

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, April 2, 2013 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Armando Lissarrague
Tony Scales
Dennis Wippermann
Victoria Elsmore
Bill Klein
Annette Maggi
Paul Hark
Harold Gooch
Pat Simon

Commissioners Absent:

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

Chair Hark welcomed new Commissioner Bill Klein to the Planning Commission.

Chair Hark stated he noticed that during his absence at the last Planning Commission meeting things were done a little differently. He suggested that in the future they make the process more efficient by handling the more mundane matters by unanimous consent. This would include asking for approval of the minutes and closing of the public hearing by unanimous consent. If a Commissioner would like to keep the public hearing open they would then take a vote.

APPROVAL OF MINUTES

The minutes from the March 19, 2013 Planning Commission meeting were approved as submitted.

KRISTA & PETE HONSA – CASE NO. 13-08V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a seven foot side yard setback for a home addition, whereas 10 feet is required, for the property located at 10815 Alberton Court. 6 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a three foot variance to allow a 14' x 8' mudroom addition to be built behind their garage and seven feet from the side property line. This home, along with the majority of other homes in the neighborhood, was built to the maximum width with the garage at the five foot setback. Any kind of principal structure living space would require a 10 foot setback. Staff believes the request does not meet the variance criteria and are recommending denial of the request. Staff has not heard from any of the neighbors.

Chair Hark asked staff to clarify their statement that the addition could be altered to meet setbacks.

Ms. Botten replied that the addition could be made smaller or bumped out more to the back and three feet further from the property line.

Commissioner Maggi asked if the houses on either side of the property were at the 10 foot setback.

Ms. Botten replied that the aerial photograph indicates they were built to maximum width as well.

Opening of Public Hearing

Krista Honsa, 10815 Alberton Court, stated the proposed addition would run smooth along the back of their house and would require only one footing. Reconfiguration of the addition would run into their existing retaining walls, would require modification to their landscaping, would require an additional footing which would run into the utility lines from their pool and air conditioner, and would not give them enough additional space to justify going through this process.

The contractor, Don Carroll, stated they designed the addition to be aesthetically appealing and to blend with the existing house, landscaping, staircase and retaining walls and would result in only a small setback encroachment.

Chair Hark asked Mr. Carroll to address resizing of the addition.

Mr. Carroll replied that resizing the addition would require an additional footing, as well as relocation of utilities, which would be costly.

Commissioner Simon advised that the Planning Commission could not consider cost as a basis for approving the request.

Mr. Carroll replied that cost was only a small part of the issue, and he advised that the proposed addition would not be visible from the neighbors.

Commissioner Simon stated the variance seemed to be more of a convenience and she could not identify a practical difficulty.

Commissioner Klein asked if the applicant had permission from their neighbor to build the proposed addition.

Ms. Honsa replied in the affirmative.

Chair Hark closed the public hearing.

Planning Commission Discussion

Chair Hark stated that he saw no practical difficulty. He advised that the Planning Commission had a much narrower focus than the City Council.

Commissioner Wippermann stated he concurred with staff's recommendation for denial as the request does not meet the variance criteria.

Commissioner Gooch advised that as the Planning Commission has looked at plats for new developments, especially those west of Highway 3, there have been comments made by Commissioners that they would like to see more than a five foot setback. He stated this was an example of the issues that can arise from homes being tight together.

Commissioner Klein stated that relocating the various utilities and retaining walls would be a

hardship, and he did not have an issue with approving only a three foot variance, especially when the neighbors had no objections.

Commissioner Lissarrague stated he supported the request and would like the Planning Commission to be flexible in this instance.

Planning Commission Recommendation

Motion by Commissioner Maggi, second by Commissioner Elsmore, to deny the request for a variance to allow a seven foot side yard setback for a home addition, whereas 10 feet is required, for the property located at 10815 Alberton Court.

Motion carried (7/2 – Klein, Lissarrague). This item goes to the City Council on April 8, 2013.

PAUL BUTE – CASE NO. 13-09V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a 2,400 square foot accessory building whereas 1,600 square feet is the maximum size allowed, for the property located at 10016 Barnes Trail. 6 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the request is to allow an accessory structure 2,400 square feet in size on a parcel that is less than five acres. The subject property is 4.39 acres in size and is therefore limited to a 1,600 square feet accessory structure. Mr. Hunting advised that when this lot was created it was a five acre lot. When the subdivision ordinance was subsequently put in place, however, the road right-of-way was excluded and it resulted in a 4.39 acre lot. The lot being on a corner compounded the issues further. Staff feels the ordinance change is a practical difficulty and they recommend approval of the request with the conditions listed in the report. The applicant has received letters of support from his abutting neighbors.

Commissioner Maggi asked what size accessory structure would be allowed on a property five acres or more.

Mr. Hunting replied 2,400 gross square feet with a maximum of two accessory structures.

Commissioner Wippermann asked if the applicant paid property taxes on the property in the right-of-way easement.

Mr. Hunting replied that the applicant was considered the owner of the property up to the center line, but he was unsure how the County looked at that for taxing purposes.

