

**City of Rolling Meadows
Planning and Zoning Commission
City Council Chambers
7:30 PM
March 3, 2020**

APPROVED

Open the Meeting

Chairman Whitney opened the March 3, 2020 Planning and Zoning Commission meeting. Roll call:

Presiding: Chairman Whitney

Present: Duvall, Fink, Lynch, Rybarczyk, Sheehan, Sipple

Absent: Rataiczky, Stefaniuk

Also Present: Rob Horne, Public Works Director; Jo Ellen Charlton, Assistant Public Works Director; Elizabeth Payne, Administrative Services Coordinator, Judy Brose, Deputy City Clerk (Recording Secretary)

Call to Order

Chairman Whitney called the meeting to order at 7:33 pm and declared a quorum.

Approval of Minutes

Chairman Whitney asked for a motion to approve the minutes from the December 3, 2019 Planning and Zoning Commission. Mr. Duvall moved to approve the minutes as written and Mr. Rybarczyk seconded.

Mr. Lynch stated that being on the Commission we have been faced with Petitioners claims of hardship and generally the Commission has commented as there is no definition of “hardship” anywhere in the City Code, we’re hard-pressed to acknowledge the Petitioners claim of hardship. In the minutes he read that in two cases the word “hardship” was used once by a member of the Commission and once by member of Staff. Mr. Lynch is concerned that unless we make an addenda or some other comment to the minutes that acknowledges that the use of the term were not intended to create a definition for the word in part because doing so would force a definition on to the City Council in the City Code that the use would indeed become a defacto definition that we would have to live with down the road.

Chairman Whitney asked Mr. Lynch to point out what he’s referring to.

Mr. Lynch stated on page 8 in the first full paragraph and on page 11 in the body of the first paragraph.

Chairman Whitney asked if Mr. Lynch would like to make a motion to amend the minutes to include that.

Mr. Lynch made a motion to amend the December 12, 2019 meeting minutes to add a paragraph noting that the twice use of the word “hardship” is not intended to define the term nor is it intended to impose upon the City or the City Council a definition of the term and Mr. Rybarczyk seconded.

Mr. Rybarczyk asked Mr. Lynch if he wanted to add the definition.

Mr. Lynch didn't want to add the definition to these minutes. However, the word "hardship" is used five times in the Zoning Code which we will hear later. Albeit again, without definition. He would like to use that time on the agenda to discuss whether we should propose a definition or simply recommend to the City Council that with Staff's input it adopts a definition of hardship.

Ms. Charlton stated that the minutes are a reflection of the discussion that took place at the last meeting and that discussion item was a discussion on the Zoning Code amendment being considered, it wasn't a discussion about a hardship related to a particular case. We weren't potentially misusing the term hardship in the consideration of a petition or to vote positively or negatively on an application. Ms. Charlton doesn't know that amending the minutes is the appropriate place to address your concern. It will be discussed later on the agenda so we can discuss how it's used and what to do moving forward as the Code is amended.

Ms. Payne stated that the consultant recently completed the definition section of the Code so Staff is reviewing that and one of the things that we are expecting to be defined is hardship.

Chairman Whitney asked Mr. Lynch if he would like to keep his motion to amend out there.

Mr. Lynch stated that he would and should it be accepted by the Commission he would commend to City Council as to whether or not the amendment is appropriate in the minutes or not.

Mr. Duvall stated that there will be a real discussion of what the consultant says is a hardship. So we don't have to define it now, it will be presented to the Commission later.

Chairman Whitney stated that since there is no further discussion, a roll call vote will be taken on the amendment to add that verbiage to the minutes.

Roll call:

Mr. Duvall: Yes

Mr. Fink: Yes

Mr. Lynch: Yes

Mr. Rybarczyk: Yes

Ms. Sheehan: Yes

Mr. Sipple: Yes

Chairman Whitney: Yes

Motion carried. The verbiage will be added to the minutes.

Chairman Whitney took a roll call vote to approve the minutes as amended.

Roll call:

Mr. Fink: Yes

Mr. Lynch: Yes

Mr. Rybarczyk: Abstain

Ms. Sheehan: Abstain

Mr. Sipple: Abstain

Mr. Duvall: Yes

Chairman Whitney: Yes

Minutes approved as amended.

Pending Business:

- 1. Request for final approval of subdivision for two lots at 2600 Benton Street, R-1 Residential, Karen Stramaglio, FourStarLane, Inc.**

Chairman Whitney asked if the file was in order.

