's not been allowed in the past. He said this proposed language is to allow that.

Maschoff noted that any Planning Commission action that would come from Broitzman's variance application hearing would be subject to the amended ordinance being approved. He said Broitzman's variance application and changing the ordinance actually go hand-in-hand.

Beck noted the Planning Commission hasn't even discussed the language yet in the proposed amendment to Ordinance 153.037.

**BECK/HAMPLE moved and it was unanimously carried to table action on Jeff Broitzman's Variance Application until there is a public hearing on the Amendment to Ordinance 153.037.**

#### **OCTOBER PLANNING AND ZONING COMMISSION MEETING DATE**

---

Maschoff explained the Planning and Zoning Commission usually meets on the second Monday of the month. However, Maschoff pointed out the second Monday of October will fall on October 14<sup>th</sup>. He said City Hall will be closed that day in observance of Columbus Day. Maschoff noted that if the meeting was moved to Tuesday, October 15<sup>th</sup>, it would fall on the same night as a regular Jackson City Council meeting.

Maschoff suggested moving October's regular Planning and Zoning Commission meeting up a week to Monday, October 7<sup>th</sup> at 5:15 p.m. at City Hall. He said all the notices and publications would be sent out and published a week earlier also.

**LAPPE/HAMPLE moved and it was unanimously carried to hold the regular October Planning and Zoning Commission meeting on Monday, October 7, 2019 at 5:15 p.m. at the Jackson City Hall.**

**PUBLIC HEARING ON AN ORDINANCE TO AMEND CHAPTER 94.01 PERTAINING TO THE HOLDING OF SPECIAL EVENTS, PRIVATE OR PUBLIC, THAT MAY CONFLICT WITH THE PUBLIC NUISANCE CODES OF THE ORDINANCES OF THE CITY OF JACKSON, MINNESOTA. THE PROPOSED ORDINANCE IMPACT STATES THE CITY COUNCIL MAY WAIVE BY SPECIAL PERMIT THE ENFORCEMENT OF THE "CHAPTER 94: NUISANCE" CODE RESTRICTIONS BY GRANTING A SPECIAL EVENT WAIVER FOR PRIVATE OR PUBLIC EVENTS THAT WOULD OTHERWISE RESULT IN A VIOLATION OF SAID CODE. THE PERMIT MUST BE SPECIFIC AS TO TIME, PLACE AND DURATION. THE PERMIT SHALL ALSO INCLUDE ANY OTHER REASONABLE LIMITATIONS THAT PROTECT THE RIGHTS OF OTHERS.**

---

Ringquist said the City Attorney is attempting to rectify the nuisance of too much noise by inserting a paragraph into the public nuisance ordinance. He pointed out that nowhere does it say noise in the paragraph but that is the intent.

Maschoff said the amendment is to clarify the ordinance and bring it up to date. He noted it will also accommodate new businesses downtown that at times have outdoor musical entertainment that goes on beyond 10 p.m. Maschoff said the amendment in the ordinance will help to address that.

Maschoff said the amendment to the ordinance still allows for control by the City Council if someone wanted to host an outdoor event in a residential neighborhood. He said those neighborhood requests rarely occur. Maschoff said it will be good to have something in the Code Book to address such events.

Ringquist said he thinks the amendment covers it. He said he likes how vague it is that it doesn't limit it just to noise. Ringquist recalled how years ago the high school used to have big bonfires on the parking lot at the school. He said that could be considered a nuisance too. Ringquist pointed out something like that, which is out of the ordinary, could also fall under the amendment being proposed in the ordinance. He said the amendment in the ordinance could actually deal with anything that could be a nuisance to the public.

Maschoff noted the City Council would still have governance in issuing a permit for an event.

**LAPPE/HAMPLE moved and it was unanimously carried to recommend to the City Council First Consideration of Ordinance 101 amending Chapter 94.01 of the Jackson Code of Ordinances pertaining to the holding of Special Events, Private or Public, that may conflict with the Public Nuisance Codes of the City of Jackson, Minnesota.**

**PUBLIC HEARING ON AMENDING ORDINANCE 153.037 ALLOWABLE USES E(2) TO STATE THAT: DETACHED ACCESSORY BUILDINGS (INCLUDED GARAGES) MAY BE BUILT OR PLACED IN – BUT MAY OCCUPY NO MORE THAN 30% OF – THE REQUIRED REAR YARD. THE MINIMUM SIDE AND REAR YARD SETBACK THEREFORE SHALL BE 4 FEET. NO SUCH ACCESSORY BUILDINGS SHALL HAVE A FLOOR AREA GREATER THAN 1,000 SQUARE FEET (EXCEPT IN “AR” DISTRICTS, WHERE THE FLOOR AREA RESTRICTION DOES NOT APPLY). FOR THE PURPOSE OF THIS SECTION, CORNER LOTS HAVE 2 FRONT YARDS AND ONLY 1 SIDE YARD. (THE AMENDMENT INCREASES THE FLOOR AREA OF AN ACCESSORY BUILDING IN A RESIDENTIAL ZONE FROM 720 SQUARE FEET TO 1,000 SQUARE FEET.)**

---

Ringquist noted this item will also likely be tabled since additional language regarding adjacent lots measured by metes and bounds and platted is being added to it.

