

**I. CALL TO ORDER**

A meeting of the Planning Commission was held on Monday, June 10, 2019, commencing at 5:30 p.m. in the Council Chambers of City Hall. Chairperson Asmus called the meeting to order.

**A. ROLL CALL:**

Chairperson	Shannon Asmus	Present
Commissioner	Michael Flaata	Present
Commissioner	Judy Hudson	Present
Commissioner	Larry Dahl	Present
Commissioner	Eric Mathwig	Present
Commissioner	Jeff Woods	Present
Commissioner	Tom Zens	Present
City Planner	Hannah Rybak	Present
City Administrator	David Cziok	Present

**B. ANNOUNCEMENT OF ADDITIONAL ITEMS – None.**

**II. APPROVAL OF MINUTES**

It was moved by Commissioner Woods, seconded by Commissioner Dahl, to approve the minutes of the May 13, 2019, meeting. All members present voted aye.

Motion Carried.

**III. SCHEDULED ITEMS**

**A. PUBLIC HEARINGS:**

- Variance Request** – by Van Zwettler at 302 South Donnelly Avenue  
To allow a decrease in the minimum required side yard setback of one (1) foot

City Planner, Hannah Rybak, provided an overview of the request. She reviewed the consistency of the request with the standards for granting a variance.

9 findings of fact offered by staff were presented to the Commissioners by City Planner Rybak.

Staff recommendation and potential action were reviewed.

Commissioner Asmus opened the Public Hearing.

This being the time, date and place set, with all mailed and published notices given as required by law, the hearing was opened at approximately 5:35 p.m., June 10, 2019, to consider a Variance Request by Van Zwettler at 302 South Donnelly Avenue to allow a decrease in the minimum required side yard setback of one (1) foot.

An attendance list is on file.

No written comments were received.

Van Zwettler was present to answer any questions and explain the request. He explained that the home is currently a rental but that he and his wife will be moving in this summer. They plan to reside the whole house, new windows, and new fascia. The porch is in poor condition, so this addition fixes that.

Following discussion, no further comments were heard and the hearing was closed at approximately 5:37 p.m.

A motion to recommend approval of the requested variance, as submitted, to allow for a variance of one (1) foot from the minimum required side yard setback of ten (10) feet for the purpose of constructing an addition, at the property located at 302 South Donnelly Avenue, based on the findings of fact and the submitted plans, was made by Commissioner Mathwig and seconded by Commissioner Woods. Upon roll call vote, all members present voted aye.

Motion Carried.

**2. Conditional Use Request – by Rick Rossow at 315 East 10<sup>th</sup> Street**  
*To allow moving a house older than ten years old onto the property*

City Planner, Hannah Rybak, provided an overview of the request. She reviewed the consistency of the request with the standards for granting a conditional use.

12 findings of fact offered by staff were presented to the Commissioners by City Planner Rybak.

Staff recommendation and potential action were reviewed.

Commissioner Flaata asked how conditions are enforced. City Planner Rybak explained that done through the CUP Agreement signed and agreed upon by both parties, the City and applicant.

Commissioner Dahl asked about requiring a performance bond. Rybak stated that a financial security is part of the CUP Agreement.

Commissioner Woods questioned if there is a period of time for the basement.

Commissioner Asmus asked for confirmation if there is a garage or not. Rybak explained at this time, there is no garage being proposed.

Commissioner Asmus also asked if the previous two house moves that the applicant did are in livable condition. City Planner Rybak said they are executed as completed. Asmus then asked what is considered a nuisance property. Rybak said properties with long grass issues, noxious weeds, garbage, chipping/peeling paint, rodents, etc.

Commissioner Flaata asked if the previous houses are occupied. Rybak is unsure.

Commissioner Asmus, when looking at the findings of fact if the CUP would or would not have an adverse effect on the use, value or appearance, and of the uses already

permitted in the area, asked if history of the applicant can be taken into consideration. City Planner Rybak said when answering this question, she was looking at the house itself, but left it undetermined so the Planning Commission could review.

Commissioner Woods commented that the CUP has to deal with the age of the home being moved in, but the end product is also something they are dealing with.

Commissioner Flaata asked if there was any regulation on the tree coverage by the road. City Planner Rybak stated there is not.