Ms. Charlton stated that the file was in order and was made part of the record.

Mike Anderson of Haeger Engineering and **Karen Stramaglio of Four Star Lane** were sworn in by Chairman Whitney.

Mr. Anderson stated that they are here asking for final plat approval for the two lot subdivision that was approved December 2017. The final plat is in conformance with the preliminary plat. The lot is the same size and same configuration and we're not asking for any modifications. Staff has a number of conditions on the engineering plat and we have no objections to any of the conditions.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Whitney opened the meeting to commissioners' questions and comments.

Mr. Duvall asked about the sidewalk on the Benton Street side. He noted that there is a discrepancy about when it meets the driveway, does the drawing not reflect the sidewalk?

Mr. Anderson stated that the drawing does not reflect the sidewalk and that they do not have a problem with Staff's recommendation.

Mr. Fink stated he had no questions at this time.

Mr. Lynch asked if catch basins require maintenance.

Mr. Anderson stated that catch basins do require maintenance as there is sump at the bottom that collects debris.

Mr. Lynch inquired that since it's a mechanical device not operated by electricity, is the homeowner charged with maintaining the catch basin?

Ms. Charlton stated that the catch basin will be private but in an easement so if the homeowner fails to do it the City would have the right but not the responsibility to perform that work and to charge the homeowner back if there were a problem.

Mr. Lynch asked if there should be a notation made in the homeowners' deeds especially the maintenance on the catch basin.

Mr. Anderson stated that it is within the sewer and drainage easement provisions that will be on the deed.

Mr. Lynch is concerned that this will not be communicated to the future owners.

Mr. Anderson stated the easement runs with the land and is legally binding and is recorded that way.

Mr. Lynch asked if 60 years from now and on the fourth owner, when the deed is transferred will the owner be informed that there's a catch basin and they're responsible for maintenance of the catch basin?

Mr. Anderson stated inasmuch as it shows in an easement on the property and the easement definitions are on the plat.

Mr. Lynch stated that we're making an assumption, that the homeowner and the closing attorney will make it clear to the homeowner.

Mr. Anderson stated that he thinks it's the way that it's done. He does not know of any other mechanism to convey that to future homeowner's.

Mr. Lynch stated that he heard of instances where someone buys a home based on its shape, condition, and location. Too often unless it's pointed out to them at the time of closing, they don't know such things exist on their property.

Mr. Anderson stated that he would agree with that when there is no easement on the property. The fact that when they purchase it, it shows there's an easement and there's a definition of the easement available, I think that takes care of it.

Mr. Lynch stated that in the past that the Commission commended to Staff that in the creation of new plats that they include GPS coordinates. Mr. Lynch asked if that was done on these two pieces of property. Increasingly, people are using their phones and other apps to identify points of geography. We had before us a recommendation to create a sub-zone in the manufacturing district, it was cut between two properties and the recommendation was made that instead of using traditional methods of identifying pieces of property, use GPS coordinates. The Commission had extensive discussion with Staff and the Commission commended to Staff that in the development of future plats that GPS coordinates be employed.

Ms. Charlton asked for the purpose or benefit of the GPS coordinates.

Mr. Lynch stated that the demarcation of the sub-zone was extremely awkward. The observation was made that if plats used GPS coordinates on their corners and points there would be a much clearer sub-zone and much more precise.

Ms. Charlton asked how the surveyor prepared the plat utilizing benchmarks. Typically, in the surveying world there's an ability to reference benchmarks.

Mr. Lynch stated that this what we asked Staff to consider. Mr. Lynch asked what the postal address will be.

Ms. Payne stated that she believes they will be Palatine, 60067.

Mr. Rybarczyk stated he had no questions.

Ms. Sheehan stated she had no questions.

Mr. Sipple stated he had no questions.

Chairman Whitney asked how big are the catch basin as there are two different styles in the blueprint.

Mr. Anderson stated that the ones in the rear yard are two foot diameter and they are buried so all that will be seen is the manhole lid. The ones that are in the front that connect to the larger storm sewer are 48 in diameter structures.

Chairman Whitney asked will the two that are in the back connect to one pipe and then feed out to the one in the street.

Mr. Anderson stated that they will go along side property line to go to the sewer in the front.

Chairman Whitney stated that the purpose of that is to prevent creating a larger easement so they can't build on the property.

Mr. Anderson stated that this issue came up with Staff on the preliminary plat that was submitted didn't include the catch basins in the back. We were proposing to use overland grading to allow the water to continue to flow. Staff indicated that the overland drainage would require a larger easement then the drainage structure proposed.

