

**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**

**PLANNING COMMISSION MEETING**

**MINUTES**

**APRIL 17, 2012**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, April 17, 2012, at 7:00 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Mike Machart, Ryan Shackelford, Mike Cass, Billy Lane and Shawna Perry. George Rudy was absent. The following City staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; and Janet Amerine, City Attorney. The following citizens were present: Steve Feuerborn and Tabatha Finney.

---

The City Clerk took roll. The following members were present: Billy Lane, Mike Cass, and Mike Machart. Since there was not a quorum initially, the Planning Commission took testimony from the property owner at 152 S. Gorin.

**1. Public Hearing For Zoning Variance Request To Encroach on Set Back On Kansas Avenue – 151 S. Gorin**

City Clerk Liza Donabauer stated that she received a call from Larry Schauf. He and his wife, Carol, are the title owners of the rental property at 201 S. Tracy. Mr. Schauf stated that he and his wife do not have any objection to the proposed encroachment on Kansas Avenue. The new home would replace the existing home, which would be for the betterment of the community and the immediate neighborhood.

City Administrator Kent Brown stated that the property owner wants to encroach on the setbacks of the corner lot. Their property consists of four lots, which has a total width of 100'. The road right-of-way on Kansas Avenue is 75 ½' and the set back is 25' on Kansas and Gorin Avenues. The depth of the lot is 125'. Gorin has an 80' right-of-way. Normally newer residential streets have 60' right-of-ways. The current home and garage have smaller dimensions. The current house is 30 feet by 30 ½ feet. City Administrator Brown stated that the property owner wants to tear down the current house and put a new house in its place.

Brown produced a drawing on the white board of the proposed new building location. He explained that the property owner would have a buildable area of 62 ½ feet inside the setback from north to south. From east to west, the property owner would have 90 feet of buildable area. The garage is encroaching on the side property line. The east side of the garage is 48 feet from Gorin Avenue and is approximately four feet from the side property line.

The property owners explained that the foundation of the new home would be 54 feet by 30 feet. They do not plan to use the existing foundation for the new structure. They will pour concrete footers for the modular home.

The following problems were presented as part of the testimony: 1) The existing

cellar basement is not usable and limits where the property owner can place the new home. 2) The existing driveway limits the placement of the new home. 3) Drainage issues at the rear of the property also limits the placement of the new home. 4) There is an existing garage structure on the property that cannot be moved without causing additional problems.

Kent Brown, City Administrator, stated that the new structure would at a minimum encroach three feet into the setback on Kansas Avenue and seven feet into the setback on Gorin Avenue. If six feet were added to allow a gate between the current garage and the new house, the new house would encroach nine feet into the setback for Kansas Avenue.

The City Clerk took a picture of the white board drawing to be included as part of the record.

The property owner stated that the electrical contractor would bury the electrical conduit under the alley. They also propose to do dirt work to create better drainage. The homeowners requested permission to encroach no more than nine feet on Kansas Avenue.

The group conducted a site visit to get a feel for the footprint of the new home and how it could potentially encroach on Gorin and Kansas Avenues.

**The meeting recessed at 8:07 p.m. until 7:00 p.m. on Thursday, April 19<sup>th</sup>.**

**2. Resume Hearing on Variance Request at 151 S. Gorin Avenue**

On Thursday, April 19th at 7 p.m., the following board members were present: Mike Machart, Ryan Shackelford, Mike Cass, Billy Lane and Shawna Perry. George Rudy was absent. City Attorney Janet Amerine and City Administrator Kent Brown were also present. The property owners, Steve Feuerborn and Tabatha Finney were present.

City Administrator Brown reviewed the variance request and the drawing on the whiteboard for the board. At 7:15 p.m., acting chairperson Machart closed the public hearing and stated that the Commission would follow the agenda as presented. The decision on the variance request would be after the approval of the minutes.

**3. Approval of the Minutes of the Regular Meeting of March 6, 2012**

**MOTION:** The motion to approve the minutes was made by Ryan Shackelford and seconded by Mike Cass. The motion passed unanimously.

**4. Decision on Variance Request to Encroach on Setback – 151 S. Gorin Av.**

City Attorney Amerine requested that the Commission review each of the five statutory conditions:

A. Uniqueness “That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner of the applicant”

The Commission discussed the issue of drainage that prevents the building from being built in a different location on the property without additional measures taken. The Commission approved in a 5-0 vote that the request is unique to the property in question.

B. Adjacent Property “That the granting of the permit for the variance will not

adversely affect the rights of adjacent property owners or residents.”

The Commission discussed whether the request, if approved, would affect any of the neighboring properties. The consensus was that the new building would be in line with all of the other properties. The building would not be noticeably different from any of the other properties in the neighborhood. A site visit was conducted on 4-17-12 and the consensus was that the new building would not adversely affect the rights of adjacent property owners. The Commission on a 5-0 vote supported the statement that the granting of the permit for the variance would not adversely affect the rights of the adjacent property owners or residents.

C. Hardship “That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.”

The Commission discussed the expense it would take to place the new building in a different location on the lot. Discussion included drainage concerns, the probability of tearing down other structures on the property, and the possibility of limiting the building to a smaller house. After discussion, the Commission voted 5-0 to support the statement that the strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner.

D. Public Interest “That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.”

The Commission voted 5-0 to support the statement regarding public interest. The consensus was that the new house would help the neighborhood.

E. General Spirit/Intent “That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.”

The Commission voted 5-0 to support the statement regarding the general spirit/intent of the zoning regulations. The request, if granted, would not exceed encroaching more than half of the setback.

**MOTION:** Billy Lane moved, seconded by Ryan Shackelford, to approve the variance request as all five statutory conditions have been met. The new building must not encroach more than nine (9) feet into the front yard setback along Kansas Avenue and no more than five (5) feet into the front yard setback along Gorin Avenue. In addition, the Planning Commission requires that the attached front porch facing Gorin Avenue must not be larger than six (6) feet by ten (10) feet. The motion approved with a vote of 5 to 0.

## 5. Amended Subdivision Regulations

No action taken.

**6. Other Matters or Concerns**

City Administrator Brown reviewed the workshop request from the MAPC to discuss the merits of reducing the size of the zoning areas of influence. MAPC Commissioner M.S. Mitchell has stated that small cities control development applications for too much of the land in Sedgwick County outside their city limits. The recommendation is to reduce the area of influence from 3 miles to 1 mile. Brown reviewed the negative implications of such a change including the chance for the case to be heard locally, for the public to be notified in a timely manner, and the loss of input from the local planning commission on any applications beyond one mile.

Chairman Machart asked why the Planning Checklist was distributed in the packet. Brown explained that stated that the Commission has several new members. Planning consultant, John Riggs, provided the checklist when he was working with the Commission on the development of the comprehensive plan, zoning ordinances, and subdivision regulations. Brown stated it was a good reference to use when reviewing the roles of the Planning Commission.

**7. Adjournment**

**MOTION:** With there being no further business to come before the Commission, Mike Cass made a motion to adjourn the meeting. The motion was seconded by Shawna Perry and passed unanimously.

Meeting adjourned at 8:00 p.m.

**CERTIFICATE**

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

I, Liza Donabauer, 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 April 17, 2012 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 15th day of May, 2012.

\_\_\_\_\_  
Liza Donabauer, City Clerk