Opening of Public Hearing

Paul Bute, 10016 Barnes Trail, stated he was available to answer any questions.

Chair Hark asked if the applicant agreed with and understood the conditions listed in the report.

Mr. Bute replied in the affirmative.

Commissioner Wippermann asked if the proposed building would go up to the existing power line.

Mr. Bute replied that the proposed building would not encroach on the power line.

Commissioner Elsmore asked if the applicant knew if he was paying taxes on the right-of-way.

Mr. Bute replied he believed he was.

Commissioner Gooch asked what kind of structure was being proposed.

Mr. Bute replied it would be a wood structure with siding that matched his home.

Commissioner Lissarrague asked for clarification that the proposed building would not interfere with the existing power lines.

Mr. Bute replied it would not.

Dave Fleischaker, 10300 Brent Avenue, stated he lived south of the applicant and had no objections to the request.

Mike Dufour, 10017 Barnes Trail, stated he lived across the street from the applicant and had no objections to the request.

Chair Hark closed the public hearing.

Planning Commission Discussion

Chair Hark stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Klein, second by Commissioner Scales, to approve the request for a variance to allow a 2,400 square foot accessory building whereas 1,600 square feet is the maximum size allowed, for the property located at 10016 Barnes Trail.

Motion carried (9/0). This item goes to the City Council on April 22, 2013.

MICHAEL & RUTH NEWBAUER – CASE NO. 13-10V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a new home 20 feet from the front property line whereas 30 feet is required, for the property located at 7930 Blanchard Way. 7 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicants would like to construct a new home on the property 20 feet from the front property line whereas 30 feet is required. The lot was platted in 1988 and has since received two variances from the front yard setback. A home was never constructed; however, and the variances have since lapsed. The majority of the proposed rambler style home would be set back 25 feet, but the proposed covered entrance would bring the setback to 20 feet. She advised that a reduced setback would not affect the character of the neighborhood as other lots also have a reduced setback. The topography on the property is a challenge as it dramatically drops towards the back of the property. Gabion walls were installed for slope stabilization during the development stages. Subsequent to the lot being platted, the City has created a conservation easement over this property and surrounding properties to help protect the steep slope from runoff and erosion; this further reduces the buildable area on the property. The slope disturbance would be minimized by

allowing a decreased setback and thus moving the house forward. Staff recommends approval of the request with the condition listed in the report. Staff received inquiries from the neighbor to the south as well as the neighbor to the north. They had general questions regarding the location of the home and concerns regarding potential impacts to their homes from the proposed construction. Both neighbors were referred to the City's engineering department for additional information.

Chair Hark asked when the two previous variances expired.

Ms. Botten replied that variances expire after two years if they are not acted upon.

Commissioner Simon asked if the building pad was already in place.

Ms. Botten replied in the affirmative, stating it was designed for a 20-25 foot setback; not a 30 foot setback.

Commissioner Maggi asked if the previous variance requests were from different owners.

Ms. Botten replied that each of the three variance requests were from different owners.

Commissioner Maggi asked if staff knew why the lot had never been built on.

Ms. Botten replied she did not.

Commissioner Wippermann asked who initiated the conservation easement.

Ms. Botten replied it was initiated by the City to protect the area and the slopes from erosion. She stated it was her understanding that the developer originally came in and did some changes to the grading to get the building pads ready and there were some erosion issues. The City then came in and put the conservation easement on it once the slope stabilization was completed.

Opening of Public Hearing

Mike Newbauer, 6008 Blaine Avenue, stated he reconfigured the proposed house to best fit on the building pad; however, they were severely limited by the conservation easement.

Chair Hark asked if the applicant agreed with and understood the conditions listed in the report.

Mr. Newbauer replied in the affirmative. He noted that they purchased the property a month ago.

Karen Eichstadt, 7936 Blanchard Way, stated she was the abutting property owner to the south. She advised that she purchased her property in 2004, and her concern was not with the variance but rather with the construction process itself. She stated quite a bit of fill was brought in when the neighborhood was built, and the property owners on the street have had ongoing problems. She stated in the 19 years she has owned her house she has lost three feet of height on her northeast corner, her driveway has sunk a foot at the front of the house, they have had a retaining wall collapse on the north side of the house, and other neighbors have had similar issues. Because of these ongoing problems she has concerns about the construction potentially impacting the hillside. She stated it has been suggested that vibration rods or sensors could possibly be put in during the construction which would set off an alarm if there was significant soil shift or a vibration; however, she questioned who would bear such a cost. She advised that damage to property such as this would not be covered by homeowners insurance, and she stated that the bulk of the existing gullies were located on the subject property. She reiterated that she had no issue with the setback variance, but rather with the potential impact to the hillside and her property.

Chair Hark asked who Ms. Eichstadt had spoken with regarding the vibration rods.

Ms. Eichstadt stated the vibration rods were mentioned by one of the City engineers. When her retaining wall had failed in 2006 a civil engineer from Guy Engineering had been out and stated that the north side of her house and the neighboring lots were highly volatile and therefore any digging or changes could have significant effects. She questioned who would be held responsible should the construction cause damage to what is already in place.

