

**OFFICIAL PROCEEDINGS
OF THE
PLANNING-CITIZEN ADVISORY COMMISSION
CITY OF LOWELL, MICHIGAN**

For the Regular Meeting of the Planning-Citizen Advisory Commission July 24, 2006 at 7 p.m.

City Clerk Morlock swore in Dee Doyle as a Planning Commissioner.

The Meeting was called to order at 7:00 p.m. by Chairman Jahnke and the Clerk called the Roll.

Present: Commissioners Berry, Dimmick, Doyle, Hall, LaPonsie, Mundt, Teelander and Chairman Jahnke.

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Councilmember Jeanne Shores, Lowell Light and Power and Cable TV General Manager Tom Richards and Building Inspector Doug Hopkins.

IT WAS MOVED BY TEELANDER and seconded by HALL to approve the minutes from the regular meeting of June 26, 2006 as written.

YEA: 8. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #1. **APPROVAL OF AGENDA.**

IT WAS MOVED BY LAPONSIE and seconded by BERRY to approve the agenda as written.

YEA: 8. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #2. **PUBLIC HEARING.** – None.

Item #3. **NEW BUSINESS**

A. **SITE PLAN REVIEW** - None.

B. **VARIANCES – RECOMMENDATION TO THE ZONING BOARD OF APPEALS.**

1. 242 S. Hudson (northwest corner of S. Hudson and Grand) – variance to allow a lot split – Donald and Connie Reedy. A variance application was received from Donald and Connie Reedy to allow a lot split so that an additional home can be built at 242 South Hudson. The property, which has an existing home, is approximately 101.64' X 132'. In order to be split (R-zoning), a 132' of width is necessary. The parcel lacks over 30 feet.

Connie Reedy, representing a possible buyer, presented pictures of the house on the corner as well as the lot next door.

Commissioner LaPonsie asked if the lots can actually be split and sold separately, but not be built upon. City Manager Pasquale stated what would be the sense of splitting the lot, if one can not build on it.

Commissioner Hall was concerned with creating a 35 foot non conforming lot.

The Commission reviewed the following criteria:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. By a vote of 2 to 6 the Commissioners did not believe this was met.
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. By a vote of 1 to 7 the Commissioners did not believe this was met.
3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. By general consensus, the Commissioners did not believe this condition was met.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood. The Commissioner voted 4 to 4 tie, regarding this condition.
5. The variance will not impair the intent and purpose of this Ordinance. By a vote of 3 to 5, to Commissioners did not believe this criteria was met.
6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant. By general consensus, the Commissioners believed this criteria had been met.

IT WAS MOVED BY LAPONSIE and seconded by HALL to recommend to the Zoning Board of Appeals denial of the variance request to allow a lot split at 242 S. Hudson.

YEA: 8. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #4. **ANY OTHER BUSINESS/ON GOING BUSINESS.**

- A. Review of the Off Street Parking Lighting Section of the Zoning Ordinance – Committee Update. No update was provided.
- B. District regulation for single family dwellings in the R-3 Residential District – committee update.

No update was provided.

- C. Farmer's Market signs. In the midst of examining the permit application, it was determined the signs for the Farmer's Market do not qualify in the Public Facilities District. In reviewing "Section 20.04A General Sign Provisions," it states government signs are exempt from building permits. Thus, the Farmer's Market signs could qualify under such provisions.

Lowell Area Chamber of Commerce Director Liz Baker explained the Farmer's Market is spearheaded by the Chamber, while the Kent County Youth Fair is taking responsibility for the event. However, it is funded by the Downtown Development Authority of the City of Lowell. It also lies on City owned property.

Kent County Youth Fair Manager, Ron Wenger, explained the fair has been running on the City's property for 71 years. The lease states the fair can use the property for youth, agriculture or related events. Ten percent of the proceeds go back to the City. Wenger noted the art sign is at least 100 feet off South Hudson and 81 feet from the center of Bowes. The signs are not obstructing any vision from the intersection.

Chairman Jahnke inquired if the City has ever required review of signs throughout the fairgrounds. Wenger was not aware of any necessary permits.

