

CITY of YANKTON
PLANNING COMMISSION MEETING MINUTES
for
Tuesday, February 13th, 2018

The meeting was called to order at 5:31 p.m. by Vice Chairman Wenande

ROLL CALL:

Present – Deb Specht, Mike Healy, Lynn Peterson, Marc Mooney, Bruce Viau, Jon Economy, Dr. Scott Schindler, Brad Wenande, ETJ Member Michael Welch, City Commission Liaison Dave Carda

Unable to attend: Chairman Pier

Vice Chairman Wenande called for approval of the January 8th, 2018 meeting minutes.

18-05 **MINUTES** – January 8th, 2018

MOTION – It was moved by Commissioner Shindler and seconded by Commissioner Economy to approve the minutes from January 8th, 2018.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

Vice -Chairman Wenande stated there were no consent items.

Vice-Chairman Wenande moved on to Old Business to discuss the Public hearing to consider amendments to the City of Yankton Code of Ordinances allowing the City Manager to appoint staff support for the Planning Commission, changing the annual reorganization from May to June and allowing the Chairman of the Planning Commission to determine a meeting is not necessary if there are no requests for action to be considered. Dave Mingo spoke on this subject and stated this is more of a “housekeeping situation and didn’t foresee any issues.

18-06 **MOTION** – It was moved by Commissioner Mooney and seconded by Commissioner

Healy to recommend approval of the amendments to the City of Yankton Code of Ordinances allowing the City Manager to appoint staff support for the Planning Commission, changing the annual reorganization from May to June and allowing the Chairman of the Planning Commission to determine a meeting is not necessary if there are no requests for action to be considered.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

Vice Chairman Wenande moved on to New Business to discuss the consideration of a variance from the rear yard setback and lot coverage requirements in an R-3 two-family residential district on the South 67 feet of Lot 2, Block 10, Willow Ridge Subdivision in the City of Yankton, South Dakota. Address, 2831 Mary Street. Darwin Tessier, owner.

Dave Mingo provided background on the subject and thanked Darwin Tessier for his cooperation with the matter. Mr. Mingo reminded members present at the meeting that

this is a quasi-judicial matter so the appropriate protocols such as avoiding ex-parte communication are in place. Mr. Mingo continued stating the proposal constitutes two variance requests. Enclosing the deck would by definition change it from a deck to a house addition which would encroach in the rear yard setback and make the structure coverage of the property exceed the maximum allowed in the zoning district. Therefore, the two issues are:

1. The proposal would establish the addition at 18 feet from the rear lot line. The required rear yard setback in the district is 25 feet
2. The proposal would create a situation where the maximum lot coverage on the site is exceeded. Although the amount is minimal, it would cover 35.9 percent of the lot. The coverage allowed is 35 percent.

Mr. Mingo discussed the purposed defined in city ordinance and South Dakota Codified Law for granting a variance. In both instances the defined purpose for granting a variance is a hardship approaching confiscation of the use of property as opposed from granting a special privilege to an individual property owner. Mr. Mingo stated that this instance is not a hardship by definition and therefore is a request from the applicant for a special privilege. Based on this, staff recommends that the proposed variance be denied.

Darwin Tessier addressed the commission and his wife circulated photos of the proposed project. Mr. Tessier thanked Mr. Mingo and the city staff for their assistance with this effort; and thanked the Commission for their role in public service. Mr. Tessier continued by pointing out how beautiful the current deck is and how unfortunate it is that he and his wife cannot use it due to some weather conditions, insects and varmints. Mr. Tessier sited current Homeowner's Association's laws for additions, which the current project abides by. Additionally, members of the Association's Architectural Design Committee also attended meeting in a show of support for Mr. Tessier's proposed project. Leah Smith from the committee stated that they supported the variance and that others would not have spent the money to do as nice of a project as the Tessiers did.

Commissioner Mooney asked for clarity regarding proof of hardship. Mr. Tessier re-stated that due to a childhood illness (caused by an insect bite) he and his wife were terrified of weather, insects and varmints, thus not allowing them to use the current deck.

Commissioner Economy asked why they didn't put windows in when the deck was originally constructed. Mr. Mingo said the permits in place are for an open deck with roof or shade feature. Commissioner Economy stated his concern about setting a precedence for future variance requests. Dave Mingo spoke, in reference, to using the word "precedence", as there was a time in Yankton's past when there were multiple variance requests per meeting and are each considered individually. That was not productive or responsible. The ordinance was re-written allowing certain things described in many variance requests and holding the line on others.

Commissioner Healy asked about the property to the west of the Tessier's and whether or not it was developed or for sale. Mr. Tessier confirmed that the lots were not yet developed, but purchasing one to accommodate the variance request wasn't an option at this time.

Dave Mingo stated that in unique situations, variances can be granted for hardships, but that it's a case-by-case and often a complex situation. He stated that it is his recommendation that we continue only granting variances for hardships by definition and this instance is not a hardship.

18-07 **MOTION** – It was moved by Commissioner Economy and seconded by Commissioner Viau to deny the variance request from the rear yard setback and lot coverage requirements in an R-3 two-family residential district on the South 67 feet of Lot 2, Block 10, Willow Ridge Subdivision in the City of Yankton, South Dakota. Address, 2831 Mary Street. Darwin Tessier, owner.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: Zoning Board of Adjustment sets March 12, 2018 as the date for a public hearing to consider the variance.

March 12, 2018: Zoning Board of Adjustment hears testimony and makes final decision. Granting of a variance requires a vote of at least two-thirds of the Board.

Vice Chairman Wenande continued on to discuss the Plat review of Lots 1A, IB, 2A, & 2B of Block 2 of Westbrook Estates Addition to the City of Yankton, Yankton County, South Dakota. Address, 2520, 2522, 2524 and 2526 Dorian Drive. KN Construction, Inc., owner.

All adjacent public infrastructure is accounted for. Of primary focus in this type of plat review is the design of the utility connections. Each unit will have a separate water and sanitary sewer connection which meets City requirements related to this type of subdivision.

Dave Mingo stated that staff recommends approval of all 3 Westbrook plats. They are duplex and four-plex lot plats supported by the original subdivision approval.

18-08 **MOTION** – It was moved by Commissioner Schindler and seconded by Commissioner Viau to approve the plat review of Lots 1A, IB, 2A, & 2B of Block 2 of Westbrook Estates Addition to the City of Yankton, Yankton County, South Dakota. Address, 2520, 2522, 2524 and 2526 Dorian Drive.

VOTE – Voting “Aye” – Economy, Schindler, Viau, Healy, Peterson, Money and Wenande. Voting “Nay” – none. Abstaining - Specht

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: City Commission reviews the plat and takes action.

Vice Chairman Wenande continued on to discuss the plat review of Lots 3A, 3B, 4A, & 4B of Block 3 of Westbrook Estates Addition to the City of Yankton, Yankton County,

South Dakota. Address, 2513, 2515, 2517 and 2519 Dorian Drive. KN Construction, Inc., owner.

18-09 **MOTION** – It was moved by Commissioner Mooney and seconded by Commissioner Peterson to approve the plat review of Lots 1A, 1B, 2A, & 2B of Block 2 of Westbrook Estates Addition to the City of Yankton, Yankton County, South Dakota. Address, 2520, 2522, 2524 and 2526 Dorian Drive.

VOTE – Voting “Aye” – Economy, Shindler, Viau, Healy, Peterson, Money and Wenande. Voting “Nay” – none. Abstaining - Specht.

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: City Commission reviews the plat and takes action.

Vice Chairman Wenande continued on to discuss the plat review of Lots 1A, 1B, 1C, 1D, 2A, 2B, 2C, 2D, 4A, 4B, 4C, & 4D of Block 5 of Westbrook Estates Addition to the City of Yankton, Yankton County, South Dakota. Address, 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1501, 1503, 1505, and 1507 w• 25~” Street. KN Construction, Inc., owner

18-10 **MOTION** – It was moved by Commissioner Economy and seconded by Commissioner Schindler to approve the plat review of Lots 1A, 1B, 1C, 1D, 2A, 2B, 2C, 2D, 4A, 4B, 4C, & 4D of Block 5 of Westbrook Estates Addition to the City of Yankton, Yankton County, South Dakota. Address, 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1501, 1503, 1505, and 1507 w• 25~” Street.

