

12 January 2017 Minutes

KAYSVILLE CITY PLANNING COMMISSION

January 12, 2017

Members Attending: Chairperson Matthew Anderson, Gary Bullock, Stroh DeCaire, Lorene Kamalu, Betty Parker, Joshua Sundloff, Thomas Wood

Staff Present: City Engineer Andy Thompson, Zoning Administrator Lyle Gibson, Secretary Annemarie Plaizier

Others Present: Councilman Larry Page, Scott Alpha, Ross Jorgensen, Mike Barnett, Mike Ostermiller, Jamee Pew, Shane Pew, Rich Vernon

OPENING

The Planning Commission meeting was held on Thursday, January 12, 2016 at 7:00 p.m. in the Municipal Center.

Vice-Chairperson Betty Parker opened the meeting by welcoming those present.

CONDITIONAL USE PERMIT FOR A MAJOR HOME OCCUPATION “B”, CONTRACTOR AT 773 WEST OLD MILL LANE – ROSS JORGENSEN

Lyle Gibson explained that Mr. Jorgenson lives at 773 West Old Mill Lane and works as a general contractor. He plans to use a room in his home as an office to schedule appointments and process paperwork. Any equipment used is stored at an off-site location, with exception of a work pickup truck, and employees would meet at the job site.

Josh Sundloff asked if Mr. Jorgensen’s application was because of a complaint received by neighbors.

Lyle Gibson responded that it was not. Mr. Jorgensen has previously had his contracting business in a different city and just recently moved into the area.

Gary Bullock made a motion to grant a conditional use permit for a major home occupation “B”, contractor at 773 West Old Mill Lane for Ross Jorgensen. Stroh DeCaire seconded the motion and it passed unanimously.

CONDITIONAL USE PERMIT FOR A MAJOR HOME OCCUPATION “B” REFLEXOLOGY AT 1061 SOUTH SUNCREST LANE – MINDY NIELSON

Lyle Gibson explained that Mrs. Nielson provides reflexology services from her home. She had received approval of a business license previously at a different location, but just recently moved to a new home at 1061 South Suncrest Lane and is requesting a conditional use permit for her new location. She sees clients by appointment only and there is sufficient off-street provided via their driveway. Staff has never received any complaints about Mrs. Nielson's business.

Thomas Wood asked about Mrs. Nielson's previous location.

Lyle Gibson responded that it was located on Appaloosa Avenue and was approved in October 2015.

Stroh DeCaire made a motion to grant a conditional use permit for a major home occupation "B", reflexology at 1061 South Suncrest Lane for Mindy Nielson. Lorene Kamalu seconded the motion and it passed unanimously.

CONDITIONAL USE PERMIT FOR FARM ANIMALS AT 384 NORTH 30 WEST – TERRY MESSERLY

Lyle Gibson explained that Staff had recently received a complaint in regards to a rooster being kept at 384 North 30 West. The Messerly's were then contacted and informed that they would need to remove the rooster from the property and obtain a conditional use permit for the hens on the property. The Messerly's property is approximately 0.21 acres, which allows them to keep up to five fowl, rabbits, or similar animals. The property currently has a coop along the south side of the property and the rooster has been removed.

Betty Parker asked if the chicken coop complied with city regulations.

Lyle Gibson responded that it does

Thomas Wood made a motion to grant a conditional use permit for farm animals at 384 North 30 West for Terry Messerly. Stroh DeCaire seconded the motion and it passed unanimously.

MODIFICATION OF A CONDITIONAL USE PERMIT FOR THE EXPANSION OF A CELL SITE AT 60 EAST 200 NORTH – POWDER RIVER DEVELOPMENT-AMERICAN TOWER

Lyle Gibson explained that the cell tower and equipment that are currently located at 60 East 200 North was originally approved in August of 1999 and constructed the following year. The existing site covers an area of twenty feet by forty feet. The applicant plans to lease additional space to the east of the current enclosed area so that they can expand the footprint of the cell site to construct a generator for backup power needs. The proposed expansion area would be ten feet by twenty feet and the submitted plans show that the area would be fenced to match existing fence on site, which is a chain link fence with barbed wire for security purposes. The new area will encroach into the Sanders Glass parking area, but will not create any areas of non-compliance.

Scott Alpha, representing American Tower, commented that the fence on the east side of the site would be removed in order to extend the footprint.

Gary Bullock said that he is concerned about the unappealing look of the site, and suggested that a taller fence or landscaping be installed to make it look more aesthetically pleasing.

Scott Alpha responded that they are willing to help improve the site. However, it is covered completely with asphalt and would be difficult to install any type of landscaping.

Lorene Kamalu asked who would be in charge of maintaining the public utility easement.

