

Planning and Zoning
Commission Meeting
May 10, 2018
7:00 PM
Meeting Minutes

Call to Order: Chairman Warner at 7:09 PM

Chairman Warner conducted roll call and it was determined that a quorum was present to conduct the business of the commission.

Roll Call: Chairman Warner

Commissioner Bennett- Absent

Commissioner Stowell- Present

Commissioner Ellsworth- Absent

Commissioner Sutherland- Present

Commissioner Warner- Present

Commissioner Wilder- Present

Commissioner- (Open)

Commissioner- (Open)

Chairman Warner Determined if there were any conflicts or "Ex Parte" communication related to the agenda items. There were no conflicts or "Ex Parte" communication.

Chairman Warner directed the commission to review the minutes from the April 12, 2018 Planning and Zoning Commission Meeting. After reviewing the minutes, Commissioner Sutherland made a motion to approve the meeting minutes as written. Commissioner Wilder seconded the motion. The vote was unanimous in the affirmative to adopt the minutes from the April 12, 2018 Planning and Zoning Commission Meeting.

Chairman Warner continued with the agenda, with Public Hearing #1-Request for Variance submitted by Doug Farnsworth D.B.A. Farnsworth Rentals. Chairman Warner started by asking Administrator Schwartz to present a staff report. Administrator Schwartz deferred presenting his report until after the applicant had presented. Chairman Warner agreed to this and called on Doug Farnsworth to come forward and give his presentation. Chairman Warner requested that the applicant state his name and address; Doug Farnsworth, 650 N. 3950 E.

Mr. Farnsworth began by handing out copies of his site plan and a map of the property in question. Mr. Farnsworth gave the commissioners a review of the location and previous site plan approved in 2013. Mr. Farnsworth stated he bought the lot with the intention of putting two buildings on the lot. Mr. Farnsworth stated he had appeared before the P/Z Commission in July of 2013 to seek a variance to reduce building setbacks. Mr. Farnsworth stated that the second building was not constructed due to concerns about the surrounding development of the subdivision, and that a decision to proceed with a second building was made after an agreement with Fox Townhomes and Bob Shippen pertaining to the cul-de-sac.

Chairman Warner asked if the cul-de-sac had been vacated and what the plan will be. Mr. Farnsworth stated that the cul-de-sac will be an access point to the Fox Townhomes development. Chairman Warner asked what happened to the extra land leftover from the cul-de-sac being vacated to Fox Townhomes. Mr. Farnsworth stated that 15 feet had been given to himself and Bob Shippen, who owns an adjacent lot. Mr. Farnsworth stated that at the present

time he wants to build a 3-plex instead of the original 4-plex due to cost differences. Mr. Farnsworth stated he came in to get a building permit, and Administrator Schwartz advised Mr. Farnsworth that the zoning code limits development to one building per lot. Mr. Farnsworth stated that he believed that the original approval of the site plan was sufficient and should count towards approval of the second building. Mr. Farnsworth stated he spoke with Mayor Richardson and Administrator Schwartz, and that the Mayor had spoken with legal counsel. Mr. Farnsworth stated that he was told by the mayor that he could build the original 4-plex but would need approval to build the 3-plex.

Chairman Warner asked Mr. Farnsworth if the 3-plex faces the abandoned cul-de-sac, or the access road to Fox Townhomes. Mr. Farnsworth stated that this was correct, and that he wanted to take advantage of the sunlight facing south. Chairman Warner asked if the original plan showed the other 4-plex would face Pleasant Country Lane, and why the applicant is not going forward with the 4-plex plan. Mr. Farnsworth stated that cost is the reason. Mr. Farnsworth stated that he believes the new 3-plex plan satisfies current zoning code. Commissioner Sutherland asked if there would be access from the rear of the 3-plex to the parking spaces, or if the tenants would have to walk around the building. Mr. Farnsworth stated that tenants would have to walk around the building to access their units. Discussion continued about the parking spaces, and the property in general. Commissioner Wilder asked if the Fox Townhomes site plan was available for review, and it was given.

Chairman Warner suggested the time be turned over to Administrator Schwartz for the staff report. Administrator Schwartz introduced himself at the podium; Tyson Schwartz, P/Z Administrator for the City of Rigby, 165 S. Reynolds, Dubois, ID. Admin. Schwartz directed commissioners to their copy of the staff report. Admin. Schwartz began by giving a brief summary of the history of the variance application, the property, the variance granted in 2013, and relevant zoning code.

Admin. Schwartz continued by reviewing the requirements needed to grant a variance, and the position of the City of Rigby Planning/Zoning Department. Admin. Schwartz read each requirement, and how the city zoning code relates to the application. Admin. Schwartz stated that strict interpretation of the R-2 Zoning Code does not create unnecessary hardship. Admin. Schwartz stated that the current condition on the property was created by the applicant with the variance obtained in 2013.

