

Parkville Special Planning & Zoning Commission
Tuesday, October 12, 2010, 5:30 p.m.
City Hall Boardroom

Minutes

ITEM 1. CALL TO ORDER

Vice Chairman Lamer called meeting to order at 5:37 p.m.

ITEM 2. ROLL CALL

Members present:

Bryant Lamer, Vice Chairman
Marvin Ferguson, Alderman
Judy McRuer
Tony Tognascioli

Lonnie Scott
Keith Cary
Pam Scott

Members absent:

Bob Lock (with prior notice)
Dean Katerndahl (with prior notice)

Sean Ackerson, AICP, Assistant City Administrator / Community Development Director
Tracy Sisney, Department Assistant

ITEM 3. GENERAL BUSINESS

Item 3(A) Approval of Planning & Zoning Meeting Agenda.

Vice Chairman Lamer opened the meeting by asking for a motion to approve the agenda as presented.

Alderman Marvin Ferguson moved to approve the agenda as published. Commissioner Lonnie Scott seconded. Motion passed 7-0.

Item 3(B) Approval of Minutes from the September 14, 2010 Planning and Zoning Commission Meeting.

Vice Chairman Lamer called for any changes. Hearing none he asked for a motion to approve the minutes of the September 14, 2010 Planning and Zoning meeting.

Alderman Ferguson moved to approve the minutes of the September 14, 2010, Planning and Zoning Commission meeting as submitted. Commissioner Pam Scott seconded. Motion passed 7-0.

ITEM 4. PUBLIC HEARING

Item 4(A) Application to amend the Community Unit Plan (CUP) for the National Golf Club of Kansas City to allow a reduction in rear-yard setback for 6420 Bunker Hill, also known as parcel # 20-5.0-22-400-004-003-000. Case No. PZ10-17

Vice Chairman Lamer deferred to Director Ackerson for a Staff report. Ackerson stated that the applicant has applied for a rear yard reduction to which a summary was included in their packets. He stated that the current zoning for the property is R-2 single family, but that due to the fact that the property is part of a Community Unit Plan (CUP), which has no provisions for variances such as a rear yard reduction or lot line adjustments, an amendment is required. Ackerson added that the applicant would like to extend the home into the set back, which does not abut any other homes, but backs up to the 18th green of the National's Duce Golf Course as well as open space/wooded area. He added that we have had similar request before and have most generally approved them. He stated that Staff is recommending approval based off two primary considerations: the lack of necessity for the rear yard for its conventional use; and precedence of prior approval of similar applications that have abutted the open space on the golf course.

Commissioner Pam Scott asked about a home located across the cul-de-sac from this one and stated that it looked as if it was located right on the property line. She inquired as to whether or not these were common variances. Ackerson agreed that the property was within a few feet, but that was fairly typical of these homes. He added that the one to the west of this property is on two lots. This particular home sits on one lot as well as a sliver of another lot.

Commissioner Tognascioli asked if the northeast corner of the building is also encroaching the 30' set back. Ackerson agreed that it was. He asked if it was the building that was sticking out or a patio or terrace. Ackerson stated that he did not know the answer, but we could ask the applicant as he was in attendance.

Ackerson said that Staff has spoken with the National Golf Course and they have stated that if the Commission does not approve this application, they will work with the applicant in order to grant or dedicate additional land as necessary to meet the required set back although that is not their preference.

Vice Chairman Lamer opened the public hearing.

Commissioner Tognascioli asked the applicant why the home was not located closer to the building line in the front.

Bob Brandom, applicant, stated that the home was built in 2007 by Harry Roth. He added that he purchased the home as a foreclosure that the home was already built and in place on his purchase and that he had no knowledge as to why it was not located closer to the front. He added that property lines were looked at and they were told by the surveys that the back of the property were encroaching. He added that they had looked at the paperwork and that Parkville said they could apply for the change once the property was purchased. He did not feel it would be a hindrance to anyone.

Seeing no further public input, Vice Chairman Lamer closed the public hearing.

Alderman Ferguson asked if this was just basically to give them clear title where the set backs violate our building code. Ackerson agreed.

Commissioner Tognascioli suggested that since the home was already built, that we have the National go ahead and grant additional land to the applicant.

To clarify, Ackerson asked Commissioner Tognascioli if he meant have the National grant land in order to make the lot larger. Commissioner Tognascioli replied "whatever the National said

they would do to ensure that they had the 30' set back, let them do it, rather than us giving them, or granting this request.”

A member of the public asked to speak. Vice Chairman Lamer reopened the public hearing.

Larry Womack, 7921 NW 73rd Street, Parkville, said to Commissioner Tognascioli that his idea would be fine, but that the property, if you go up that fairway, is all rough. Trees and undergrowth are what the property is, and if they (the National) give him (Mr. Brandom) more land he will be charged more by the County. He stated the land was not serviceable, it could not even be used as a garden and that it was all rough land.

Vice Chairman Lamer closed the public hearing again.

Commissioner Lonnie Scott asked Commissioner Tognascioli why he wanted the National grant them additional land rather than the Commission approving the application.

Vice Chairman Lamer asked if the intent was to set precedence for the National.

Commissioner Tognascioli replied yes. He stated he felt that approval would set precedence that requests can arbitrarily be given. He referenced the approval of a reduction parking for the Craig Marshall office building the prior month. He stated that we have these regulations for a reason. If the National approved the encroachment someplace along the line they should grant the additional land.

Commissioner Pam Scott added that she understands that rules are rules for a reason, but on the other hand, the reason for this rule about set backs has to do with neighbors, houses, people, privacy and that is not an issue here.

Commissioner Tognascioli added that it could be an issue, when you are driving a golf ball and it goes astray and hits the house or somebody out there, who is liable then.

Commissioner Pam Scott added that the applicant was buying a house on the golf course and he wants to get closer to the golf course, so she feels there is no defense there if the ball hits the wall. She feels the rules are in place for a reason and we must make these exceptions carefully but we should not arbitrarily withhold approval, when the reason for the set back is for the right reason.

Commissioner Tognascioli asked Director Ackerson if he thought the house was too large for the lot and added that the National had stated that they would give the property so that the applicant would have the 30' set back, and he suggested that the Commission let them do that. Vice Chairman Lamer inquired if the National did agree to do that or did the National not oppose the applicant's request. Ackerson answered that they did not oppose the request. They have said in correspondence, that if the request is not approved they would work with the applicant to re-subdivide so that they would have the adequate set back.

Alderman Ferguson asked if the portion that is proposed to be set back is already built. Ackerson answered that it was. Ferguson asked then if the setbacks had been checked when the City building permit was issued. Ackerson answered that he did not know the history. Ferguson then asked if it was a City screw up. Ackerson again stated he did not know the history.

Ackerson stated that a blanket amendment had previously been discussed with the National since reduction of setbacks was a frequent request for the lots that are in these cul-de-sacs, particularly those that back up to the golf course. He pointed out a home next door to the subject site in response to Commissioner Tognascioli's previous question of the house being too large for the lot. The house takes up at least two lots. He again mentioned the potential for the National to have a blanket consideration that reduces the rear yard set back uniformly. This had been done for the front yard setbacks on some plats.

Alderman Ferguson asked if the City issues building permits and lets this happen. Ackerson answered again that he did not know the history. Ferguson responded there never should have been a building permit issued for this house. Ackerson answered that could be. Ferguson felt this was being requested to correct a title problem. He suggested that if this exists in a lot of the places in the National, then we need to discuss the problem with the National. Ackerson replied that he was aware of a half a dozen of requests for reductions in the past 4 of 5 years. He added that he had spoken with the National before about looking at the CUP as a whole and approve something across the board, but was unsure if that was something they were interested in.

Alderman Ferguson stated that as a proposed plan, we should not approve any building permit that is not within their specifications for set backs and etcetera. He added that it's apparent we just do it, if there are several of these that exist.

Ackerson added that the City has approved several reductions in setback in other of the City including Riss Lake in recent years. He stated that reviewing several plats it was apparent that setbacks had not historically been followed in many cases but did not know the history.

Ferguson added that they (the property owners) may have to replat the property if they cannot sell the lot. Ackerson answered that was what Vice Chairman Lamer was asking, if this does not pass, the National has said they will work with the applicant to replat it into a larger lot. He believes they have said that is not their desire, because they have been granted on other applications in the past, but that is was a course they could follow.

Alderman Ferguson said that he could not recollect any of these in the past. Ackerson answered, that he had drafted his staff report using a prior application for setback reduction approved near the end of 2009.

Commissioner Pam Scott asked all to look at the house across the cul-de-sac, on the aerial view; the house is right on the line, it looked to have no set back whatsoever.

Commissioner Pam Scott asked if the Commission could require the National to amend the CUP for the entire development and bring it before Planning & Zoning prior to approval of the subject application. Vice Chairman Lamer stated that he did not see why not. Alderman Ferguson concurred. Lamer stated that this will not be the last time that this will happen and we want an efficient Planning Commission and we do not want to have to do this piecemeal. He thought the Commission should get together with the National and figure this out, but the Commission first needed to act on the application in front of them. His opinion was that to deny him (Mr. Brandom) his application would be arbitrary. Commissioner Pam Scott stated that she agreed, but would like to add that every time this comes forth, we do have the same argument about breaking the rules. Lamer answered that we are not being asked to break the rules. Discussion ensued about variance and amendments.

Scott state the Commission should require that the National work this out so that exceptions were not necessary. Lamer agreed. Ferguson also agreed and said we need to make them figure it out and replat and that we need to stop the practice. Ackerson agreed to approach the National.

Alderman Ferguson asked if we could table the application. Commissioner Pam Scott asked if we could make an amendment by the National a condition of approval this application. Ferguson asked the applicant if it would be an inconvenience to table the application temporarily or affect the sale. Mr. Brandom stated he was not trying to sell it. He would like to move into it and does not believe he can get an end loan or occupancy until it is resolved.

Vice Chairman Lamer stated that he understood the concerns regarding leverage but that it seemed to him that the National understands that this Commission would like to discuss this with them and felt confident that they would come in to discuss it.

Commissioner Lonnie Scott added that the reason we have this group, is so that we can make those decisions that are not black and white. This one is not black and white, so that is what we do. Commissioner Pam Scott added that this horse had gotten out of the barn already.

Commissioner Pam Scott moved to approve to amend the Community Unit Plan (CUP) for the National Golf Club of Kansas City to allow a reduction in rear-yard setback for 6420 Bunker Hill. Commissioner Lonnie Scott seconded.

Alderman Ferguson requested a roll call vote and stated that he would vote for it under the proviso that this never happen again. Ferguson stated that the National needs to take care of these problems and resolve them rather than the Commission having to come in and solve their problems.

Commissioner Pam Scott added that they should have some incentive to do that otherwise they will have to keep giving away more of their golf course. Alderman Ferguson said they would forget it tomorrow.

Vice Chairman Lamer stated that we have a motion pending; it had been seconded for approval. Commissioner Tognascioli asked if the motion would include the requirement that the National meet with the Commission to revise the 30' set back. He could not otherwise see approving the application if not.

Lamer answered that motion did not include the requirement, but felt the National would be open to the discussion.

Commissioner Pam Scott asked if we could send the National a letter and state that subsequent to this approval, any further applications for this kind of an amendment will be denied. Ackerson thought they might be agreeable unless the National did not find the reduction appropriate for all properties. He added that they have an architectural review board that approves or denies an application beyond what this Commission does. Lamer added that we would need to check with counsel about sending a letter that stated this would be our position going forward and that the Commission would deny anything going forward, without reviewing the application. We would need to be careful in crafting such a letter that addresses this particular problem.

Alderman Ferguson stated that he thinks that we do not approve these building permits, where there is an encroachment in the set back lines. He felt the practice should stop. Ackerson added that it would at least force them to have the conversation first. Commissioner Tognascioli

again suggested that the National should grant additional land, rather than approving the application.

Commissioner Pam Scott asked if the Commission could approve this subject to submission of a revised CUP from the National, because the CUP is what we are going by and they want us to revise it. Alderman Ferguson added that they want us to approve the set back. Ackerson stated that he thought that was possible, what you would be requiring is approval of a subsequent amendment in order for this one to be approved. If that is what you are seeking, then it would be just as effective to deny this one and require them to bring it in under a total CUP amendment. He added that it would probably be cleaner to do it separately. Lamer agreed that it should be kept clean.

Commissioner Pam Scott said that she did not feel it would behoove us to draw a line in the sand with the National over this. The fact is, it's done, its built, someone already went outside of the parameters, but did say that the applicant has a relationship as a homeowner with the National and suggested that some of the homeowners or someone says that we don't want to go through this again and we don't want other homeowners to go through this again.

Mr. Brandom stated that when he bought the property, one of the issues that went through his mind was there must be some sort of precedent on this for me to buy it, in the past or they would not have allowed it. He added that he had new homes built and it seemed like before, the City Inspector always came out to look at the foundation before it's ever poured, so based on his previous experiences, he thought that this probably had some type of temporary approval and I was kind of told that it had been done in the past and that is why he went ahead and bought the property.

Alderman Ferguson stated that he was bothered that the City Inspectors let this happen. He stated it had obviously been an accepted practice and that we need to find out why. Mr. Brandom added he was not sure of the history and apologized if it appears he was jumping the gun, but was not trying to go around anything.

Vice Chairman Lamer stated that the motion had been made and seconded and that we would proceed with a roll call vote.

Alderman Ferguson-yes, with reservations that this be corrected and not happen in the future.

Alderman Ferguson added that he would like to see why it has happened as many times as it has. Ackerson affirmed that it would be looked into. Ferguson questioned if there were kickbacks or payments under the table for this type of thing. Ackerson replied "oh Lord no, that is ludicrous." Lamer interjected and proceeded with the roll call.

Commissioner Lonnie Scott-yes, Vice Chairman Lamer-yes, Commissioner McRuer-yes, Commissioner Pam Scott-yes, Commissioner Tognascioli-nay, Commissioner Cary-yes. Motion passed 6-1.

Commissioner Pam Scott was not sure if this would be an official item of business, but she requested that a letter be crafted, on the record, as to the discussion and the reservations about this approval and urge the National to resolve this before it needs to come to this Commission again.

Ackerson replied that this would go before the Board of Alderman on October 19, 2010 and that he would discuss this with the National prior to that meeting.

Commissioner Cary asked if we needed to make a factual determination first regarding the source of the problem. He added that this application may have resulted because of the sins of the National Golf Club or it may have resulted because of the sins of the City Inspectors not doing their jobs. Commissioner Pam Scott added that may be the contractor went out there and built it before anyone had a chance to come and see it. Ferguson added the City is supposed to come and inspect this. Ackerson answered that the City does do inspections. Discussion ensued about past applications. Ackerson stated that review of setbacks may not have happened historically. He did not think it was now a routine problem. He recalled prior applications in the past 4 or 5 years. Alderman Ferguson asked if they have been after the building has been built. Ackerson answered none that he was aware of. Ferguson said he could understand getting a variance, in advance, before you build the structures, but to build the structure, get it inspected, approved and etcetera. He did not understand bringing this in only because someone cannot get a new loan. He stated we did something wrong, our inspectors did not do what they were supposed to do.

In response to the early accusation, Ackerson stated there was no allegation against our inspectors taking kickbacks. Ferguson asked then how Ackerson account for this. He stated he was not saying that they took kickbacks, but questioned whether they look the other way. Ackerson answered no stating the applicant was clearly coming here for an amendment. Ferguson disagreed stating the house was built in the setback first. Ackerson answered that he did not know why and that he would look into it and similar issues on the abutting lots.

Vice Chairman Lamer stated that the Commission had a plan to sit down and talk with the National about making things clean for us and for them. He was not sure that a letter needed to be drafted before October 19th, but if so, didn't think there was time for the National to address prior. Commissioner Pam Scott said the Planning and Zoning Commission needed to make it clear and there is no time like now this came up and it is time to communicate with them as soon as possible. Additionally, she pointed out that the date on the provided drawing was May 23, 2007. Alderman Ferguson stated that he had not noticed that and that makes it more damning. He added that he would like some answers to these questions before this comes to the Board meeting because he intends to find out what the problem is. Ackerson answered that he would look into it. Ferguson apologized to the Vice Chairman for his interruption.

Item 4(B) Amendments to Parkville Municipal Code, Title IV, Chapter 483, Changes and Amendments, to redefine the authority, procedures, hearing requirements and process, review criteria, protests, successive applications, and effective form of amendments to the Parkville Zoning Code and official zoning map/zoning district boundaries. Case No. PZ10-16. (staff requests that this item be postponed to 10-12-10)

Vice Chairman Lamer stated that 4 B, C, D and E are to be tabled by the City.

Alderman Ferguson moved to table items 4 A, B, C, D and E. Seconded by Pam Scott. Motion passed 7-0.

Item 4(C) Amendments to Parkville Municipal Code, Title IV, Chapter 480, Section 480.010, to clarify the role and organization of the Board of Adjustment. Case No. PZ10-11. (Postponed from July 20, 2010 meeting)

This item was tabled.

Item (D) Amendments to Parkville Municipal Code, Title IV, Chapter 498, to define the role, organization, procedures and power of the Planning and Zoning Commission. Case No. PZ10-12. (Postponed from July 20, 2010 meeting)

This item was tabled.

Item 4(E) An amendment to Parkville Municipal code, Title IV, Chapter 463, Article I, Section 463.030 to define institutional uses, and Title IV, Chapter 463, Article IV, Section 463.160 to allow electronic message centers for institutional uses. Case No. PZ10-13. (Staff requests that this item remain tabled)

This item was tabled.

ITEM 5. REGULAR BUSINESS

None.

ITEM 6. UNFINISHED BUSINESS

None.

ITEM 7. OTHER BUSINESS

Vice Chairman Lamer reviewed upcoming meetings dates as listed on the agenda.

Commissioner Pam Scott asked about the sign that has been off that pole at the Platte County Health Department. She thought there had been a deadline of July 31st and there still is no sign. Ackerson stated that they took the sign off and the new sign was constructed, but when it was delivered it had been broken or damaged in transit and that a new sign had not been received yet.

Commissioner Pam Scott asked if they were building it with the right dimensions and everything so that it looks just right and they do not have to add anything. Ackerson answered that he did not know the answer to that.

Commissioner Pam Scott inquired to the workshop that was to be scheduled after our last meeting. Ackerson asked in regard to the OTD-R? Lamer answered that there was a workshop. Scott stated that she was to get a drawing to modify and she still had not received it. Ackerson said he would get with Dean Katerndahl about getting it for her.

Ackerson summarized progress on the draft of the OTD-R guidelines and stated there is a map that accompanies that provides a rough estimate of the properties. He said that Staff was working to create a map with specific boundaries so they could get back with POPNA to verify.

Commissioner McRuer inquired as to what was going on with bridge construction downtown. Ackerson answered that they are working on it again, but we still do not have a projected date for closing a lane to traffic. He knew the completion date had been moved to December due to inclement weather earlier in the year.

ITEM 8. ADJOURNMENT

Alderman Ferguson moved to adjourn. Commissioner Tognascioli seconded. Motion to adjourn passed 7-0.

Meeting adjourned at 6:21 p.m.

Submitted by: _____
Tracy Sisney, Department Assistant

10/13/10
Date

Information on these items is maintained at Parkville City Hall and is available for viewing during normal office hours. Planning Commission decisions are recommendations forwarded to the Parkville Board of Aldermen meeting unless otherwise noted. Inquiries on items contained herein can be made by visiting Parkville City Hall at 8880 Clark Avenue, Parkville, or by calling the Community Development Department at (816) 741-7676.