Lyle Gibson responded that typically public utility easement maintenance is the responsibility of the property owner adjacent to it. This new site expansion will be on both a city owned lot as well as the adjacent lot owned by Sanders Glass. When this cell site was originally approved, landscaping was discouraged because of maintenance concerns. Because it will sit over both properties, any site improvements that are required by the Commission will have to be approved by the Sander's since it will affect their easement as well.

Josh Sundloff commented that if the Commission feels that there needs to be landscaping on the site to help make it less of an eyesore than it shouldn't matter who owns the property.

Lorene Kamalu said that this site has become a blight to this area. There are options that can be considered that will be cost-effective and be low maintenance.

Thomas Wood said that the barbed wire that runs along the top of the current fence seems to give a negative feel to the area, and asked if the fence could be raised to replace the barbed wire area on the current fence.

Scott Alpha responded that their company wants to make this project work for everyone involved and is willing to consider whatever options the city feels are necessary. One option might be to run the barbed wire on the inside of the fence.

Matthew Anderson arrived.

Josh Sundloff asked about the distance between the fence and the sidewalk.

Lyle Gibson responded that it is roughly ten feet.

Josh Sundloff commented that there is not a lot of space there to install much landscaping.

Lyle Gibson added that it is likely that there are no existing water services on this property.

Betty Parker suggested that they consider possibly installing xeriscaping.

Gary Bullock suggested improving the fence as well as putting a slurry seal over the existing asphalt to help clean the site up.

Gary Bullock made a motion to modify the conditional use permit for the expansion of a cell site at 60 East 200 North for Powder River Development-American Tower with the following conditions:

1. Either a minimum of an eight-foot tall chain link fence with slats be installed on site, or the existing barbed wire be concealed inside of the fence.
2. The asphalt on site be either slurry sealed or repaved.

Thomas Wood seconded the motion and it passed unanimously.

**REQUEST FOR A VARIANCE FROM SECTION 17-31-2 ACCESSORY BUILDINGS
AT 46 NORTH 1050 WEST – SHANE AND JAMEE PEW**

Lyle Gibson explained that recently Staff was made aware of an accessory building at 46 North 1050 West that appeared to be in violation of city ordinance 17-31-2(1) which states that: “No accessory building shall be located in any front yard or required side yard.” Furthermore, Chapter 17-22 defines a front yard as the “open space extending the full width of the lot measured between the front lot line and the closest main building, which space is unoccupied and unobstructed from the ground upward.” While the accessory building located on Pew’s property appears to be smaller than the two-hundred square feet required for a building permit, it still must meet the zoning requirements. Staff is interpreting the location of the building to be in the front yard of the Pew’s lot, sitting at about eight feet from the curb of the street. Typically, the city right-of-way ends ten feet beyond the back of curb to the private property of the abutting parcel. This means that the building is likely at least partially built on the public right-of-way and the utility easement. It is possible that the building is not disturbing, or even over, existing utility lines. However, the City would like to keep those easements clear for potential future use. Having met with the Pews to discuss the City’s findings, the Pews decided to request a variance and are present tonight to demonstrate why they believe a variance is appropriate. After hearing from the applicant, the Planning Commission will need to determine if a variance is appropriate based on the criteria outlined in Chapter 17-4-6. It is Staff’s opinion that a variance should not be approved because there are other locations on the property where the shed could be moved, and its current location is contrary to public interest. Since application, Staff has received many complaints from surrounding neighbors stating concern about allowing the building to remain in its current location.

Jamee Pew commented that their yard is unique in comparison to other lots in their area. The layout of the home on the property is unique as is the varying elevations. There are multiple bunches of trees and retaining rock walls on the property, and there is also a stream that runs across the property. They are required by Davis County Flood Control to keep a ten-foot easement next to the stream for maintenance. Therefore, they are limited on where the accessory building can be placed. The shed is eight feet in height and under two-hundred square feet, as mentioned. Mrs. Pew said that they consider the west side of their home to be their side yard because of how the home sits on the property. There are currently no utilities in the right-of-way and they feel that it will never be used for future utilities because of the close proximity of the stream and culvert. The building also does not block any view or inhibit any person or vehicle traffic.

Lyle Gibson said that although there might not be utilities in the right-of-way currently, the city would like to keep that area open if needed for future use.

Andy Thompson added that the city considers the area where the building sits to be the front yard as defined in city ordinances. The public utility easement on this property starts at the property line, which sits approximately ten feet from the back of curb.

Stroh DeCaire asked if the Pew's had ever contacted the city to ensure their building met city regulations. Variances are typically very hard to grant because they have to meet very specific and strict criteria. One of the criteria requires the applicant to show that meeting the city regulations would cause an unreasonable hardship.

