



Planning Commission Work Session

MINUTES

JULY 20, 2010

6:02 PM – 7:47 PM

CONFERENCE ROOM

FACILITATOR	Chairman Robert Whiteley
NOTE TAKER	Judy Merrill
ATTENDEES	Robert Whiteley, Kenneth Hellewell, Tena Campbell, Gary Pratt, Nathan Miller, and Troy Moyes

ITEM 1: DISCUSSION OF SETBACK REQUIREMENTS

Deanna Setter came forward to relate her dilemma with the City's setback requirements. She explained that Jason Van Ausdal, with the Building Department, and Troy met with her regarding the deck in her rear yard, which was noncompliant. The wheelchair ramp was fine, but they instructed her to tear down the deck. When she asked if she could apply for a variance through the Board of Adjustment, Troy did not believe they would have the authority to grant such a variance and told her the only option was to change the rules. Robert asked Troy if this had to do with the section of the Ordinance they already amended about two or three months earlier for lots adjacent the golf course. Troy told him the amendment to which he referred dealt with required setbacks relating to open space and detached structures, while this referred to setback requirements relating to attached structures.

Deanna then read a prepared document explaining their variance request: "On November 5, Mr. and Mrs. Setter purchased a home with a 10x10 deck, which has been converted into a small room. On December 2006, Mrs. Setter fell down the front concrete stairs, sustaining a severe wound to her right leg and breaking it in three places. After receiving home health care, cellulites set into the wound. Mrs. Setter was hospitalized for ten days while doctors worked to stave off amputating her leg, which they were able to save. She spent the next 8½ months in a wheelchair. During her time in the hospital, men from her church tried to build a wheelchair ramp for her. They were unsuccessful, and a contractor was called to complete their efforts. Even though it was snowing and freezing, a beautiful ramp with five rest stops was built swiftly to allow Mrs. Setter to access her home. Spring of 2007, Mrs. Setter, who has both heart and lung disease, had now been resigned to the use of oxygen 24/7 and was experiencing tremendous pain in both of her legs. She had to have multiple stints, 15 of them, implanted in arteries throughout her body, to include 4 in each leg, 2 in each kidney, and 3 in her heart. She is fully dependent upon either a walker or wheelchair. Mrs. Setter was recently told by her doctor that, without walking, she may lose the use of her legs completely. Summer of 2007, the Setters had a potential fire scare and realized the necessity of building an additional escape route should the front of the house become unattainable. They hired a family friend to help them build a wheelchair ramp from their back door. Their friend, Mr. Hall, resides in Hooper, where the encroachment law requires 10 feet from a deck to a back fence. He built the Setters' wheelchair ramp to include a rest area, or deck, for Mrs. Setter, which is a 10x10 area out of a 112 foot zigzag wheelchair ramp. Photos are available. The entire structure is 10½ feet from the Setters' back fence. In just walking within her home, Mrs. Setter has to stop several times to recover from pain in her leg and regain air to her lungs. A major outing for her, and the only mode of exercise with the aid of a walker, is to be able to walk outside on her ramp. She absolutely requires the time and space to stop and rest and relax. Mr. Setter is a 100% disabled war veteran who has lost all hearing in one ear and has only 12% in the other. Mrs. Setter could not call out to him for help and be heard. Due to an accident in 2008, Mr. Setter has lost much of the use of his upper right arm." Deanna paused to add that he suffered his own heart attack in August, which was not included in the document. "He also suffers from diabetes and arthritis in both hips and knees. Mr. Setter has been told that he will eventually require hip and knee replacements. The ramp and rest area are of great benefit to him as well as Mrs. Setter. The Syracuse City Permit Department has ordered the removal of the wheelchair ramp because the inner rest area, or deck, causes the wheelchair ramp to be 10½ feet from the back yard fence instead of 20 feet. Mr. and Mrs. Setter are here to plead with the Planning Commission, based on the facts now placed before you, to reverse the order to remove this deck and to grant them an exception or variance."

Deanna distributed photos and stated that the arrows drawn on the pictures identified the area in question that the City defined as a deck but she defined as a rest area. Robert asked if the area in question was a turnaround. Deanna stated it was more than a turnaround. Robert then asked for the height of the deck from the ground. Deanna told him it was 54" and that, if the City made them tear it down, they could never rebuild. They lived near the fifth hole of the Glen Eagle Golf Course, at 3848 West Prestwick Drive. Robert asked if she had the open-space requirement. She did not but told him her lot was in an R-2 zone on less than a quarter of an acre.