Baker noted the City has funded a large portion of the Farmer's Market and the signs were purchased by the City. The signs need to be left up.

Building Inspector Doug Hopkins stated there are no provisions in the Public Facilities District. The definition under "Section 20.02 E Government Signs" states "a temporary or permanent sign erected by the City of Lowell, Kent County, State or Federal government".

Commissioner Hall said the issue of a Farmer's Market has come before the City several times. He liked Hopkins' suggestion. He would be in favor of a variance if necessary, unless it is recognized as a government sign.

Commissioner Mundt believed the market was a special event. He stated there are two parts of the ordinance which refers to 21 days. Under "20.07 B Special Events Signs" it states "the display of such signs shall be limited to 21 days immediately proceeding the special event". The other section refers to 21 days under "Section E of 20.07" stating "balloons, strings of lights, pennants, streamers, banners, sidewalk and sandwich signs and other similar devices". Mundt did not believe the signs at the fairgrounds fall under the above definitions. The signs were purchased by the City and are placed on City owned property.

By general consensus, the Commission agreed the signs should be considered governmental signs.

- D. Porches and roofs. At the June Planning Commission meeting, a variance request to allow an enclosed porch into the required front yard was denied. However, there was discussion regarding porches, terraces, decks, balconies, etc. being allowed under Section 4.05B of the

ordinance.

Building Inspector Doug Hopkins explained when a roof is placed over a porch, it becomes part of the primary structure and has to meet the required setbacks. Hopkins cautioned once a roof is placed, it is very easy to enclose. Porches in the front of a home are more attractive. However, a vision problem could be created.

Commissioner LaPonsie suggested the Commission review whether one should be allowed to have a roof on their porch. City Manager Pasquale believed last month there was general consensus to not allow enclosures within the front yard setback. However, the Commissioners wanted to explore the idea of a roof on a porch.

Commissioner Mundt did not believe the issue needed to be reviewed. If one is not encroaching on the setback, one can build and place a roof on a porch as long as there is a 30 foot set back. Pasquale explained the ordinance is written in a way which states one is allowed a porch with a maximum of 10 feet encroachment into the front yard setback. However, a roof is not allowed and it can not be enclosed in any way.

Commissioner Dimmick agreed with Mundt and the ordinance should be left alone.

By general consensus, the Commission agreed to leave the ordinance as is and the issue can be removed from the agenda.

- E. Restoration of City Right of Way. The City Council has recommended the Planning Commission review the restoration of the City Right of Way and provide a definition for the Charter as well as the ordinance.

DPW Director DesJarden compiled a number of references to the Charter and Code of Ordinances which refers to the maintenance of the City Right of Way.

Commissioner Hall questioned if this had to do with the stump removal. Pasquale responded in part, yes.

Councilmember Shores explained there has been much controversy regarding the trees which Light and Power is removing within the City Right of Way and whether the stumps should be removed. The City Council has requested a recommendation from the Planning Commission regarding the stumps being removed. Shores wanted a policy in which all departments act in the same manner.

DesJarden believed the Council also wanted clarification regarding property owners, utilities, and contractors and what direction or condition they have. Currently, a contractor who installs a driveway or hooks up to sanitary sewer or any other utility within the right of way must purchase a bond and have insurance equal to all repairs within the right of way. He believed the Council is asking the Planning Commission for a recommendation on how this can be simplified. Telecommunications specifically state the right of way must be restored to its previous existing condition. The ordinance is scattered and needs to be simplified. DesJarden

understood Lowell Light and Power and Consumers Energy are under different utility guidelines. He believed the Council wanted some control over what happens within the City Right of Way.

Lowell Light and Power General Manager Tom Richards stated the Board continues to work at revising its policy and practice procedures with regard to stump grinding. Light and Power has been clearing or trimming trees over the last several months to ensure proper safety and clearance to electrical line throughout the City. Removal of a tree has been offered at no cost to the customer, if it is felt the life of the tree will be threatened. It has not been their policy to remove stumps because some are in a location where it would be impossible to get equipment to grind the stumps. The Light and Power Board is discussing whether any stumps should be removed and under what conditions. Richards cautioned the Planning Commission, stating the City does not need one board setting the requirements for another board and directing them of what to do. Richards noted there have been very few complaints. Light and Power provides a coupon or information regarding stump removal at a discounted price. Most have found it very affordable.

Richards noted "Section 15.9 Public Utilities" states "they shall pay such part of the cost of improvement and maintenance of streets, allies, bridges etc. and shall protect and save the City harmless from all damages that arise". Franchise requirements have some payment for the use of those right of ways.

Chairman Jahnke stated the general practice should be if one removes a tree in a maintained property, owned by the City, one should expect the property be restored to some sort of appearance.

Pasquale asked if the policy was near completion. Richards responded the Board continues to request information and they are working on a resolution.

Commissioner Dimmick suggested the Commission take no action, if the Light and Power Board is working on a resolution. Jahnke agreed. The Commission can always review the policy at a later date if the Council so wishes.

Commissioner Mundt believed any area should be restored if Light and Power will remove the tree. Jahnke was unsure of any legal agreements or contracts as far as the City maintaining property. Mundt believed this would be a reasonable thing to do after the property owner has had the expense of maintaining and cleaning up after the trees for so many years. The homeowner should not be burdened with the cost of removing a stump, even if it is at a discounted price.

Jahnke noted there have been law suits against utilities for not maintaining their lines. Richards stated the board is struggling with this and will make a determination, which will be available for review.

Commissioner Berry questioned if Light and Power would replace the tree with another in a different location. Richards knew of no other utility who did this. It would greatly increase the

cost of line clearance.

Pasquale stated he would inform the City Council that a proposed policy will be forwarded by the Lowell Light and Power Board. If the Council wishes, the Commission will then review. The Commission's preference regarding restoration includes stump removal wherever possible. Jahnke suggested anyone contracted to remove a tree, dig up a sewer line or anything else which will disturb or diminish the right of ways appearance or effectiveness should remove the stumps regardless of who the agency is. By general consensus, the Commission agreed.

Shores did not want the Commission to take action on this issue until Lowell Light and Power has completed the review of their policy. She recommended worksessions be resumed with Light and Power.

F. Master Plan Update. Jim Breukman of McKenna Associates presented the following to the Commission:

- Maps
- Goals and Objectives from the current Master Plan
- Existing Conditions section of the Master Plan Update

Breukman referred to the survey. This is the next step in the process. The survey is six pages in length.

The Commissioners discussed suggested changes to the survey. Pasquale indicated a revised survey will be presented during the August 28, 2006 meeting. Any other changes need to be given to him as soon as possible.

City Clerk Morlock stated in January, 1994 the Planning Commission sent the survey out to 583 residents. The minutes state "the Commission concurred that the 583 surveys with returned postage be mailed out to three designated neighborhoods be provided to encourage persons to participate". Morlock also believed it was advertised that individuals could pick a survey up at City Hall to complete. There was a 42 percent response.

By general consensus, the Commission agreed to send 600 surveys out to households. These will be mailed with a postage paid return stamp.

Item #5. **BUILDING INSPECTOR'S REPORT.** Commissioner LaPonsie commented on Tractor Supply. She was frustrated to see them using their products near the road as signs.

Item #6. **PUBLIC COMMENTS.** No comments were received.

Item #7. **COMMISSIONER COMMENTS.** Commissioner Hall believed there needed to be a tree

planting and removal ordinance. Also, the empty lot next to Fire Places Plus has trailers parked in it as well as a stove.

Commissioner Teelander commented on the individual with a trailer in their front yard on Washington as well as the abandoned jeep. City Clerk Morlock did not believe this was an abandoned vehicle.

Commissioner Doyle commented on the length of the Planning Commission meetings.

Commissioner Dimmick stated the gas station across from Huntington Bank is not very attractive. He indicated he would contact the owner regarding the mess.

IT WAS MOVED BY DIMMICK to adjourn at 9:41 p.m.

DATE:

APPROVED:

Clark K. Jahnke, Chairman

Betty R. Morlock, City Clerk