Ms. Charlton stated that the applicant sufficiently described his petition and wanted to point out that in the staff report that there are eight conditions that are noted and need to be addressed in the engineering plans. The plat document has been checked and Staff is comfortable with the plat document and the suggested motion is provided on pages 2 and 3 of the staff report and includes the eight conditions and there are additional conditions to include: 1) Security for site improvements shall be deposited with the City prior to receiving City signatures on the plat. 2) The Final Plat of Resubdivision of Star Pointe shall become null and void unless it is provided in mylar form to the City for signatures, and recorded in the Office of the Cook County Recorder not later than six months of the date of City Council approval. 3) No site improvement work shall begin until permits have been issued by the City, and no residential building permits shall be issued until site work has been completed. Site improvements should be done first.

Chairman Whitney stated that there were no problems from the Petitioner regarding the conditions.

QUESTIONS AND COMMENTS FROM THE AUDIENCE:

Chairman Whitney opened the meeting for comments from the public.

Nick Budmats of Benton Street, Palatine, IL was sworn in by Chairman Whitney.

Mr. Budmats stated that there has been some discussion about the retaining of trees on the South property line for both lots. If it makes the job easier to properly grade the property to drain the water in the catch basins and it's easier to take those trees out, you are welcome to do so and we would even share the costs in replacing the trees that are in those areas with bushes just so there is some kind of natural fence/shield between the two properties so they are not looking in our front yard and we're not looking in their back door. My house is due south of both of the lots.

Ms. Stramaglio stated that they will take that into consideration.

Steve Holish of Deepwood Lane Palatine, IL was sworn in by Chairman Whitney.

Mr. Holish stated he agreed with Mr. Lynch regarding the GPS coordinates. The City has gone to a great extent to put GIS evaluation on all the lots. You can go on the City's website and look at the definition of your property and if it's on the plat survey you would have some sort of relation to coordinate. After hearing that the catch basin runs from the rear to the front and it runs through an easement on the property that should be noted on the plat.

With there being no further public comment, the public hearing was closed.

Mr. Duvall asked if the trees on the adjacent property line are necessary to control the storm water.

Ms. Stramaglio stated that they are not.

Mr. Duvall stated that regardless with what happens to trees it has nothing to do with the catch basin delivering water to the storm sewer which is on the north side of Fairfax.

Mr. Lynch made a motion that based on the submitted petition and testimony provided, I move that the Planning and Zoning Commission recommend the City Council approval of the Final Plat of Resubdivision of Star Pointe, subject to the following conditions:

- a. The changes identified in the "Final Review and Conditions of Approval" section of the Planning and Zoning Commission staff report for the March 2, 2020 meeting shall be made and submitted to the City for review and approval by the City Engineer prior to receiving City signatures on the plat and recording.
- b. Security for site improvements shall be deposited with the City prior to receiving City signatures on the plat.
- c. The Final Plat of Resubdivision of Star Pointe shall become null and void unless it is provided in Mylar form to the City for signatures, and recorded in the Office of the Cook County Recorder not later than six months of the date of City Council approval.

- d. No site improvement work shall begin until permits have been issued by the City, and no residential building permits shall be issued until site work has been completed.

Mr. Duvall seconded.

Roll Call on the amendment to the motion:

Mr. Lynch: Yes

Mr. Rybarczyk: Yes

Ms. Sheehan: Yes

Mr. Sipple: Yes

Mr. Duvall: Yes

Mr. Fink: Yes

Chairman Whitney: Yes

Yeas – (7) – Lynch, Rybarczyk, Sheehan, Sipple, Duvall, Fink, Whitney

Nays – (0) – None

Absent – (2) – Rataiczky, Stefaniuk

Abstain – (0) – None

Motion Approved.

Chairman Whitney noted that this item will appear on the March 10, 2020 City Council agenda for first reading.

Discussion Items:

1. Discussion/workshop on pending Zoning Code Update

Ms. Charlton gave a PowerPoint presentation to the Commission regarding variances, amendments (text and rezoning) and landscaping. They are still in the drafting stage of the amendments to the Zoning Code working with the consultant and the hope is to continue to provide things that have been concerns in the past such as hardship. Comments will be given to the consultant to make sure they're addressing all the concerns that the Commission would like to see in the new code.