Ringquist said he asked Maschoff to go back and get the minutes from when the Planning Commission discussed Mr. Steenstra’s proposal to build a garage on an adjacent lot where the two lots had different measurements.

Ringquist said he thought the Planning Commission’s discussions were that they were looking for an answer that if someone was going to build, even if it was allowed on an adjacent lot with a different type of legal description, that those two lots would forever be joined together and not be separable in the future. Ringquist said he don’t necessarily see that in this language here.

Ringquist said he’s not necessarily against the idea that if you own two lots that are side by side that you can’t build a garage on one lot.

Maschoff said maybe it could be clarified a little bit more regarding that it’s going to be considered as one piece of property.

Maschoff pointed out the language in the proposed amendment to the ordinance that states, *The exception, if approved, must be recorded in the records of the Jackson County, Minnesota Records Office.*

Maschoff explained the reason for that language was so if someday the property came up for sale 20 or 30 years down the road and someone tried to sell part of the lot off, there would be a red flag coming up in the Recorder’s Office saying, “no”, that the lot is considered as one.

Ringquist said the ordinance needs to say that the lot wouldn’t be inseparable from that point.

Lappe noted one person that came before the Planning Commission in the past who owned an empty lot across the street from their residence.

Maschoff said he and City Attorney Brad Anderson talked with Jackson County Recorder Becky McCann about adjacent lots that have two different legal descriptions. Maschoff said if one lot is platted and the other is measured in metes and bounds, you're still going to get two tax statements.

Ringquist said receiving two tax statements doesn't matter.

For zoning purposes, Maschoff said Jackson is kind of unique. He noted he and City Administrator Matt Skaret had quite a discussion about the issue. Maschoff noted in Springfield, Minnesota, it's all platted, but in Jackson we have a lot of unique things with the metes and bounds and platted.

Maschoff said for zoning purposes, if someone buys the property next to them and it's considered all one, they should be able to do something with the property and have it considered for zoning purposes as one.

Ringquist noted in Jeff Broitzman's variance application, it's not just two different types of legal descriptions, but it's two different zonings which is even more complicated.

Ringquist recalled the Planning Commission's previous discussion that once you do this there's no going back. He said the other option is to make somebody do a brand new survey or subdivision of their two lots and then it would be one new newly described lot, but that's a big expense for somebody.

Maschoff said as he understands in the past, a new survey in those situations would require that the whole area would have to be surveyed including the adjacent houses to re-plat it.

Ringquist said you can re-plat a smaller piece if it's just one person. He said you could re-plat and join two pieces together just like you could re-plat one and make it into two pieces he would think. He noted he's not a land surveyor.

Ringquist said to him the proposed language needs more to it that makes it clearer that there's some sort of a covenant.

Dorschner asked if he could now build a garage on his adjacent vacant lot with the proposed change in the ordinance.

Maschoff said if the lots are contiguous.

Ringquist read the proposed language that says *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.*

Ringquist said to him that doesn't say it very clearly that once you do this you don't get to split them up again. Ringquist said in his mind that should be included.

Lappe agreed with Ringquist that language has to be definitely included.

Beck also agreed. He noted that was also discussed regarding Steenstra's lots.

Dorschner asked what if he has an adjacent vacant lot and would want to build a garage onto his house.

Beck said that would change everything.

Ringquist said then the house with the garage would sell as one.

Dorschner asked where does the property line get erased and stays put.

Ringquist noted if the lots were ever separated and sold separately, you would still have to meet the City Code where you can't just have a garage on a separate lot without a residence.

Ringquist said in past instances where people wanted to build a storage shed on a vacant lot and were told they couldn't, they added living quarters to it and then met the Code.

**BECK/HAMPLE moved and it was unanimously carried to table amending Ordinance 153.037.**

## **ADJOURNMENT**

---

**With no further business, LAPPE/BECK moved and it was unanimously carried to adjourn the meeting at 5:55 p.m.**

---

**David A. Maschoff, Zoning Administrator**