Nathan asked why the City adopted a 20-foot setback. Troy advised him it was to create more of an open feel, which was one of the purposes of zoning. Cities decided whether they wanted more back yards rather than homes right next to each other or to adjacent back yards. Deanna believed that 10½ feet was a significant amount of room and that the intent of the deck was to serve as a fire escape, should they have a fire in the front of their house, and the room to walk as her health problems progressed. Hooper, which was only 12 miles from Syracuse, only required 10 feet, so the man who built the deck did not even think to check. Robert stated that R-2 zones required slightly larger yards while R-3 zones allowed somewhat smaller yards with only 20-

foot rear-yard setbacks. It used to have 30-foot setbacks but, about 3 or 4 years ago, the Gateway Subdivision wanted to build bigger homes that could not fit within those restrictions, so the City changed it to 20 feet.

Deanna referred to the wheelchair ramps, recently exempted from the setback requirements, and how the issue was now a matter of wording. She asked if the City had to call it a deck or if they could call it a rest area or wheelchair ramp. Robert agreed it could just be a matter of defining structures and whether or not they included ramps or buildings. Troy reminded them that the original 10x10 deck, now the sunroom, could become noncompliant with possible changes, because it was only 22 feet from property line. Kenneth asked if the sunroom received a building permit. Deanna explained how they hired a company to construct the sunroom. That company acquired a building permit but only upon the condition that they not attach it to the deck, since the deck was not in compliance. However, the contractor never shared that information with her or her husband. The company took their money and built the sunroom illegally. She believed they brought fraudulent plans to the City, since the drawings showed the sunroom without the deck. When the inspector came to their home and asked why the deck was still there, she told him it was for the awning and fence on the overhead. That was when she first learned that they needed to remove the deck. She told Jason the contractor was supposed to come back on Monday to meet with her and tell her how they planned to build the cover and put in the fence, so she invited Jason to join them. Jason and Tex met and talked with the sales representative from Intermountain Remodeling, telling him his company was defrauding her.

Troy told commissioners that, if setback requirements were something they wanted to entertain in the future, staff could place it on an upcoming agenda. He asked them to keep in mind that staff often denied requests for covered decks, though, because of rear-yard setback requirements. Kenneth did not believe the problem was as much of a setback issue as it was a definition issue for wheelchair ramps and what that included. The recently-amended language allowed ramps to encroach into required setbacks. Based on State law that granted authority to Boards of Adjustment and the current definition in City Ordinance for the 10x10 area, however, the construction of the deck was a self-imposed hardship. As a Commission, he preferred to amend the Ordinance definition of a wheelchair ramp and what that included rather than change the setback requirement. Deanna asked if the setback requirement was in place before her home was built 10 years ago, since the deck was part of the original construction. After some debate, commissioners felt confident that it had been at least 10 years or more since the City established these setbacks. Troy pointed out that the Setters would still be facing the same problem, even if the City had changed the setback requirement, because the old deck would be legal nonconforming, and they constructed the new deck later.

Kenneth asked if the current Ordinance defined wheelchair ramps. Troy did not believe so. Robert suggested they consider defining structures versus ramps. Gary referred to his discussion at an earlier meeting regarding ramps attached to two-story homes and, if built in the ground or on a slope, how the residents would enter the house on the second level. In the back, the patio would stick out and require ramping to include many switchbacks. If he were a neighbor to such a structure, he did not believe he would want that type of an intrusion from adjacent property owners, since they would be looking down into his property. People with ADA needs would not live in the same home forever. He was looking at it from the perspective of a neighbor, and the impact such structures would have on the community and privacy rights as far as visibility, rather than from the perspective of property owners needing such ADA facilities. Residents should expect privacy from their neighbors and some entitlements to views. Deanna assured him that all the decks in her neighborhood were at about the same level and that their deck was no higher than anyone else's.

