

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

For the Regular Meeting of the Planning-Citizen Advisory Commission on Monday, October 25, 2010, at 7:00 p.m.

Dave Cadwallader and Amy Hayes were sworn in as Planning Commissioners.

The Meeting was called to order at 7:00 p.m. by Chair Hall and City Clerk Betty Morlock called the Roll.

Present: Commissioners Dave Cadwallader, Don Green, Amy Hayes, Al Mathews, and Chair Jim Hall.

Absent: Commissioners Barb Brown and Maryalene LaPonsie.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, IMS Zoning Administrator Adam Lynema, Mayor Jim Hodges and Councilmember Jeff Altoft.

IT WAS MOVED BY MATHEWS and seconded by GREEN to excuse the absences of Commissioners Brown and LaPonsie.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

IT WAS MOVED BY GREEN and seconded by MATHEWS to approve the minutes of the regular meeting of September 27, 2010 as corrected.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

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

IT WAS MOVED BY MATHEWS and supported by CADWALLADER to approve the agenda as presented.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #2. **PUBLIC HEARING.**

- A. Outdoor Lighting Ordinance – Hearing comments. At the last meeting, the Commission, by consensus, had no further comments concerning a proposed outdoor lighting ordinance. It was then drafted into ordinance form and published. There has been a question regarding not meeting the required 15 day period of time for advertising the ordinance. However, comments can still be received.

Planner Jay Kilpatrick of Williams & Works stated the ordinance in front of the Planning Commissioners is consistent with the memo and report provided in the September, 2010 meeting. However, a new definition has been added to the ordinance defining a foot candle and adding standards for outdoor lighting to Section 4.24., General Provisions. This is a much less stringent version of an outdoor lighting ordinance than the one the City started to consider last Spring. Kilpatrick noted no information has been received from the sign industry. He believed it would be wise to extend and readvertise for a second hearing in November.

By general consensus, the Commission agreed to hold a second public hearing for the November 22, 2010 meeting.

Item #3. ANY OTHER BUSINESS/ON GOING BUSINESS.

- A. Review – draft zoning amendment on soft sided accessory structures. Jay Kilpatrick of Williams and Works referred the memo dated October 18, 2010 which included a draft amendment regarding soft sided accessory structures to Section 4.08 of the General Provisions. This is an amendment which would regulate the vinyl or canvass covered temporary accessory building. The Planning Commission has spent several months reviewing various alternatives ranging from no regulation to complete prohibition and/or finding standards which make sense. A compromise was suggested which would require the accessory building to match the principal structure to the greatest extent possible if it extends a minimum square footage. The current ordinance refers to this requirement for any building in excess of 600 square feet.

It was mentioned the City of Walker has a similar requirement, but with a minimum of 200 square feet. This was considered by the Planning Commission. However, it was suggested the square footage be lowered to 150 square feet. Anything 150 square feet or smaller would be unregulated, except to the standards regarding the placement of any accessory building. Any greater than 150 square feet would need to be compatible in terms of design, similar to the principal building with respect to exterior finish materials, color and overall design. This does however, exempt gazebos, pergolas, and any temporary structure erected by a business for not less than 180 days and structures for brief social events.

Also, language was added exempting the Industrial District. The reason for this is often one will find there may be a desire or requirement for outdoor storage. This is not uncommon in the Industrial District.

Commissioner Green questioned Item J4 and asked if this is normal language which will hold up legally. It stated buildings shall not detract from or undermine the character or quality of a neighborhood by appearing incongruous or transient. He questioned if this was subjective or objective. Kilpatrick responded this is a relatively subjective standard.

IT WAS MOVED BY MATHEWS and seconded by CADWALLADER to set a public hearing for November 22, 2010 for considering the zoning amendment on soft sided accessory structures.

YEA: 5. NAY: 0. ABSENT: 2. MOTION CARRIED.

- B. Report regarding outdoor wood-burning furnaces. Jay Kilpatrick of Williams & Works explained the Planning Commission had asked about regulating outdoor wood burners and whether or not the City would require standards. If the Zoning Ordinance does not permit or mention a particular use or regulation, by default it is prohibited. Such accessory uses are becoming more common. A background of what other communities do was provided.

These furnaces burn wood, wood pellets and corn being an alternative to fossil fuels. The furnaces can smoke and have odor problems which can be intrusive in a high density area. Often such furnaces will be seen in rural areas permitted on lots of a half acre or more. The other standard often seen in ordinances is a fairly significant isolation distance between a wood burner and neighboring properties.

The industry standard recommends, at a minimum, the stacks be higher than the surrounding residential roofs.

If the Commission is considering the idea of regulating the furnaces, the Commission must also consider whether it should be regulated in zoning at all. Anything which exists before zoning is in place is grandfathered in and can continue as long as it is maintained. The Planning Commission is however allowed to regulate outside of the zoning through a general law ordinance which can either be under a nuisance or a police power ordinance with the standards of health, safety and welfare. Clearly, a case could be made for regulatory compliance for wood burning furnaces under health, safety and welfare.

In many communities, the Planning Commission would not have a role in a general law ordinance. This would be a regulation the City Council would handle.

Kilpatrick believed it made sense to give the issue serious thought. It is best to get the standards in place, especially if the furnaces will be regulated under zoning. If not, many will be grandfathered. If the Commission is not interested in regulating the furnaces, Kilpatrick recommended defining these as accessory structures.

Commissioner Mathews noted he had one previously. It was an older one and belled smoke bad.

Both Mathews and Green suggested the issue be passed on to the Council to provide direction. Hall agreed and believed it should be considered part of the general law.

Pasquale explained this could be placed within the Zoning Ordinance or it could be under the general provisions of the Code of Ordinances. There are decisions to be made such as if the Commission wants it regulated.

Hall asked if a complete ban should be placed. Mathews believed such a furnace should only be allowed in the Suburban Residential District. He stated Councilmember Altoft has indicated the newer furnaces burn much cleaner.

Councilmember Altoft of 611 W. Main Street stated the EPA and the federal government has been working for the last five years on new rules and regulations for the outdoor wood stoves. The new stoves are smoke free and meet all the emission standards. Most cities require such wood stoves be placed at least 75 feet from the lot line. Pellet burners and corn stoves are 96% efficient with no emissions if burnt correctly.

Commissioner Hayes commented on the situation near her home where a family lived in the garage and used a wood burner for heat. She noted the situation was handled by the Lowell Police Department. Pasquale explained the police get involved when there is an ordinance violation.

Pasquale noted the issue can be forwarded to the City Council.

Item #4. **BUILDING INSPECTORS REPORT.** City Manager Pasquale explained The Building Inspectors Report for the new Commissioners.

Commissioner Mathews questioned 329 N. Jefferson and asked if IMS has received a response to the letter sent. IMS Zoning Administrator Adam Lynema responded the next step involves a 30 day waiting period. A certified letter is then sent stating they have 10 days to demolish the house or the City will do it themselves and place the cost on the tax bill.

Councilmember Green commented on the house removed at 420 Kent. There is a building there which has been determined to be a legal nonconforming lot. Also, there is a similar situation at 623 N. Jefferson. Green questioned if this was legal. Lynema responded IMS is still reviewing the situation.

Mathews questioned the procedure in having an old deteriorating steel shed removed from an individual's property. City Clerk Betty Morlock stated this would be handled as a police matter.

Item #5. **PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.** DPW Director Dan DesJarden asked if the proposed accessory building ordinance would affect all accessory buildings, including the wooden ones which can be bought and simply placed on the ground. There has been a concern regarding 200 to 600 square feet accessory buildings being built with compatible materials to the main structure. The ordinance states an accessory building less than 200 square feet needs a zoning permit. Anything over 200 square feet needs a building permit. From 200 to 600 square feet it does not state anything about being compatible to the main building. He believed it should remain at 200 square feet rather than 150 square feet. If this is changed, there will be many who are noncompliant.

Planner Jay Kilpatrick of Williams & Works noted single stall soft sided structures are typically two hundred or larger. He suggested wording "200 square feet based upon kit specifications".

Hall agreed with Kilpatrick's recommendation moving the square footage to 200 square feet. By general consensus, the Commission agreed.

Item #6. **COMMISSIONERS REMARKS**. Commissioner Hayes was excited to be part of the Planning Commission. She lives and owns two businesses within the City. It is a great place to live.

Commissioner Green welcomed the new Commissioners, noting they already have much background concerning the community.

Commissioner Mathews thanked the new Commissioners as well.

Commissioner Cadwallader was happy to be part of the Commission. He has lived in the City of Lowell 40 years.

IT WAS MOVED BY MATHEWS to adjourn at 7:45 p.m.

DATE:

APPROVED:

Jim Hall, Chair

Betty R. Morlock, City Clerk