Commissioner Simon stated she was on the Planning Commission when this neighborhood was first built and she questioned at that time how the fill would stabilize.

Ms. Eichstadt stated her house has been sitting on that fill for 19 years; however, every spring they have some type of issue. She advised that four years ago they replaced half of their driveway and now the other half has already dropped eight inches. Even though it has been 19 years she has no confidence that the fill has totally settled.

Carol Ferry, 7924 Blanchard Way, the abutting property owner to the north, stated she was concerned about the proximity of the lot stakes right next to her driveway, as well as the potential for erosion caused by the construction. She advised that last summer the City did work near the lower part of her property which resulted in retaining wall damage. She stated the existing gabion walls lose stones every spring, and when she moved in she was told the subject lot was unbuildable.

Commissioner Elsmore asked if Ms. Ferry was specifically opposed to the front setback for the proposed entryway.

Ms. Ferry replied she was not opposed to the front setback, but rather was concerned about the side setback and the minimal space between her garage and the proposed garage. She stated until this application came forward she had no idea her garage was so close to the property line.

Commissioner Klein asked Mr. Link what safeguards the City had for this type of situation.

Mr. Link replied that the development was created around 1988 and he was unsure what the engineering standards were at that time. He advised that the City Engineer and the Building Official could better answer questions regarding soils and code requirements for soil stability, and he would try to get some answers from them after tonight's meeting.

Ms. Ferry stated her home was constructed in 2005.

Commissioner Klein asked Ms. Ferry if she had any settling issues on her property.

Ms. Ferry replied only in the retaining wall.

Commissioner Klein asked if there were gullies between the lots.

Ms. Ferry replied that the lots were flat on the top but were very steep in the back. She advised she has fallen many times trying to get to the lower part of her property.

Commissioner Klein asked if she had soil samples done when her house was built.

Ms. Ferry replied she was not the original owner.

Commissioner Elsmore asked staff to address Ms. Ferry's earlier concern regarding the minimal

space between the driveways.

Ms. Botten advised that the setback for driveways and garages on this lot was five feet; therefore the eight foot setback being proposed was in compliance with the zoning code.

Mr. Newbauer advised that the stakes Ms. Ferry was referring to were only temporary markers designed to give them a general idea of where the lot line was and were not necessarily accurate.

Commissioner Lissarrague suggested the property owner research the lot's soil stability, etc.

Mr. Newbauer advised he had spoke with several people, including the surveyor, and it appears to be stable. He advised it was his understanding that the bulk of the fill has been there for quite a few years. He stated the lot would not have a backyard, and that is what they desire.

Chair Hark closed the public hearing.

Planning Commission Discussion

Chair Hark asked for guidance on how to address the engineering concerns brought up at tonight's meeting.

Commissioner Gooch stated it was his opinion that it was the Commission's purview to focus on the variance being requested. He noted that two variances had already been approved for this lot and three houses in the same area were built with similar setback limitations.

Commissioner Simon advised that the report states nothing could be built without a variance because of the conservation easement, and she believed this to be a practical difficulty. She stated she supported the request, and if it were her home she would have a 50 foot deep soil sample taken.

Commissioner Maggi asked for guidance for the neighbors who brought their concerns before the Commission tonight regarding this application, stating the City would likely have some responsibility to ensure that the stability of the neighboring homes remains intact when a new property goes in.

Mr. Link replied that prior to this going to City Council, staff could review with the Building Official and the City Engineer any code issues or ordinance requirements that may come into play and determine what the City's authority is for addressing the concerns raised tonight.

Commissioner Klein stated perhaps the City could put conditions on the grading plan requiring that it be stable, and he questioned whether they could ask for soil borings as a condition of approval.

Chair Hark asked if Commissioner Klein was suggesting that become a condition.

Commissioner Klein stated he believed that became a condition of their building permit.

Mr. Link stated he would have to do further research as to whether or not the City had authority through the building code or the City ordinance to require soil borings, etc. or whether it was up to the property owner to do it in a responsible manner.

Commissioner Simon asked if staff could forward that information on to the neighbors who testified tonight.

Mr. Link replied in the affirmative, stating the interested parties could leave their contact

information or they could contact Heather Botten.

Planning Commissioner Recommendation

Motion by Commissioner Gooch, second by Commissioner Simon, to approve the request for a variance to allow a new home 20 feet from the front property line whereas 30 feet is required, for the property located at 7930 Blanchard Way, with the condition listed in the report.

Motion carried (9/0). This item goes to the City Council on April 22, 2013.

BRIAN AND JULIE LEHMAN – CASE NO. 13-04ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an ordinance amendment to Title 10 of the City Code (Zoning Ordinance) to allow dog grooming as a conditional use in the A, Agricultural and E-1, Estate Residential Zoning Districts.

Mr. Hunting advised that he was just informed by the applicant that they are requesting the item be tabled an additional two weeks.

Julie Lehman, 11023 – 105th Street East, requested they table their request to give them additional time to review the International Building Code requirements.

ADJOURNMENT

Chair Hark adjourned the meeting by unanimous vote at 8:10 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary