

## PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, January 5, 2010 – 7:00 p.m.  
City Hall Chambers - 8150 Barbara Avenue

Chair Bartholomew called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Tom Bartholomew  
Paul Hark  
Tony Scales  
Mike Schaeffer  
Pat Simon  
Damon Roth  
Dennis Wippermann  
Christine Koch  
Harold Gooch

Commissioners Absent:

Others Present: Tom Link, Community Development Director  
Heather Botten, Associate Planner

### **APPROVAL OF MINUTES**

The minutes from the December 1, 2009 meeting were approved as submitted.

### **KEITH KAEDER – CASE NO. 09-43V**

#### **Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a variance for a recently constructed driveway that encroaches within the side yard setback and the five foot drainage and utility easement, for the property located at 3396 – 76<sup>th</sup> Street East. 5 notices were mailed.

#### **Presentation of Request**

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the request is for an after-the-fact variance from the five foot side yard setback requirements for a driveway. This past summer the applicants expanded their driveway on the west side of the property after they received notice from the City that they may be in violation. The driveway addition is located within the five foot driveway setback and the City drainage and utility easement. Ms. Botten noted that the lot currently features a two car attached garage with an ample driveway leading up to it with room to expand the driveway without encroaching into the setback. She noted that the Planning Commission recently reviewed a similar request along the same street and recommended denial of the driveway encroachment. The City Council has tabled that application until the January 11 meeting in order for the applicant to try to come up with a hardship. City Council has also directed staff to review the driveway and parking regulations of the City Code. If they decide to proceed with any possible code amendments, those would be brought to the Planning Commission for a public hearing. Staff feels the applicants have not meet the variance criterion and therefore they recommend denial of the request. Ms. Botten noted that staff received correspondence from two surrounding property owners in support of the variance.

Commissioner Gooch asked how far the driveway addition was from the side property line, to which Ms. Botten replied less than or equal to one foot.

Commissioner Gooch asked for clarification of what the applicants were told they were possibly in violation of.

Ms. Botten explained that City staff noticed that the driveway addition had been staked out and sent a letter stating there could possibly be an encroachment issue regarding the side yard setback. There were then some discussions back and forth, and during that time the new impervious surface was laid down.

Commissioner Gooch asked if the driveway addition would be in compliance if it were to be moved over four feet, to which Ms. Botten replied in the affirmative.

Commissioner Simon asked if a permit was pulled for the driveway, to which Ms. Botten replied it was not because none was required.

Chair Bartholomew asked if City Council planned to discuss the possibility of requiring permits for driveways, to which Ms. Botten replied in the affirmative.

Chair Bartholomew stated that requiring a driveway permit would be beneficial to homeowners as it would help them determine what is required, such as setbacks..

#### **Opening of Public Hearing**

The applicant, Keith Kaeder, 3396 – 76<sup>th</sup> Street East, stated the driveway was put in as a result of miscommunication and confusion regarding the approval. Mr. Kaeder advised that his contractor was forming up the addition when he was contacted by the City's Engineering Department. At that point the project was stopped. Later in the day, however, the contractor, who was working on similar projects in the area, spoke with one of the City's Building Code Inspectors and during their communications back and forth he got the impression they were okay to go ahead with the project. Mr. Kaeder advised that the purpose of expanding the driveway was to provide a parking area as well as control storm water runoff. He stated there is an on-going drainage issue in that area which results in mud and ruts every year. He added that the existing overhangs and the hydrant on the boulevard make it necessary to have a wider pad in order to negotiate the corner of the house.

Chair Bartholomew asked if removing the four feet of slab that is encroaching into the setback would allow the applicant to still be able to utilize the added driveway portion.

Mr. Kaeder replied that he did not believe it would. He noted that he planned to make other changes as well, such as gutter rerouting and the addition of a two-block high retaining wall, to aid in stormwater runoff control. He stated that a large part of the drainage flow seemed to originate from the concrete area surrounding their neighbor's in-ground pool.

Chair Bartholomew advised the applicant that without a clear hardship it would be difficult for the Planning Commission to approve the request.

Mr. Kaeder questioned how anyone could meet all the variance criterion.

Chair Bartholomew advised that the applicant did not have to meet all of the criteria, just some, such as being denied unreasonable use of their property.

Mr. Kaeder stated he felt the drainage issue constituted a hardship as the runoff and erosion issues would be compounded if the slab were any narrower. He added that his garage was too small to house both of his vehicles in his garage.

Chair Bartholomew pointed out that if the variance was approved one of the conditions of approval

was that the applicant enter into an encroachment agreement with the City.

Mr. Kaeder stated there were no City utilities currently located in the easement.

Chair Bartholomew stated the agreement gave the City authority to utilize that area in the future if necessary and stipulated that anything needing removal would be done at the property owner's expense.

Mr. Kaeder stated he was in agreement with that condition.

**Planning Commission Discussion**

Chair Bartholomew stated he struggled with the drainage issue being a hardship as the stormwater could be controlled without encroaching into the setback.

**Planning Commission Recommendation**

Motion by Commissioner Wippermann, second by Commissioner Simon, to deny the request for a variance for a driveway to encroach within the five foot setback for the property located at 3396 – 76<sup>th</sup> Street, based on the rationale as listed in the staff report.

Motion carried (8/1 - Gooch). This matter goes to the City Council on January 11, 2010.

**ADJOURNMENT**

Chair Bartholomew adjourned the meeting at 7:17 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary