

UNAPPROVED

**BELLE PLAINE PLANNING & ZONING COMMISSION
REGULAR MEETING
OCTOBER 9, 2017**

PLEDGE OF ALLEGIANCE.

Chair Hetzel led those present in the Pledge of Allegiance.

1. CALL TO ORDER. 1.1. Roll Call.

The Planning and Zoning Commission met in Regular Session on Monday, October 9, 2017 at City Hall, 218 North Meridian Street, Belle Plaine, MN. Chair Anthony Hetzel called the meeting to order at 6:30 p.m. with Commissioners Ashby Carter, Omni Kiecker, Ashton Pankonin, and Catherine Tarbell present. Also present were Community Development Director Cynthia Smith and Council Liaison Paul Chard.

2. APPROVAL OF AGENDA.

MOTION by Commissioner Pankonin, second by Commissioner Tarbell, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

3. APPROVAL OF MINUTES. 3.1. Regular Session Minutes of September 11, 2017.

MOTION by Commissioner Carter, second by Commissioner Pankonin, to approve the Regular Session Minutes of September 11, 2017 as presented. ALL VOTED AYE. MOTION CARRIED.

4. RECOGNITION OF INVOLVED CITIZENS.

No one spoke during the public forum.

5. PUBLIC HEARINGS.

5.1. Appeal of Zoning Administrator Decision: Allen and Tammy Rockman 220 Elk Street South.

Community Development Director Smith Strack explained that Allen and Tammy Rockman have filed a written appeal of a decision by Zoning Administrator Cynthia Smith Strack who supported a decision made by former Building Official Scott McCarty. The staff decision specifically and solely relates to personal property staff deems landscaping trellis. Rockman opines the personal property is fencing, not landscaping. The personal property is that of Kevin and Debra Hunter, 222 Elk Street South. The Hunters have been notified of the appeal and hearing. The standards of §206.05 of the City Code apply. The Planning Commission functions as the Board of Appeals for the City of Belle Plaine. The Planning Commission decision is final with respect to appeals. Appeals of Board decisions must be made to the Scott County District Court within thirty (30) days of the decision.

Community Development Director Smith Strack stated her reasons for finding the items in question were landscaping and not fencing.

1. The trellises are not forming a continuous barrier or boundary.
2. The trellises are not effectively enclosing anything.
3. The trellises are currently supporting vining vegetation.
4. The former Building Official's review of the issue appears to be a genuine and good faith effort to remedy a dispute between neighbors, specifically Mr. McCarty's direction that if more open space than lattice existed he would define the item as landscaping and not a fence.

Strack stated the Appellants were present in the audience. She referenced additional information and input received was previously made available to the commission on a confidential basis. She stated the Planning Commission is to hold next hold the appeal hearing; following the hearing the Commission is to discuss the matter and make a determination. Strack referenced two sample resolutions which were prepared for Commissioner reference. One contained sample findings that the personal property in questions is a fence, the other resolution that the personal property in question does not constitute a fence.

Strack offered to take any questions from the Commission.

Chair Hetzel opened the public hearing at 6:36 p.m. and asked for comment.

Tammy Rockman, 220 Elk Street South, stated she believes the four, four foot by eight foot panels in question are considered a fence according to Belle Plaine's definition and were installed without her written approval. Rockman opined that when combined, the panels take up 25 percent of her property line. If she does nothing, Rockman stated she is afraid of losing a portion of her property due to adverse possession. Ms. Rockman cited the City Code definition of a fence as "*A barrier with footings forming a boundary to or enclosing some area*" and stated the panels serve as a barrier and they contain continuous post footings. Rockman opined the panels serve as a boundary between the properties. Rockman stated the City's code language does not address regulations pertaining to the length. Ms. Rockman reported on Scott County's definition of a fence and stated that five cities within the County use some version of the definition. Rockman stated she is opposed to the City's reference that the panels are considered a trellis. She opined the panels should be considered a fence as it provides privacy. Rockman cited language from another city's code that defined landscaping. Rockman opined trellis and arbors should abide by a two-foot setback. Rockman recommended the City adopt language regarding landscaping for residences. Ms. Rockman alleged City Staff informed the neighbor that if they put plants on the panel, then it would be considered landscaping. She questioned how City Staff could deem the panels a fence at one point but when some of the panels were removed, consider it no longer a fence. Ms. Rockman stated she has similar panels in her back yard to screen stored property but it has no adverse effect on the neighbor's property. Rockman stated she is willing to obtain a fence permit for the panels she erected in her yard.