The goal of a variances is to authorize exceptions to the code on a case by case basis. Variations should only be considered only in situations that aren't norm such as unusual elevation changes, unusual shaped lots, reduced frontage lots, buildings or accessory structures on very large lots with nothing else around. Variances should not be used to allow a use that is otherwise not allowed. Variances are obtained by application/fee, public hearing and testimony outlining "hardship". Hardship is measured when PZC examines the "standards for variations" based on evidence submitted by applicant. Unique physical condition and why more impactful than other properties. Impact is granted on light, air, fire risk, public safety hazard, diminished property values, etc. Not self-imposed and there are not after the fact variations. Deprived of rights when compared to other lots subject to same provisions. Not impair public health, safety, morals, comfort or welfare and shall not alter essential character.

Conditions of approval should relate to the standards, for example the finding that the requested variation does not negatively impact nearby properties subject to the applicant providing landscaping as recommended in revised code/by staff, etc. Currently, all variations, except for signs, are decided by PZC and Council has the final authority by approving the ordinance. It's more common that PZC maintain its review, technical analysis and recommendation function. It will be less confusing for applicant especially when part of a packaged deal (ie. Special use and variance). If a request is denied, the new code also adds a waiting period of one year. Variances are valid for one year unless implemented.

There are two types of amendments and they are map amendments (rezoning) and text amendment. Amendments standards not adversely impact nearby uses or purpose or intent. Should be logical extension of current trends, changing market conditions and is consistent with goals/objective in Comprehensive Plan.

To determine whether a request should be a variance or amendment, the question to ask is does it meet standards for variation? If the answer is yes then it's a variation, if not consider amendment standards. The proposed code will make it easier to advise applicants but consistency in application and decision making will make the new code successful or not successful.

There are four general categories for Landscaping, perimeter parking lot landscaping (how far from lot line), interior parking lot landscaping (end island, intermediate/traffic management islands), site perimeter (in setback areas), foundation and transitional.

Mr. Duvall asked if there would ever be in instance where the hearing would not be granted based on the request of the petitioner. Mr. Charlton stated that everyone has the right to be heard, our job as staff is to advise applicants what the process is and the applicant makes the ultimate decision if they want to proceed.

Mr. Lynch stated that there may be cases where the City is seeking a variance and it seems that a “taking” would be a clear hardship for the property owner, is term “takings” going to be included because then the hardship would lie with the property owner. Ms. Charlton clarified that when the City acquires property to expand a right-a-way, the City doesn’t go through a variation process. “Taking” has another set of criteria that would be required and it would reduce the amount of property that the owner then has to meet all the requirements. It’s not self-imposed or a condition, it happened when the City took their property. It would be a good argument for the property owner to make in support of any variation they would request on their property.

Mr. Lynch asked that if a petitioner submits a petition and the Commission tells them they can’t do whatever they’re asking and it’s not necessarily a financial diminishment but the petitioner responds by saying that the property is being taken from the petitioner. It seems that “taking” is an argument that a petition can use for a decision or condition that the Commission is imposing on the petitioner and to them it’s a hardship.

Ms. Charlton stated that the burden of proof for any requested variation on behalf of the applicant is on the applicant. As long as we are following the established standards and the established legal proceedings, those are in place specifically to avoid any takings claims that a property owner may have. Doesn’t mean that they won’t try and make them but if we’re doing our jobs and we have a code in place that’s rock solid, the goal is that we wouldn’t be subject to any takings claims.

Mr. Horne added that when the City acquires property for any reason we generally pay for it and consideration is given for future uses in those negotiations so hopefully we wouldn’t be in that situation.

Mr. Rybarczyk asked if this will be written because a variance can’t happen, “it shall not alter the essential character.”

Ms. Charlton stated that it’s one of the standards. Essential character can be defined in the Comprehensive Plan in some instances, it also involves what is on either side. Will granting the variation make you stick out like a sore thumb? If they’re asking for a front yard setback that nobody else has on that block then you’re altering the essential character. Usually the standards are worded in the affirmative, it can say “we find that the proposed variation will not alter the essential character because the setbacks on either side are similar” so you can come up with a list of things as to why it doesn’t disrupt the essential character. Mr. Charlton asked for another example.

Mr. Rybarczyk asked that when a Planned Unit Development goes in, isn’t that a variance?

Ms. Charlton stated that a Planned Unit Development is a different zoning tool that acknowledges that there are exceptions to the code that are granted and exchanged for other benefits that are outlined in the Comprehensive Plan or the desires of the City. Variations has a set of standards, special uses has a set of standards and PUD's has a set of standards. We look at all of those separately when we're considering those requests.