Jamee Pew responded that they were unaware that the building was not in compliance until they were contacted by the city. They have since been discussing their options for the building with Staff. They feel that there isn't another reasonable location on their property given the existing easements, the layout of their yard and the varied elevations.

Shane Pew added that they feel that because of how the home sits on their lot, the south side of their property should be considered as their front yard, making the west side where the building sits as their side yard.

Gary Bullock commented that in examining the property, the home seems to be facing the street and it is more likely to conclude that as the front yard.

Shane Pew commented that when the home was originally built it was at the end of a stub street with a temporary turnaround located in their yard. At the time it looked more like a side yard than a front yard.

Lorene Kamalu asked about the stub road.

Andy Thompson responded that when the North Fork Estates subdivision was developed the temporary turnaround and stub road were removed and the road extended into a cul-de-sac further to the north. While it might have seemed more like a side yard at that time, the ordinance is very specific on the definition of a front yard.

Josh Sundloff said that he feels that the Pew's non-compliance has been self-imposed and there are other locations on the property that the shed could be located, although maybe not as functional. It is hard for the city to approve a variance for a shed that does not meet zoning regulations when there are other options. There are special circumstances that run with this property because of the easement on the stream, but that isn't enough of a reason to grant a variance. Having a shed is not essential to enjoying the property.

Thomas Wood said that the standards for approving a variance are very high and is a standard that has been copied directly from state law.

Shane Pew asked if it would make a difference if the shed were screened.

Stroh DeCaire responded that regardless the shed would still need to be moved because it sits inside the public utility easement.

Josh Sundloff suggested that the Pew's meet with city Staff to determine an appropriate area to relocate the building.

Stroh DeCaire made a motion to deny the request for a variance from Section 17-31-2, Accessory Buildings at 46 North 1050 West for Shane and Jamee Pew. Josh Sundloff seconded the motion and it passed unanimously.

Lyle Gibson commented that because of current weather conditions it might take some time to get the shed moved but the city will work with the Pew's to assure the building is moved within an appropriate amount of time.

Stroh DeCaire was excused for the remainder of the meeting.

PUBLIC HEARING AND AMENDMENT OF SECTION 17-31-2, ACCESSORY BUILDINGS, OF TITLE 17, PLANNING AND ZONING, OF THE REVISED ORDINANCES OF KAYSVILLE CITY

Andy Thompson explained that in response to some concerns made by residents regarding the existing requirements pertaining to accessory buildings, Staff has been asked to research possible modifications to the ordinance that may more appropriately accommodate taller accessory structures. It is not uncommon for the city to receive requests from residents to build larger or taller accessory buildings in order to accommodate larger recreational vehicles, boats, etc. The current ordinance allows such structures to be built up to the maximum allowed height in the zone, but based on the way the height is measured currently it often requires such buildings to be set back and positioned from property lines in a way that buildings are no longer suitable. Staff has researched ordinances from other cities throughout the state and discussed internally different concerns and means of modifying the current ordinance. Based on this research and discussion, Staff is proposing an amendment to the current ordinance, which would change the way accessory building heights are measured. The proposed amendment reads, "No part of an accessory building shall extend above the line created by a point twelve feet (12') above ground at the property line and extending upwards from that point at a 45 degree angle towards the interior of the property, up to the maximum building height allowed in the zone."

Chairperson Matthew Anderson opened the Public Hearing.

Mike Ostermiller commented that he is appreciative that Staff and the Planning Commission taking the time to look at this issue. Mr. Ostermiller stated that he is currently building a house and is struggling with trying to find a way to build a large enough accessory building to meet his needs, and still comply with city ordinances. It is common for contractors to try to find new ways around the ordinance. The problem will be better addressed with this revision to the ordinance to better accommodate these larger vehicles and boats. It will be easier to adapt and will give people more options, but will also continue to protect the neighbors from any potential negative impacts.

There were no further comments or questions from the public. Chairperson Matthew Anderson closed the Public Hearing.

Thomas Wood asked if the City receives many inquiries from residents about building larger accessory buildings often.

Lyle Gibson responded that the Building Department would receive those inquiries, but he doesn't believe that it happens very often.

Andy Thompson said that in the past we have seen many take advantage of any loopholes in the ordinance, and this revision should help to give people more flexibility and help to solve that problem.

Josh Sundloff made a motion to recommend approval of the amendment of Section 17-31-2, Accessory Buildings, of Title 17, Planning and Zoning, of the revised ordinances of Kaysville City. Lorene Kamalu seconded the motion and it passed unanimously.

CALL TO THE PUBLIC

Nothing was brought under this item.

CALENDAR

The next regularly scheduled meeting will be held on Thursday, January 26, 2017 at 7:00 p.m.

ADJOURNMENT

Thomas Wood made a motion to adjourn. The motion passed unanimously and the meeting adjourned at 8:15 p.m.