Commissioner Asmus questioned if the project did not meet deadlines, could this end up in court and drag out for months while the unfinished project just sat there. Rybak explained that the CUP outlines what is expected to be completed by certain dates and what will happen if those deadlines are not met. No court would be needed with the agreement.

Commissioner Asmus opened the Public Hearing.

This being the time, date and place set, with all mailed and published notices given as required by law, the hearing was opened at approximately 6:00 p.m., June 10, 2019, to consider a Conditional Use Request by Rick Rossow at 315 East 10<sup>th</sup> Street to allow moving a house older than ten years old onto the property.

An attendance list is on file.

No written comments were received.

JoAnn Leaf, resident at 325 East 10<sup>th</sup> Street, stated she doesn't mind the idea of the house, but she's concerned that it won't get finished.

Tanya Brugma, from 1006 N Armstrong Avenue, explained how no one was maintaining the property and she has mowed the grass and maintained it for ten years. She wants a completed job as well.

Melody Scott, resident at 922 N Armstrong Avenue, told how she has heard about past issues and wanted to voice her concerns regarding future maintenance of this property.

Rick Rossow was present to answer any questions and explain the request. He first explained that he didn't know he needed to maintain the property when he purchased the lots. They are wooded lots and he never received any kind of citation.

Commissioner Asmus asked Rossow if he had ever been cited on any other properties he owns. Rossow said that he had, but he was not neglecting the property, but when Hannah had called him about the lawns, he had just sprayed for weeds and then it rained. Both properties were mowed before he received the notices. Commissioner Asmus showed pictures of his properties on Thursday, and the grass was knee high.

Commissioner Woods asked Rossow if he can understand that this is not to the Commission's liking. Then asked if he could have mowed and then sprayed for weeds. Rossow responded that no he can't or the killer doesn't work.

Commissioner Asmus asked Rossow if he had been cited on any other nuisance properties. Rossow responded that he had for a gutter issue on a house and a screen door issue and he took care of both right away.

City Planner Rybak clarified that Rossow has never been cited. He has received nuisance property notifications, 15 letters since 2017. Rossow said he hadn't received that many and he can look around town and find properties worse than his. Rybak didn't disagree and stated that Rossow does tend to the matters prior to the deadlines. Rossow said he is trying to stay on top of things.

Commissioner Asmus stated that he, too, owns rental properties in Litchfield but he doesn't understand how it can get that bad.

Rossow asked City Planner Rybak how many lawn notifications he received last year.

Commissioner Asmus explained that the Commission wants to do what's right. They need to look at the building itself, look at the lot, look at everything that has transpired with the applicant, and make a good recommendation to the City Council. How can the Commission be assured this project will be what is expected?

Rossow pointed out how the Commission keeps bringing up old projects he has done and said that he got one done in time on the final day but that Jim never came back that day to sign off.

Commissioner Woods asked Rossow how many properties he owned. Rossow was unsure. Woods questioned why he would add another property if he had so many already.

Commissioner Mathwig asked Rossow about a timeline. Rossow started explaining his process and that he would want to start as soon as possible, but it all depended on weather. Mathwig again asked Rossow for a timeline, to which Rossow responded three months to get the house set and in place. Mathwig listed out all the deadlines that would be included in the CUP Agreement.

Rossow asked what the financial security amount is based upon and if he was being singled out. City Administrator Cziok explained that he is not being singled out, there is a lot of history with his projects not being done on time. The City Council was set to review and possibly revoke a prior CUP and Rossow reacted after the fact and had Jim do an inspection late in the day of the Council meeting to try to avoid council action. He did not meet the deadline, which was September 19, 2011, and the Council meeting was October 3, 2011.

Commissioner Dahl asked if the rentals were occupied. Rossow responded with one of them only a short time. Dahl asked how long they have been vacant to which Rossow was unsure.

Commissioner Zens asked Rossow if Monday was the first time his lawns have been mowed this year and Rossow answered yes.

Commissioner Asmus explained that they need to look at history. Rossow's other properties are nuisance properties and he just can't get past that. It's not that the house he's proposing to move in is bad, there is just no assurance that the house will be maintained.

Commissioner Woods asked Rossow if he only takes care of problems with the property once he's made aware. Rossow responded that maybe there are too many ordinances.

Commissioner Asmus asked if Rossow recently tore down a house without a permit. He explained that yes, he had but he was unaware that a permit was needed for that. He was going to meet with Jim, but Jim was not in the office when he stopped. Administrator Cziok told Rossow that we are happy to answer questions during business hours.

Commissioner Asmus referred back to Commissioner Mathwig's question on a timeline. He asked Rossow if he could have the house complete in three months as mentioned earlier. Rossow said that he could have the house set in three months. Asmus asked how long for the house to be graded out. After Rossow kept referring to weather, Commissioner Zens asked under normal circumstances, how long will this project take to which Rossow said the house set in three months with a Certificate of Occupancy in six months.

Commissioner Woods explained that a financial security is needed because of Rossow's history. Commissioner Asmus continued that the Commission is being cautious because of his history and everything to do with the property. Asmus asked Rossow if he is fully aware of the financial security. Rossow asked what the amount would be. Asmus said that is unknown at this time. City staff and attorneys will figure out an amount that will be approved by both parties.

City Planner Rybak explained that what we need is to ensure we have money to rectify the situation without the City incurring costs if the project. Administrator Cziok said the City is doing its due diligence because of previous CUPs. The City shouldn't have any expense in this.

Commissioner Asmus questioned Rossow on what assurance he can give that things will get done and this will not become a nuisance property. Rossow asked what exactly the Commission is looking for. Both Commissioners Hudson and Woods stated a well maintained property.

Melody Scott stood up again and asked what happens to the property if the City has to use the financial security and it's used up. It was answered the property would still be owned by the owner. Administrator Cziok explained that the City would make sure there is enough financial security to finish or remove the project.

Following discussion, no further comments were heard and the hearing was closed at approximately 6:43 p.m.

Commissioner Woods explained how a timeline and financial security are important factors in this and the Commission needs to be specific.

Commissioner Dahl expressed that the Commission is trying to do the right thing and he is concerned if they give him another chance and the project doesn't happen. Commissioner Zens said at that point the City would have to decide if they want to remove or complete the project.

Commissioner Zens is not questioning the house. He is questioning how the City can be assured it's maintained without Hannah having to call with violations.

Commissioner Flaata stated this can't end up like his other properties.

Commissioner Asmus commented on how he had a house so bad that it had to be torn down and another one that could be almost to that point.

Commissioner Woods stated how the City has spent a lot of time, which is money, on the properties.

Commissioner Dahl said that the City shouldn't be in the business of tearing down unfinished houses.

After discussion and a review of the findings of fact, a motion to recommend denial of the Conditional Use Request, to allow moving a house older than 10 years old onto the property located at 315 East 10<sup>th</sup> Street, based on the findings of fact, was made by Commissioner Woods and seconded by Commissioner Hudson. Upon roll call vote, all members present voted aye.

Motion Carried.

#### IV. NEW BUSINESS

##### A. REVIEW PROPOSED AMENDMENTS TO SECTION 154.124 – FENCES, HEDGES, WALLS AND OBSTRUCTIONS

##### B. REVIEW PROPOSED AMENDMENTS TO SECTION 154.270 – MINIMUM REQUIREMENTS AND 154.281 – HEIGHT

City Planner Rybak reviewed the proposed amendments and the Commissioners saw no issues. Commissioner Hudson made a motion, seconded by Commissioner Woods, to request the City Council set the public hearings for the proposed amendments to sections 154.270 and 154.124 for the July 8<sup>th</sup> Planning Commission meeting. Upon roll call vote, all members present voted aye.

Motion Carried.

#### V. OLD BUSINESS

#### VI. ADDITIONAL ITEMS

**VII. SET HEARING DATES AND TIMES**

The next scheduled meeting is Monday, July 8, 2019, at 5:30 p.m.

**VIII. REVIEW OF COUNCIL ACTIONS**

**A. VARIANCE REQUEST GRANTED** – *by First District Association at 101 South Swift Avenue  
To allow a decrease in the minimum required side yard setback of sixteen (16) feet*

**B. STREET VACATION REQUEST** – *by Anderson Chemical for a portion of South Geinitz Avenue  
City Council moved to have staff prepare documents for a public hearing for the consideration  
of adopting an ordinance vacating the requested portion of South Geinitz.*

**IX. ADJOURNMENT**

Commissioner Asmus adjourned the meeting at 7:26 p.m.

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Hannah Rybak  
City Planner