Gary worried about the City giving in a little bit, which could result in the City giving a lot. They could dedicate 15 pages of the Ordinance to spelling out definitions and never achieve the desired goal, because someone would always discover a loophole. The City probably kept the definition for attached decks fairly general, because people could be very creative as far as where and what they attached to their homes and the appearances of those attachments. The City recognized the need for ADA facilities but also needed to prevent homeowners from building structures that could have negative impacts. Deanna reminded him that she had 112 feet with just a 10x10-foot area for her to sit down and rest and asked if the Commission would work on a definition for wheelchair ramps. Gary explained how land owners had rights to do what they wanted on their own properties, but government had the authority to impose restrictions to stop encroachments to others' rights. He wanted to build a big patio in his back yard but was unable to go as deep as he desired because of the distance to his rear property line. When Deanna asked why, he told her the City Ordinance did not allow him to build all the way to his property line. Setback rules were also in place to allow emergency personnel to maneuver around residential yards. Deanna assured him that emergency personnel would have ample room in their yard. Gary understood but emphasized the potential for someone to build a structure to their property line, if allowed by the City, which could block a neighbor's view and be an impediment to that expected right. Deanna understood eyesores, because the people living right behind them had a very big open area where they towed in wrecked cars to repair and that the City's code enforcement officer was always trying to get the neighbor to remove them. However, she had people tell them their ramp was beautiful. She believed it to be a piece of art. Gary admitted it was beautifully done and was not disputing the craftsmanship. His remarks were from the City's perspective for the community and felt badly for the Setters' situation. By approving a single change for one person, the City would affect everyone in Syracuse one way or another. Deanna agreed and suggested that such a change could be a benefit, though, since there would be other people like her who required such amenities.

Robert admitted that she made some good points and explained how Syracuse was predominantly a young community that would eventually receive a few more requests for wheelchair access and ramps. He believed the matter to be worth the Commission's time to do some research. He asked for permission to come out and see the Setters' deck, their situation, and possible future needs in order to help him in his consideration of reasonable changes they could propose for the Ordinance definitions that would not open up the City to future problems. He did not believe the Commission needed to order them to tear down the deck at this point and suggested the Commission discuss the matter in a future work session to try and find a solution. Although the Commission could not give her legal advice, they could consider more general options, such as definitions or setback requirements. Gary pointed out that the Setters had the Taj Mahal, but someone else could build the exact opposite and still meet the Ordinance if they changed it. Deanna asked if the Commission had the authority to prevent structures based on the quality of work. Robert told her they could if the Ordinance defined such specifications but doing so imposed burdensome restrictions.

Kenneth encouraged her to provide suggestions as to how she believed they should amend the Ordinance. They would consider her submittals the next time they discussed Ordinance language. Deanna invited them to keep the pictures she distributed and to consider the needs of people who were even more disabled than her. The rest areas were vital and asked them to incorporate such amenities into the wheelchair ramp requirements. She provided them with her home phone number to call if they wanted to visit her property: 801-525-0147. Robert knew about ADA standards for ramps and slopes and promised to look into standards for landings/turnarounds so that wheelchairs could make full revolutions. Deanna admitted that Jason was correct in saying the 10x10 area to turn around was generous and more than she needed. Gary asked if they could have designed it differently and prevented this issue with the City. Deanna told him absolutely. They had more yard off to one side where they could have built it. Gary told her that it was really not an issue with the City's setback requirement, then, as it was the ultimate design of the deck that caused the problem. They built it in such a way that they could not fix it. The sunroom just exacerbated the problem, because it consumed another 10 feet right off the bat.

Kenneth asked why they were referring to 20 feet when the rear yard setback for R-2 zones was 30 feet. Troy informed the Commission that the ADA standard for turnarounds was 5x5 feet and that, according to Section 10-6-050(C)(3) of the Land Use Ordinance, which was an issue the Building Department ran into often, "Attached covered decks and patios may encroach into rear yards provided that the total covered patio width does not exceed 33% of the total length of the principal structure to which it will attach and does not extend closer than 20 feet to the required rear-yard line."

Gary thought the City created a brand new section in the Ordinance for home confinement uses. Troy informed him that he was referring to reasonable accommodations in accordance with federal guidelines. Gary suggested they address ramps in that section instead of definitions in order to prevent residents, who did not qualify since they were not confined to their homes, from building a bunch of ramps. This would allow for those who really needed them to build these ramps. If the Setters had been aware of the restrictions, they would have designed it more appropriately to accommodate their needs and still comply. A lot more people would need these accommodations as the community grew older.

Item 2: COMMITTEE REPORTS

Robert explained how the Commission decided to create three committees for specific planning needs of the City. Each committee had two commissioners assigned to it as chair and co-chair. Kenneth and Commissioner Tyler Bodrero were heading the 200 South corridor, Gary and Commissioner Eric Hazen were heading the Antelope Drive area, and Tena and Nathan were heading the general transportation planning.

