

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

PLANNING COMMISSION MINUTES

March 29, 2005

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, March 29, 2005 at 7:00 p.m., in the Clearwater City Council Chamber, City Hall at 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: George Rudy, Don Berntsen, LaDonna Lawrenz, Doug Sharp, and Lonnie Stieben. Jerry Bolin and Aaron Tjaden were absent. The following City staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; and Janet Amerine, City Attorney.

1. Approval of Minutes of the Meeting of March 1, 2005

MOTION: The motion to approve the minutes with corrections was made by Lawrenz, seconded by Berntsen and passed unanimously.

City Clerk Wright stated that the Zoning Variance Hearing was scheduled for March 29, 2005; therefore, the regularly scheduled Planning Commission meeting was changed from April 5th to March 29, 2005

2. Zoning Appeal – Eric Mize

City Administrator Brown reported that Eric & Kelly Mize, 321 Kimberly Ct., have submitted a request for a zoning variance from Sec. 27.3.E stating that the total of all accessory structures in “RL” shall not exceed 900 square feet. Brown stated that the Mize’s have submitted the proper paperwork and the notice of the Public Hearing has been published in the Times-Sentinel. Eric Mize addressed the Council stating that he wants to construct a shallow pool in his backyard. The pool will not have a diving board or a slide. The pool is constructed with a shallow portion on each end and the deep portion of the pool in the middle. Mize continued to state that he has a wood privacy fence around his backyard and after construction most people driving past his house would not even be able to see that there is a pool in the backyard. Brown stated that Mize has a detached 768 square foot garage and the pool would be 392 square feet making the accessory structures 260 square feet in excess of the allowed 900 square feet. Brown also stated that Mize has the largest lot in the cul-de-sac with no utility easement on the property. Doug Sharp stated that he was not aware that a pool is an accessory structure. Brown stated that it is a structure down instead of a structure up. Brown stated that one of the findings of the Appeals Board is uniqueness.

This is a large parcel of property and the construction of the pool would not adversely affect the other property owners. City Clerk Wright stated that all the property owners within a 200 foot area were notified and there is no one in the audience and the Clerk has not received any phone calls. The Commission discussed with John Riggs the 30 percent of lot coverage rule even though it is not part of the new Zoning Ordinance. City Attorney Amerine reminded the Board that they must make a finding on each of the requirements that have to be met before the Board may grant a variance. On the finding of Uniqueness, the Board stated that Mize has a very large lot and the accessory building coverage even though it is over the allowed 900 square feet, is less than 30% of lot coverage. On the finding of Adjacent Property, the Board stated that the neighbors were notified and no one called or are attending the Zoning Hearing. On the finding of Hardship, the Board stated that Mize has already moved irrigation lines and there would be a lot of work wasted by the homeowner. On the finding of Public Interest, the Board stated that granting of the variance would not adversely affect the public health, safety, morals, or general welfare and will not violate the spirit and intent of the Zoning Ordinance.

MOTION: Don Berntsen made a motion to grant the Zoning Appeal presented by Eric and Kelly Mize to be over the 900 square feet allowed of accessory structures in “RL” zone. The motion was seconded by Doug Sharp and passed on a roll call vote of 5 to 0.

The Planning Commission discussed various portions of the previous Zoning Appeal Hearing. John Riggs stated that the central issue of the case is the 900 square feet of accessory structure and even though 30% of lot coverage is not written into the law, it is one of the good judgmental factors in appeal determination. Riggs reviewed some examples from other cities regarding how the 30% of lot coverage has worked well. Riggs stated that the perfect Zoning Ordinance is yet to be written and there will always be variance requests. Riggs discussed with the members of the Planning Commission that there must be a “Finding of Fact” on each requirement and it must be an accurate part of the record as the Board of Zoning Appeals is acting as a low court.

3. John Riggs – Subdivision Regulations

John Riggs distributed a package containing the Subdivision Regulations for the Planning Commission to review. Riggs stated that zoning controls the height and size of buildings and the density of development on the land. Once the zoning tells you how and what you can do on land, subdivision regulations define the quality parameters and tell you how it has to be platted. It has design standards how raw land is developed into lots and blocks. Riggs explained that the subdivision regulations are adopted as an ordinance of the City not as a regulation of the Planning Commission. Riggs continued to explain that prior to filing a sketch plan the sub-divider shall contact the City to determine the availability of public utility systems, zoning requirements, subdivision requirements, and special

requirements for streets. The next step is to present a sketch plan in order to receive pre-plat comments of the Planning Commission. After the sketch plan the next step is a preliminary plat and must be filed at least twenty (20) days prior to the next regular meeting of the Planning Commission. The Governing Body determines the filing fee for the preliminary and final plat. Approval of the preliminary plat shall be considered permission to submit the final plat to the Planning Commission. The final plat shall be filed within twelve (12) months of the date of approval of the preliminary plat. The Planning Commission recommends the final plat to the Council and the Governing Body gives final approval. Riggs referenced the section that for certain small tracts, the Planning Commission may approve an abbreviated platting process not requiring submittal of either a sketch plan or a preliminary plat. Riggs continued to review the entire package on Subdivision Regulations, timelines, minimum standards for streets and alleys, subdivision design, dedication of public sites and open spaces, required improvements, lot split procedure, and various other items. The Commission discussed briefly the difference between a required lot split and the selling of a portion of a lot. Riggs stated that a single lot is not required to have a plat. Riggs stated that completes the Subdivision Regulations and that he is still waiting for information to complete the Community Facilities portion of the Comprehensive Plan.

4. Other Matters and Concerns

There were no additional matters and concerns to come before the Planning Commission.

5. Adjournment

With there being no further business to come before the Commission, Sharp made a motion to adjourn the meeting. The motion was seconded by Stieben and passed unanimously.

CERTIFICATE

State of Kansas }
 County of Sedgwick }
 City of Clearwater }

I, Cheryl Wright, City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the March 29, 2005 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 3rd day of May 2005.

 Cheryl S. Wright, City Clerk