Admin. Schwartz stated that any new development of multi-family housing in the district is held to the same standards. Admin. Schwartz also stated the applicant would be given a special privilege in getting permission to add a second building after code has changed.

Schwartz concluded that the present condition was created by the actions of the applicant, not a result of the lay of the land. Schwartz stated that granting the variance to allow the second building would create a precedent on which other developers might rely to build additional buildings on properties they own. Schwartz advised the commissioners to consider that if a variance of this type is granted, this could weaken the ability of the city to enforce zoning code.

Chairman Warner asked Schwartz to remain at the podium for questions. Chairman Warner asked if based on the report if a variance could be considered. Admin. Schwartz stated that the report is cautionary. Schwartz stated that the commission is the decision-making body, and that Admin. Schwartz is an advisor. Chairman Warner asked if the commission can in fact grant a variance, but that Admin. Schwartz would advise against it based on findings in the ordinance. Admin. Schwartz stated that this was true. Chairman Warner asked Admin. Schwartz if landowners were notified of the change in code if they had building plans in the works. Admin. Schwartz stated that zoning permits expire after one year, and to his knowledge no written notice was given of its expiration or if any notice of ordinance change was given.

Chairman Warner stated that the Farnsworth's bought the property with the desire to build two buildings and clarified that the commission is considering the plan to build a 3-plex on the property. Chairman Warner thanked Admin. Schwartz for his report and asked the other commissioners if they had any questions for Schwartz. Commissioner Sutherland stated that Farnsworth is in a dilemma because of the change of code, and that he likes the layout of the 3-plex plan but does not want to set a precedent. Commissioner Wilder stated that explained that the plan is examined based on the comprehensive plan and how it fits in the neighborhood. Chairman Warner asked if Admin. Schwartz had anything else, and Schwartz added that the length of the parking spaces at the rear need to be expanded to meet code requirements and explained the parking requirements for R-2 zoning code.

Chairman Warner turned the time over for public comments, and called on Rand Robison, who had signed in to testify in support of the applicant. Mr. Robison owns property in the same area. Mr. Robison stated that this proposed 3-plex will not backfire on the city.

Chairman Warner called on Bo Porter to come to the podium, who signed in and was listed as against the proposed variance. Mr. Porter stated he owns the cul-de-sac and is developing the Fox Townhomes. Mr. Porter stated that he is not against the 3-plex, or the access from the cul-de-sac. Mr. Porter stated he is concerned about setting a precedent with a decision on the variance. Mr. Porter discussed his concerns with parking and green space. Mr. Porter suggested that Mr. Farnsworth divide the lot and that could solve many of the issues. Mr. Porter stated he is not against the 3-plex but supports the idea of splitting the lot. Mr. Porter asked if there were any questions. Commissioner Sutherland asked if Mr. Porter was saying he would support a 2-plex, but it was clarified that Mr. Porter is saying he supports 2 lots. Chairman Warner asked if the lot were split, would the commission be considering the issues of parking and green space. Mr. Porter stated that he believes these issues could be solved through splitting the lot. Chairman Warner asked Mr. Porter if Fox Investments is against the design and style of the 3-plex. Mr. Porter stated that he does not oppose it, just the precedent.

Chairman Warner closed the public comment portion of the meeting and gave Mr. Farnsworth an opportunity for rebuttal. Mr. Farnsworth stated that he agrees with Bo, and that variances should not be given lightly, and it makes it hard on the administrator to enforce the rules. Mr. Farnsworth stated that he believes he is "grandfathered in" and can build, according to his conversations with the mayor. Mr. Farnsworth asked Admin. Schwartz if that was the correct recollection of the meeting with the mayor. Admin. Schwartz replied that his understanding of the meeting that the previous zoning permit had expired, but not been revoked in writing, hence

the mayor's conversation with the city attorney. Mr. Farnsworth stated that the mayor told him in another conversation that he could build a 4-plex. Mr. Farnsworth stated that he bought the lot under the assumption that he could build 2 buildings on it, and that they have hassled with the unknown future of the cul-de-sac and the subdivision development since they purchased the land. Mr. Farnsworth stated that they waited on building the second building due to development and utility issues that were present on the lot when they originally built the first building. Mr. Farnsworth stated that he did not want to split the lot and saw no reason to split the lot. Chairman Warner asked how many buildings are on each lot in the area. Mr. Farnsworth stated he believes there are 2 buildings on one lot in the area. Chairman Warner asked if Mr. Farnsworth has considered the implications in the future if the property needs to be sold, and that he would have to sell both buildings on the lot. Mr. Farnsworth stated that this has been considered. Discussion continued about the prior ordinance and parking spaces.