Gary reported that he already enlisted two people to help with their committee. He delayed soliciting more members due to Troy's desire in placing a notice in the newsletter to make it more public and prevent them from creating committees comprised of friends. These new committee members had done planning in the past. One was the business owner of the Door Stop and did planning in Kaysville and the other was the developer's son of the Shadow Point commercial subdivision, because of his interest in Antelope Drive. He had another person in mind who was a developer, did planning in other cities, and had a lot of good contacts.

Kenneth said he had his committee's purpose and needs statement written. Tyler looked it over and provided comments before forwarding it to Troy. He spoke with Tyler about some people they planned to invite on their committee. They selected about 6 or 7 and narrowed it to 5. One was a member of the Syracuse High School community council, since any development would impact the school, so this would give them a voice. Others were residents in that area, such as Ray Zaugg, one of the more vocal opponents to DTEC, and land owners along that corridor, such as the Cook family. Still others had no connection to 200 South but lived in the City and had an interest in planning. Kenneth wanted to look at the list of attendees from the original 200 South planning meeting, held 2½ years earlier, in order to invite some of them. Troy suggested holding a new open house to allow the public to pick someone to represent them. Robert told Kenneth he found some old copies of memos from the 200 South growth workshop, put together by staff, which he could give Kenneth's

committee. He hoped the documents could give them a starting point, based on the workshop summaries and staff recommendations. Troy advised Kenneth that the City also received a planning grant for \$97,000 for the planning of that area with Clearfield and West Point. He met with those two cities and discussed how to use the funds. They wanted to make sure all the cities had good plans that complemented each other to ensure that everyone used the same guidelines and design standards. Each planning commission would now plan their portion of the area. Later this year, all of the commissions needed to meet together with a consultant, paid via the grant monies, to combine the plans in order to prevent one city from putting smoke stacks next to a nicely-designed development in another city. They hoped to have all this done by the first of the year. Robert mentioned that UDOT slated SR193 for bid by January 11. Troy referred to a meeting he had the day before with all three cities and UDOT. UDOT believed it would only take one season to complete, since they would not have to shift traffic back and forth.

Gary asked if Troy would be doing anything more with the committees other than sending the purpose and needs outline. Troy advised him that they could start setting goals as soon as they established their purpose and needs, such as design standards or drawing rooftops on maps.

Nathan mentioned that he had been unaware that he was a committee chair, so he was not prepared to report. Robert invited Tena to serve on Nathan's committee even after her term on the Commission ended. Tena agreed to consider it.

Robert then expressed his appreciation for Tena's work on the Commission. He told her he enjoyed his association with her and would miss her. He relied heavily upon her logic and expertise.

Troy apologized for not getting a notice in the newsletter about the committees. He offered to put it on the homepage of the City's website and make fliers to post out front. He would also post it during the City Council meeting next to the sign-in sheet and in the post office.

Gary informed everyone that 1000, 2000, and 3000 West and Bluff had all been incorporated into the State transportation line quadrants in the last 3 or 4 weeks, so Syracuse could now use State funding to update and widen these roads. Robert added that it would help the City qualify if they were looking for grants in the future. Gary explained that such funding would come through the State now instead of the City having to go out on its own. Troy believed this could make the community more inviting, such as incorporating bike lanes. They needed to look at each road width and post no parking signs after developing the bike lanes. Re-stripping them would be fairly easy and quick. He then asked for the committees to have their purpose and needs finished and committee members established, or close to it, by the next work session on August 17 and have some meetings scheduled. He would make Robert the contact point for committee solicitations, and Robert could coordinate assignments as to preferences and interests. Tena asked Robert to help Nathan since the City Council would not appoint his committee vice chair for another month at least. Robert agreed.

PLANNING COMMISSION BUSINESS

Robert stated that UDOT had three open houses coming up concerning the West Davis Corridor and encouraged commissioners, especially Nathan, to attend. All three would have the same presentation, just different sites, from 4:30-8:00 p.m. One would be at Sunset City Hall on Tuesday, August 3, Wednesday, August 4, at Kanesville Elementary in West Haven, and Thursday, August 5, at the Legacy Events Center in Farmington. They would be taking input on the study that chose several alternative alignments for this Corridor.