VOTE – Voting “Aye” – Economy, Shindler, Viau, Healy, Peterson, Money and Wenande. Voting “Nay” – none. Abstaining - Specht

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: City Commission reviews the plat and takes action.

Vice Chairman Wenande continued on to discuss the plat review of Applied Engineering Subdivision in the SE 1 4 of the SE 1 4 of Section 8, T93N, R56W of the 5th P.M., Yankton County, South Dakota. Address, 2808 SD Hwy 50. Applied Engineering, Inc., owner.

Commissioner Economy asked if this was a plan to clean up the lot. Dave Mingo responded that the attached plat takes three lots and combines them into one. Applied Engineering is requesting this plat to consolidate their property in preparation of adding on to their plant. All adjacent public infrastructure is accounted for. They will not get any additional access to Highway 50. They have requested, and will be granted an additional access to Bill Bagg’s Road if this plat is approved. There are no right-of-way dedication

requirements associated with this plat. Mr. Mingo stated that staff recommends approval of the proposed plat.

- 18-11 **MOTION** – It was moved by Commissioner Specht and seconded by Commissioner Peterson to approve the plat review of Applied Engineering Subdivision in the SE 1 4 of the SE 1 4 of Section 8, T93N, R56W of the 5th P.M., Yankton County, South Dakota. Address, 2808 SD Hwy 50.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: City Commission reviews the plat and takes action.

Vice Chairman Wenande continued on to discuss the plat review of Lot 3, in Lewis and Clark Business Center, in the South 645 Feet Except for Lot H2, of the N. 1 2 of the N.E. 1 4, Section 16, T93N, R56W of the 5th P.M., Yankton County, South Dakota. Address, North Side of the 3800 Block of W. 8th Street. T.J. Land, Inc., owner.

Mr. Mingo explained that the location of the proposed parcel is within the City’s three mile plating jurisdiction which allows the City to require the dedication of right-of-way along the extension of the planned street grid. The proposed plat is located in a previously approved subdivision with dedicated ROW and easements serving as the primary access to the development. The previous right-of-way dedications meet the requirements of the City’s review process for the location. The proposal will be subject to county platting and land use approval requirements as it forward through that process.

Dave Mingo stated that staff recommends approval of the proposed plat.

- 18-12 **MOTION** – It was moved by Commissioner Peterson and seconded by Commissioner Economy to approve the Plat review of Lot 3, in Lewis and Clark Business Center, in the South 645 Feet Except for Lot H2, of the N. 1 2 of the N.E. 1 4, Section 16, T93N, R56W of the 5th P.M., Yankton County, South Dakota. Address, North Side of the 3800 Block of W. 8th Street.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

The topic moves on to the following schedule:

HEARING SCHEDULE:

February 26, 2018: City Commission reviews the plat and takes action.

Vice Chairman Wenande moved on to discuss the January 2018 Building Report. The total valuation for January 2018 was \$1,065,440.00 which is significantly higher than January 2017 which was \$612,749.00.

Vice Chairman Wenande moved on to discuss Planning Activities / Orientation Discussion. Dave Mingo requested to delay this discussion until Chairman Pier can participate. Topic moves to March 12th, 2018 meeting agenda.

Vice Chairman Wenande moved on to discuss the Planning Commission volunteer for Façade Grant Committee. Mike Healy was recommended and a motion to formally appoint him on Façade Grant Committee was made.

18-13 **MOTION** – It was moved by Commissioner Peterson and seconded by Commissioner Viau appoint Mike Healy as volunteer for Façade Grant Committee.

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

ADJOURNMENT

18-14 **MOTION** – It was moved by Commissioner Peterson and seconded by Commissioner Viau to adjourn at 6:22PM

VOTE – Voting “Aye” – all members present. Voting “Nay” – none.

MOTION – PASSED

Respectfully submitted,

Dave Mingo, Secretary