There were no further comments.

MOTION by Commissioner Pankonin, second by Commissioner Carter, to close the public hearing at 6:41 p.m. ALL VOTED AYE. MOTION CARRIED.

Chair Hetzel said the Planning Commission is tasked with making a determination of whether or not the subject panels constitute a fence.

Commissioner Carter reported he viewed the property on Saturday afternoon. He stated he specifically looked for gravel and concrete materials as evidence of footings and found none. He observed plastic zip ties connecting panels to the posts staked in the ground. In opined what is existing is not a fence based on the definition of fence contained in the Belle Plaine City Code.

Commissioner Pankonin concurred with Commissioner Carter's comments and opined that what is existing does not meet the definition of a fence. He recommended the Planning Commission consider modifying Belle Plaine's definition of fence, perhaps incorporating something similar to Scott County's language so that situations such as this are avoided in the future. He recommended the Commission also consider updating language relating to residential landscaping, specifically to setbacks for landscaping.

Commissioner Kiecker concurred with previous Commissioner comments and stated she also viewed the property on Sunday afternoon following an invitation by Ms. Rockman to do so. She stated she specifically reviewed the City Code language in an effort to compare the object in question with the definition of a fence. Kiecker stated she did not find the existing panels to be continuous and she did not observe footings, therefore, based on the current Code language, she could not interpret what was existing to be a fence.

Commissioner Tarbell reported she also viewed the property based upon the invitation from Ms. Rockman. Tarbell stated she concurred with the comments previously made by other Commission Members and she voiced support for tightening the language for the definition of a fence to avoid future situations. Tarbell stated that based on the definition of a fence, as it stands today, she believes what is existing is not a fence but a trellis.

Council Liaison Chard reported that he visited the property on Sunday and concurred with Commissioner Pankonin. Chard stated he supported updating Code language to include a two-foot setback for landscaping. He opined this would prevent plantings from encroaching onto adjacent property. Chard opined there are many problems in the alleys as it relates to overgrowth of plants. Chard stated he did not find the panels to be continuous, he stated it does offer screening but does not meet the definition of fence as contained in the Code. He opined that if the referenced panels were set back two feet, this situation and appeal may not have occurred.

5.1.1. Resolution PZ 17-026B, Finding Certain Personal Property at 222 Elk Street South Does Not Constitute A Fence.

MOTION by Commissioner Carter, second by Commissioner Pankonin, to approve Resolution PZ 17-026B, Finding Certain Personal Property at 222 Elk Street South Does Not Constitute A Fence. ALL VOTED AYE. MOTION CARRIED.

6. BUSINESS.

6.1. Discussion: Accessory Structures.

Community Development Director Smith Strack explained that at the October 2, 2017 meeting the City Council placed a moratorium on detached accessory structures exceeding 900 square feet in area following recommendation of the Planning Commission. The moratorium will provide the Commission an opportunity to study the issue and determine appropriateness of existing regulations and the need to adjust existing standards. Attached to Community Development Director Smith Strack's memo was a matrix showing a comparison of current standards for all cities in Scott County and the cities of Minneapolis and St. Paul. Also attached were the existing standards relating to accessory structures standards which are dispersed throughout Chapter 11 of the Code as follows:

1. Section 1104.11(2) Limits number of buildings on a lot.
2. Section 1104.04 – Building Type and Construction.
3. Section 1104.12 is entitled “Accessory Buildings”; limited applicability/regulation.
4. Section 1105.05 – 1105.08, regulations for setback, site coverage, maximum number of structures, roof height for the different residential zoning districts.
5. Section 1103.08, Subd. 5. Specific standards for CUPs.
6. Section 1107.07 pertains to pole buildings.