Chairman Warner stated he does not believe in precedent, and that these decisions are based on their own merits and on a case-by-case basis. Chairman Warner does not consider the decisions rendered by the commission are setting precedent. Chairman Warner stated that variances have been granted for years for reasons that satisfy the purposes of the zoning regulations of the city. Chairman Warner stated that Mr. Farnsworth bought the lot with the intention of building 2 buildings and times have changed, and the future of the cul-de-sac was not decided until Fox Investments came in to develop their lot. Commissioner Stowell stated that the minutes from July 2013 P/Z meeting are helpful and understands the level of uncertainty at the time. Commissioner Sutherland stated that he does not see problems with the proposal, and he likes the layout. Commissioner Sutherland asked if the 3-plex would create problems with Fox Townhomes. Mr. Porter stated he has no problem with the second building itself but believes that a variance creates more issues rather than splitting the lot. Discussion continued about green space and parking, and whether or not any additional variances would need to be granted. Admin. Schwartz stated that if the variance in question was granted, he would need to work with Mr. Farnsworth to make sure requirements would be satisfied. Discussion continued about splitting the lot versus a variance, parking space size, and parking code.

Chairman Warner stated he would entertain a motion. Commissioner Wilder asked if parking is allowed in the rear setback area. Admin. Schwartz stated that the rear setback can be used for parking. Commissioner Wilder stated he likes the layout but would like to see the lot split. Mr. Farnsworth approached the podium at the request of Chairman Warner. Mr. Farnsworth stated he was not interested in splitting the lot when the idea was brought up in a meeting with the mayor and Admin. Schwartz, and that if he knew everything was hinging on a lot split, he would have done that. Discussion continued about parking spaces and green space. Admin. Schwartz stated that the variance under review is for allowing a second building, and all other code requirements must be standard. Mr. Farnsworth asked if all the problems would be solved if the lot was split. The consensus was that it would solve problems. Chairman Warner reviewed the variance application and stated that he does not see a requirement for separate variances. Discussion continued about the concern of setting precedent. Chairman Warner stated again that a motion needed to be made in order to approve or deny the variance.

Commissioner Sutherland made a motion to approve the variance. Chairman Warner stated that it has been moved that the commission approve the variance as it has been applied for and as it

has been discussed. Commissioner Stowell seconded the motion. No discussion was made, and Chairman Warner called for a roll call vote;

Commissioner Stowell- Aye

Commissioner Sutherland- Aye

Commissioner Wilder- Aye

Chairman Warner- Aye

Motion carries. Chairman Warner thanked the applicant and audience members and excused anyone who wished to leave the meeting.

Chairman Warner continued with the next agenda item; Public Hearing #2- Request for Variance submitted by Taylor Rock LLC and the Pediatric Center. Chairman Warner turned the time over to the applicant to present his materials. The applicant approached the podium and stated his name and title; Eric Grevat, administrator at the Pediatric Center and majority owner of Taylor Rock LLC, 3430 Washington Parkway, Idaho Falls, ID 83404.

Mr. Grevat continued with his application by giving background information on the property at 530 Rigby Lake Drive. Mr. Grevat stated that he understands the need for variance because the proposed sign exceeds the height and sign area limits. Mr. Grevat stated that the proposed sign would sit, in effect, a hole created by the buildup of Highway 20, and that the extra height would only be needed to make the sign comparable to other signs in the district, and that the extra sign area would be for adding the name of an additional tenant in the building.

Chairman Warner asked Admin. Schwartz to give the staff report. Admin. Schwartz gave background information about the application for variance, and that the applicant was following city code in applying for the variance. Admin. Schwartz stated that he had consulted with Nathan Douglass at the Idaho Transportation Department about the proposed sign, and that there will not be any issues with the state, and that ITD does not see it as a hazard for the traveling public on Highway 20. Admin. Schwartz reviewed the sign code with the commission, and that the sign meets all other zoning code requirements except for what is being considered in the variance. Chairman Warner clarified that the sign exceeds the limit by 10 feet and exceeds sign area limits by 2 square feet. Admin. Schwartz concluded by saying the sign meets all other code requirements and will not be an issue for ITD. Chairman Warner asked if adjacent property owners were notified. Admin. Schwartz stated that owners within 300 feet were notified, as well as service provider Rocky Mountain Power. No objections were ever made.

There were no individuals signed in to testify. No support made for or against, and no response from property owners. Chairman Warner stated that there could be discussion on the matter or that he would entertain a motion. Commissioner Wilder made a motion to approve the variance. Commissioner Sutherland seconded the motion. The vote was unanimous in the affirmative to approve the variance. Chairman Warner noted that the next regular meeting will be June 14, 2018 at 7:00 pm.

Chairman Warner adjourned the meeting at approximately 9:00 pm.

U Project - Chairman Warner

Paul Schotes - Attest, ~~Tyson Schwartz~~, P/Z Administrator

Dated 6/14/18