Robert then reported on the last two City Council meetings. The Council approved amendments to the San Melia and Elma's Lane subdivisions, which typically came before the Commission. However, staff realized that only the Council needed to review it after the Commission cancelled the applicable meeting. Troy referred to the Ordinance requiring plats to go before only City Council as the Land Use Authority. He asked if the Commission wanted applicants to continue attending two meetings or propose to Council that the Commission become the Land Use Authority for plat amendments. Robert believed it made more sense for the Commission to be the Land Use Authority if they only went before one body, unless the Council really wanted that responsibility. Kenneth agreed since the Commission was already the Land Use Authority on many other things. Troy suggested making the Commission the Land Use Authority and Council the appellate body. Robert directed Troy to present it to Council that way and see what they said. Kenneth realized the benefit of such a change as keeping the appeal process here rather than forwarding them to the courts.

Gary said he read through the presentation for those plat amendments and took issue with the enormous list of items one developer still needed to complete. He believed that applicants should have all that buttoned up by the time they came before the Commission, rather than asking for approval upon the promise to complete the final 30 items. Troy told him staff could comply with his request but pointed out that staff usually did not receive the City Engineer's review until just a few days prior to the Commission meeting. Staff would therefore need to require applicants to submit their plans a month and a half before the desired meetings. Nathan suggested the Commission just simply determine the plans incomplete and table the item. Gary said he would have told that particular applicant that he was not even close to being ready with so many items to resolve. It had easement problems and all kinds of issues that made him believe that staff should not have allowed

the applicant to present his request yet. Troy explained that staff did not let anything record without approval from the Commission. Gary wanted to see more pressure at the front end so the Commission did not end up with a docket full of ill-prepared applications. He suggested that staff advise applicants at the time of submittal that they needed to have a lot of this done before going before the Commission. He did not mind excusing one or two minor housekeeping items, but that one plat had too many issues. If he had been on the Council, he would not have approved it because of the major items still needing to be done. Robert pointed out that it was difficult for staff to know when to put items on agendas and that more issues would still come out during discussions. He assured Gary that he and Troy would discuss some of those things and make the necessary judgment calls. He then reiterated the fact that the Commission did have the ability to table such items. Gary argued that tabling created situations where applicants felt like things were moving along quickly and would therefore not understand why the Commission then tabled their request. He preferred having staff tell applicants that they could present their requests with an understanding that the Commission could table it. Troy agreed to do that if directed by the Commission but reminded them that the City had to notice the paper 15 days before public hearings for plat amendments. That meant staff had to immediately set public hearings upon receiving such applications in order to place the requests on upcoming agendas. If staff were to wait until applicants got everything buttoned up, they would need to wait another month or more to even appear before the Commission. Gary argued that this particular property had been on the docket for a year. Tena then explained that there could still be items discovered by the Commission upon review as grounds for denial or tabling, so applicants always faced that risk no matter how prepared they were with their plans. Troy emphasized the fact that setting the public hearings was the hardest part of the process. Robert suggested setting a longer timeline for deadlines, like some of the other cities with which he worked, so that staff had the time to get the appropriate reviews. He suggested they discuss that later.

Robert continued with his report, stating that the Council had been deliberating over working with the County and other cities in Davis to get CDBG grants for fiscal year 2011-13 and re-evaluating needs every 3 years. After several meetings, they finally approved it. Doug Hammond changed his vote, and Matt Kimmel was not in attendance. They approved a resolution to change the location of the No Child Left Out park from Legacy to Centennial Park, right behind the Police Department. They felt that a park this unique would probably draw people from long distances. If the City could get them closer to the Town Center, maybe they would help patronize the businesses and keep them thriving. The previous Council meeting, on June 22, also included two subdivision plat amendments for Craig Estates and Haylee Estates, which the Council both approved. They discussed the budget and SB43, relating to employees. The Community Development Director position was open now, and the City accepted applications. The ULC&T would be having their annual conference on September 16 with a Planners Day. Staff would provide them with more information in the coming months.

DEPARTMENT BUSINESS

Troy advised them that the newsletter would be in homes by August 1. All lanes of Antelope Drive would be open that same day, and he would also be unveiling the new design of the ishopsyracuse.org website. UDOT would be hosting an open house celebration on August 19 in Centennial Park. SBOSS had been meeting regularly and getting more memberships. He attended a site tour with the economic group for Davis County and went to all the sites, such as the DATC that had some great programs there. The County was being very proactive in attracting businesses and jobs, so everyone would be seeing some things happening very soon, especially by Lagoon with a big development and with West Gate in Layton. Great things were happening, and he hoped Syracuse could capture some of that. There were some good planning groups that would help launch the City so that maybe Syracuse could be a tour spot next year for that group.