The Commissioners and Staff reviewed the regulations of the Scott County cities, plus Minneapolis and St. Paul, as outlined in the matrix.

Commissioner Kiecker supports regulations that tie the maximum size of an accessory structure to the size of the principal structure. Commissioner Carter inquired about the requirement of providing access to an accessory structure and whether there were regulations pertaining to limitations on parking pads or hard-surface for storage. Community Development Director Smith Strack explained that Elko-New Market has regulations requiring access to certain structures. All cities regulate maximum impervious surface.

Community Development Director Smith Strack summarized four mechanisms used by other cities.

1. Regulations for the maximum square footage of structures on the lot.
2. Regulations for the maximum square footage of structures on the lot based on a percentage of the complete lot, or the rear yard, as it relates the aggregate square footage of structures to the size of the lot.
3. Regulations that differ according to zoning districts.
4. Regulations that allow for flexibility for CUP or variances.

Council Liaison Chard believes that 900 square foot garage is adequate and he does not support allowing larger structures. Commissioner Carter believes any structure larger than 12'x20' should require access. Commissioner Pankonin supports regulations for lot coverage and structural coverage. Commissioner Kiecker commented that the City's current zoning regulations are in-line with other cities and it appears no major re-write is necessary. Commissioner Pankonin supports a 9-foot garage door for detached garages to accommodate work trucks.

The Commissioners were in support of regulations that tie the footprint of an accessory structure to the primary structure. Commissioner Pankonin preferred the aggregate total structure coverage. Commissioner Kiecker stated that property owners have the option to rent space instead of building large accessory structures. Commissioner Carter suggested that requests for lot combination require a plat.

Community Development Director Smith Strack asked for Commissioner input as to which mechanism should be used to address a resident's request for a deviation from the regulations: a conditional use permit or a variance. The consensus of the Commission was to proceed with the variance process rather than the CUP route for consideration of allowing more than two accessory structures in a parcel. They also suggested a clear definition of an accessory structure. Playhouses, tree houses, portable garden sheds, and dog houses are exempt. Council Liaison Chard requested the maximum height of 15 feet for an accessory structure with no variances allowed.

Community Development Director Smith Strack summarized the recommendations as follows:

1. Accessory structure area can't exceed foundation size of principal structure.
2. Maximum square footage allowed is aggregate total of all detached accessory structures.
3. Maximum detached accessory structure size is limited to 10% of the lot size or 900 square feet, whichever is less.
4. No CUP for detached greater than 900 square feet: remedy will be limited to variance.
5. Maximum number of detached accessory structures per lot is two. Need clarifying language re: what is accessory structure (e.g. dog kennel, playhouses, treehouses excluded).
6. Detached accessory structures exceeding 220 square feet in area need to have driveway access.
7. Maximum garage door height will be 9 feet.
8. Maximum height for residential detached accessory structures is 15 feet or the height of the principal structure, whichever is less.
9. No accessory structures are allowed prior to construction of a principal structure.

The Commissioners will discuss exterior materials at an upcoming meeting.

6.2. Small Wireless Facilities Law Update.

Community Development Director Smith Strack explained that she has researched the recent Wireless Facilities Law updated as of May 31, 2017. Currently the City of Belle Plaine does not own the lights as

they are owned and maintained by Xcel Energy. Community Development Director Smith Strack recommended further review at a future meeting.

7. ADMINISTRATIVE REPORTS.

7.1. Commissioner Comments.

Chair Hetzel recommended the Commission review landscaping and fence regulations. Community Development Director Smith Strack confirmed that discussion on landscaping and fencing will be placed on a future agenda.

Commissioner Pankonin inquired about requirements for planting trees for new residential developments. Community Development Director Smith Strack explained the regulations as outlined in the City's Subdivision Ordinance.

7.2. Director's Report.

Community Development Director Smith Strack provided a summary of the highlights of the Director's report.

7.3. Upcoming Meetings.

1. Regular Meeting, 6:30 p.m., Monday, November 13, 2017.

The Commissioners were reminded of the upcoming meetings as listed.

8. ADJOURNMENT.

MOTION by Commissioner Carter, second by Commissioner Pankonin, to adjourn the meeting at 8:13 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary