



Harrisburg Planning Commission Minutes
March 15, 2016

The Harrisburg Planning Commission met on this date at City Hall, located at 120 Smith St., at the hour of 7:00pm. Presiding was Planning Commission Vice-Chair Charlotte Thomas. Also present were as follows:

- Roger Bristol
- Francisco Garcia-Mendez
- Kent Wullenwaber
- City Administrator/Planner Brian Latta

Absent this evening were Chairperson Todd Culver, Kurt Kayner, David Smid Jr., and Youth Advisor Karina Ruiz-Lopez.

Concerned Citizens in the Audience: None for subjects not already on the agenda

Consider a six-month extension request for removal of a medical hardship dwelling unit.

Staff Report: Latta said that Bob Wilson is here this evening; he is requesting a six month extension to his temporary medical hardship. The current requirement is that a property owner must remove the manufactured dwelling (MFD) within 30 days after the temporary medical hardship is no longer needed. Mr. Wilson notified the City that his mother-in-law had moved into an assisted living residence, and that as such, he needed to remove the structure. He would like to partition off the rear portion of the property, where the home is, and therefore is asking for a six-month extension of the requirement to remove the MFD. If he is going to keep the structure on the property that he is partitioning, then it doesn't make sense to remove it at this time; therefore, staff is recommending that the Planning Commission allow the extension of the requirement to remove the temporary medical hardship MFD. Mr. Wilson then will have until September 15, 2016, to complete his partition.

- Bristol asked about the fact that there is no precedent, and no criteria for this kind of situation.
- Latta told him that's correct.
- Bristol then asked about lot size, and access to the lot.

- Latta told him that will be taken care of in the partition.
- Bristol felt the property was large enough to be partitioned. Will he be required to build a garage with the MFD?
- Latta told him yes; all of these issues are ones that the Planning Commission will deal with when the minor partition is addressed. He has confidence that Mr. Wilson's proposal will be able to comply with the code requirements. He will have to pave the first 25' of the driveway. All of those requirements are not part of the extension request, and will be addressed in the minor partition.
- Bristol said so it's a non-conforming residence right now; are there restrictions on whether or not he can use it?
- Latta told him it's not non-conforming; he has an approved temporary medical hardship, and he is asking to extend that for six months.
- Bristol asked if the language would allow the Wilson's to rent the property to someone who doesn't have a medical hardship.
- Latta asked Bob Wilson if he was planning on renting the property.
- Wilson told him no. They have upgrading to do, and that would be difficult with someone in there.
- Bristol asked about the driveway; it will be on the south side of the lot?
- Wilson said that there is already an apron there. It makes the logical spot to put a driveway.
- Bristol asked with the carport or garage that will be required, if it is supposed to be attached or detached.
- Latta said it could be either one.
- Thomas agreed, that they could install either one of those options.
- Bristol **motioned to approve the six month extension to remove the temporary medical hardship structure by no longer than September 15th, 2016, for LU #72. He was seconded** by Wullenwaber. **The Planning Commission then voted unanimously to allow the six month extension for Bob Wilson to retain the MFD on his property while he prepares to partition the property.**
- Latta added that the partition should be completed well before September.

Work Session

Staff Report: Latta said that the Planning Commission was going to take a holistic look at our entire code, in relation to the DLCDC (Department of Land Conservation and Development) model code. He has included in the agenda a copy of the model code, our current chapter 18.100; Non-Conforming Uses and Structures, and a proposed draft of Chapter 18.100. The concern that Council has is because a landlord came to them about the code. Our current code doesn't allow him to rebuild a non-conforming

structure if there is a fire, or other calamity that destroys it. If a non-conforming structure containing a non-conforming use is destroyed to an extent exceeding 50%, then the replacement structure or use must comply with conforming use in the zone.