Chairman Whitney stated that the problem he sees with the one year waiting period if a request is denied is that right now they can come to the Commission, state their case and if they're rejected they don't have to wait a year, they can go to the courts to appeal it and they have an avenue to do something if they feel strongly.

Ms. Charlton stated that no applicant ever loses their ability to appeal to a higher court. In the current process, if the Commission were to deny a request, the applicant can appeal to the City Council who can decide and they can also appeal to court. Under the new code, the same process would still exist, it would just come after the Council.

Mr. Duvall asked if amendments are done on a case by case basis. If someone requests a text amendment, it's specifically because they need to do something. Is it worth it to redefine the zoning districts to eliminate the process the text amendments? Or just do it case by case as it has been done? Or could the definition of zoning area be expanded to make it easier or less confusing?

Mr. Lynch stated that when the Commission started down this path and were given the original code to review before the consultants were involved, one of the comments made was the issue of zones. What belongs where, should the current M-1 be an M-1, should it be changed to industrial versus manufacturing and should commercial be defined differently? Among the definitions that the consultant is working on, it raises the opportunity to raise those questions again for the Commission to discuss and resolve them.

Ms. Charlton stated that at the staff level, it is looked at constantly to make a technical analysis up front and provide the advice to the applicant which might be the best way to go. Staff looks at all conditions and try to advise the applicant as best as they can.

Mr. Duvall asked if the definitions will get changed going forward.

Ms. Payne stated that definitions do not exist in the current code. In the new code, the zoning districts will be defined.

Ms. Charlton stated that the other thing that defines it is the list permitted and special uses. The Commission will have a lot of input on this. If it's permitted, it should be permitted no matter where it's located. If it's a special use, it's permitted but only if it meets all the standards.

Mr. Lynch stated that there is nothing in the proposed language regarding enforcement as to maintaining what is required with any approved text amendments, special uses, etc. as opposed to waiting for a complaint. There is also no reference to drainage regarding berms or the term legal non-conforming. Zoning administrator is also mentioned.

Ms. Charlton stated that berm would be included in the code under enforcement. Legal non-conforming will be included in the new code and the zoning administrator is a term used just for consistency throughout the code as it was suggested by consultant.

Mr. Duvall asked if there was a standard on how a notice of public hearing is issued.

Ms. Payne stated that it is published in the newspaper, agenda packets are published online, agendas are also posted in City Hall and require all petitioner's to obtain a list of all property owners or management company within 250 feet of the property. The petitioner is then required to send a copy of the public notice via certified receipt mail, proof of mailing is provided to staff approximately 15 days before any hearing and copies of the green receipts are also provided to staff so that notice can be proved. The Zoning Code was amended to require that every property that has a public hearing is required to post a sign created and provided by Public Works.

Chairman Whitney stated that there are some statements in the language that states that the Planning and Zoning Commission has 21 days to issue findings. The Commission has never not walked out of a meeting giving their findings or tabling it. If it's tabled, the 21 days will expire before the next meeting. The Commission needs to be careful when tabling or continuing an item.

Ms. Payne stated that it is something that may change to 30-35 days.

Ms. Charlton stated that when continuing a hearing it must be continued to a date certain to consider additional information. Once the public hearing is closed no new information can be considered, the Commission will base their decision on the information that's presented.

Chairman Whitney stated that the Commission should never visit the property beforehand, the Commission should base their decision on evidence presented by the petitioner.

Ms. Payne stated that driving by a property is okay.

Ms. Charlton stated that it's important that everything gets on the record before the hearing is closed.

Ms. Sheehan suggested that the code should require petitioner to provide plans for landscaping such as screening around ground or roof mounted mechanical equipment or come up with a formula to encourage people to put units further back from the right-of-way or neighboring properties.

Mr. Sipple stated that being the construction industry, a lot of those issues are handled in the design phase of the construction.

Mr. Horne stated that it's so important to have clear information in the Zoning Code so the contractors know what is expected.

Reports:

None

Adjournment

A motion to adjourn was made by Mr. Rybarczyk and seconded by Mr. Duvall. Motion carried by unanimous voice vote. The regular meeting of the March 3, 2020 Planning and Zoning Commission was adjourned at 9:30 pm.

Respectfully Submitted,

Judy Brose

Judy Brose

Deputy City Clerk

Distribution:

Mayor

City Manager

Planning and Zoning Commissioners

Community Development Department

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Minutes approved at the May 5, 2020 Planning and Zoning Commission meeting as written.