We have a four-plex, which is in the right zone, but the property is impossible to sell, because nobody would finance it. The banks stance is that if we can't replace it, then we won't fund it. It's on a 50' x 100' sq. ft. lot, and over the course of the last 50 years, additions were made to the current building. That was done 30 to 40 years ago, when the conditions for allowing it were legal, but nothing in our requirements were binding back then. We have a very poor job separation between non-conforming use and a non-conforming structure. The actual use of a building, is much different from a structure. So we looked at the model code, trying to come up with a change that makes sense. The proposed code for 18.100 has an added purpose section that explains the differences between a non-conforming use, and a non-conforming structure. He added that another issue in town, is when someone takes a property, and creates different tax lots.

Thomas asked why the county clerk allowed them to do it; why would they allow that to happen, if it's not even a legal lot? Latta told her that it's the responsibility of the county to create tax lots, and it's just a function of a tax lot. Anyone can go and take 5 acres and create different tax lots. We are trying to do a better job with the county, so that we don't have issues like this. Thomas said that if a person has a structure, and something happens to it, then they should be able to put the same thing back on it. They should be able to put the four-plex back on it. Latta said that our current code has the four-plex as a non-conforming use. What we couldn't allow, is a non-conforming structure. Bristol said that the purpose of a non-conforming use is that it's not going to take a use away as things change, but at some point, you might need to come into compliance. Thomas said right, you can't take away the use. She said that he could rebuild, but he would have to conform to the current standards. She'd like to provide options without hamstringing the owner. Latta said that was our goal, to eventually give them a way to use it.

The Planning Commission then talked about the time of vacancy as suggested in the proposed code. Both our current code, and the proposed code, talk about discontinued use. The proposed code gives better ways of understanding what is considered a discontinued use. They also looked at how long a vacancy could last before being considered as discontinued. Latta had seen some cities use 3 months, 9 months, and 12 months. But really, a 12 month period can be an actually fast turnaround. Garcia-Mendez asked about whether that was reasonable or not; consensus was that it was. Thomas said she likes the proposed code, because it covers more information, and doesn't have as many loopholes. Latta said that was his intent, because we don't want to leave much to interpretation. The downside is that the

code is longer, but it's more thorough. Thomas thought that was fine, because he stated that some of our code is duplicated in different sections, so she thought that would disappear. Latta agreed, and said that there are more words, but that makes it clearer. Our current code is rather cobbled together, and is frustrating to work with.

Bristol said that under section 18.100.030.2, that destruction wouldn't take very much to go beyond 50% of the current value. You could have a fire, water damage, asbestos, and other things that could go wrong, and end up with a \$150,000 bill on a \$70,000 structure. Now, it must be reconstructed in full conformity with the code, and that doesn't preclude the establishment of a non-conforming use after the fire or catastrophe. Thomas added that you can rebuild it according to code, but you can still use it with the non-conforming use. You just can't build a non-conforming structure. Latta said that as an example, the landlord could still build a 4-unit building, but say the original structure had a setback of 5', but the code specifies 10'. That would still allow you to have the use, just not the structure in the same way as before if it's not to code. Thomas liked that you would bring the structure into conformity, without restricting the use. It's like splitting the baby, but it's the right thing to do. Wullenwaber felt that the code was moving in the right direction.

The next section of code in the proposed ordinance, 18.100.040, has how to determine the criteria on a legal lot determination and non-conforming lots. Bristol asked how that would apply to the property located behind Thomas's home. (In the Kwake Estates II Subdivision). It's a tax lot. Latta said that this code talks about a legal tax lot. At the time of creation, it must be legal. In this case the property owner created that lot and the City didn't have a say in it. Because he created a tax lot after the subdivision was created, its sub-standard, and not a legal lot. It can't be built on. Latta said that by the way, he wanted to credit Lori Ross for helping to create this code. She has an interest in planning, and has been assisting him with this.

Thomas talked about the last page of the proposed code, with a non-conforming lot development. It doesn't deal with construction; just the lot. So if you tear down the structure, but the lot was created before, how would that work? Latta told her that in relation to the landlord issue, if the 4-plex was not destroyed, and was torn down, it would be held to 18.100.040.3, because it's a non-conforming lot. It's small, at 5,000 sq. ft., when the minimum requirement is 7,000 sq. ft. That comes into play when you have a lot that was legal when it was created, but it's deficient to the current code, because it doesn't meet the minimum lot sizes. But we will allow a residential use, albeit limited to a single-family dwelling (SFD).

Bristol pointed out the wording in 18.100.040.3 would allow a residential use in any of the zones, not just a residential zone. He thought that you could find a lot like that in an industrial zone, and that technically, you could build a residential home, because of how that's stated. The Planning Commission talked about that issue for a

while, and Bristol pointed out an example of where that could be the case. Latta and the Planning Commission discussed this issue for a while longer and Latta determined that he would modify that section to clarify that it's only allowed in a residential zone.

The Planning Commission then talked about the rest of the proposed code, and how it's set up. Latta's memo had in article 1, the comparable sections to the model code. He brought up the current code on the website, and showed the Planning Commission how the code was set up. Bristol was interested in the process of how we would do this. Once we cover all this in our work sessions, will it go to the City Council? Latta said that the way our code is set up, the Planning Commission can initiate a zone change, or staff can. He said that we will go chapter by chapter with this kind of comparison, and it will likely take a year to a year and a half to dissect. In the future, we'll need to go through the public hearing requirements. The Planning Commission will be required to hold them, as well the City Council. That will give the public the chance to have a say about the changes that we'll make. He added that when we get closer to being finished with our review, then he'll notify the DLCD. Because much of our new code will be based on the model code, then he feels that DLCD won't have a problem with it.

Latta said that we can decide how we want to present this to the public. We can structure it as we need to. We want to look at all the pros and cons for the changes, and take out the loopholes. We might want to periodically post the proposed changes on the website, so it's available for the public to see, and then let people know that they can come to the office or contact us if they have questions. We have to notify people a month in advance of the public hearing. We can make it long, or short, within those guidelines. Garcia-Mendez asked if we can accelerate this; the process seemed fairly involved. Latta told him that some of the requirements are to send it to people on our notification list for topics that they are interested in. We'll solicit for public participation. You are right though, people may only be interested in one section, not the entire code.

The Planning Commission liked how the website was laid out, and Latta explained how the code itself was a separate website, which was provided by our Code provider, Code Publishing. They liked the new website, and Garcia-Mendez asked who had created it. Latta told him it was Aha! Consulting. Latta said that in the model code, he really liked Chapter 1.5; code interpretations. There is a whole section for that. He walked the Planning Commission through a summary of the rest of the Chapters in Article 1. He noted that the Planning Commission doesn't want to just adopt the model code. It was important to apply our local flavor to the code. The code should be clear, and have interpretations for what it means. Thomas asked if we would be changing the chapter numbers too, and Latta told her that there were a couple of ways to do that.

Others:

- Garcia Mendez asked whether or not the city would ever consider electronic agendas, by perhaps having a download, or a tablet, or something like that. He knew that the Planning Commission in other cities sometimes had tablets, like \$50 tablets. But in comparison to the amount of print we have, it could save money in the long run by switching to electronic packets.
- Latta told him that he wasn't certain if Council was ready to proceed to electronic agendas only, but he could certainly run it by them. Did all of the Planning Commission feel like they wanted to go to electronic packets?

Thomas said that would work for her, as did Garcia-Mendez. Bristol preferred paper agendas, but he could work with electronic if needed. Wullenwaber also could work with the electronic version. Thomas preferred an electronic use that would allow her to highlight something. She added that the notebook she had been given when she started was really outdated. It used to have code in it, but the code has changed substantially from when she received it. Garcia-Mendez would like to throw out papers from it too; could he? Latta told him that yes, he could throw out the papers that were no longer up to date. He will bring the subject of electronic agenda packets up to the City Council at the next meeting.

Latta then added that the Planning Commission might be pleased to know that the Dollar General has established a compromise with Mike Lefevre. They moved the entrance south by 17'. He had talked with them, and they thought that they might submit the building permit next week. The main thing holding it up was the access to the lot.

Wullenwaber said that he was watching the work being done on the parking lot behind the EZ Stop. It looks like they are struggling to get that done. Latta agreed that they were moving slowly, but it is in process.

With no further business to discuss, the Planning Commission adjourned at the hour of 8:20pm.

Chairperson

City Recorder