

MINUTES
MUNICIPAL PLANNING COMMISSION
CITY OF BELLE MEADE
September 20, 2016

Call to Order

The meeting was called to order by Steve Horrell, Chairman, at 4:00pm.

Board members present

Steve Horrell	James Hastings	Larry Weick
John Eason	Alice Mathews	Gloria Sternberg
Bob Weigel	Charlie Atwood	

Staff members present

Lyle Patterson, Building Official	Bob Patterson, City Attorney
Kemishia Sadler, City Recorder	Beth Reardon, City Manager

Agenda Items

1. Approval of Minutes from August 16, 2016

Motion to approve: Mathews Second: Hastings Vote: All aye

2. The application of Mr. Kevin Crumbo (PC16091), 121 Westhampton Place for the approval of survey amending the incorporation of ½ of Redwing Ave. at rear of property.

Presentation:

Ridley Wills, Architect for the Crumbos at 121 Westhampton Place, presented a new survey amending the incorporation of ½ of Redwing Avenue between 121 Westhampton Place and 400 Sunnyside Drive. The roadway was divided in half on either side of the property and the fence line was moved to the correct position on the property.

Discussion/Findings

Q: How do we make sure that the fence gets put in the right place?

A: When they come in to pull a permit for a fence.

Q: Was there a reason for them to have to do all of that?

A: They wanted to get half of Redwing to add square footage to their lot. They are going to put their fence on the new property line.

Q: Do they need a new house or a structure?

A: That will come later before the BZA.

Motion to approve: Hastings Second: Eason Vote: All aye

3. The application of Meg Epstein (PC16092), 4304 Lillywood Road, for the combining of lots 14, 16, 25, & 27.

Presentation:

L. Patterson stated that this is to combine four parcels into one lot so the appellants can install a circular driveway on the property. L. Patterson presented the survey showing the lines dividing all of the lots.

Discussion/Findings

Motion to approve: Hastings Second: Sternberg Vote: All aye

4. The consideration of Ordinance 2016-7, Amend Zoning Code, Title 14-204, (1)(h)(ii) and Title 14-103, Corner Lots.

Presentation:

This ordinance will allow a property owner to submit to the Municipal Planning Commission plans for building envelopes facing each street on their corner lot and gives the MPC authority to create a building envelope specific to the owner's corner lot, designate the orientation of the dwelling, and impose other conditions as it deems necessary.

Discussion/ Findings

Q: What is new or different from what we had before?

A: (Bldg. Official) There are many vacant corner lots that are beautiful and undeveloped for various reasons; many of which are setback restrictions. An example is an actual lot at Royal Oaks Place and Iroquois. This lot is vacant. Because of the average setbacks on Royal Oaks Place and Iroquois, the building envelope allowed is much too small for a home to be built. The current code of zoning says that the owner can affix the front but the BZA has the ability to change the other setbacks.

Q: So the BZA has some latitude of adjusting that one setback?

A: (Bldg. Official) Yes. This is just an example of the lots that exist. I am proposing to do away with one of the front setbacks to make the building envelope larger. I am asking the property owner to submit two building envelopes with the structure facing one street and one facing the other where the Planning Commission will decide the best option. The BZA can give the stipulation that the residents put in heavy evergreen all the way down to the right of way so that it would not show that the house steps out further than the other houses on the street. When you figure the envelope you measure the width of the lot at the front setback. Half of that is your envelope and I think it would be best to take 30% from the street side and 20% from the other side.

Q: Any idea of how many of these are in Belle Meade?

A: (Bldg. Official) I know of about six to nine.

Q: The lot that we are speaking of, is that a vacant corner lot?

A: (Bldg. Official) Yes.

Q: So it would be open to every corner lot in the city?

A: (Bldg. Official) Yes. But it would be on a case by case basis. It is just a matter of someone saying "We have a corner lot and we want to tear the house down. What can we do?" They would be required to draw plans for two different building envelopes and come to the Planning Commission.

Q: I have a question. First of all I have a comment. There has to be dozens of corner lots. Is every lot on a corner susceptible to come to this meeting?

A: (Bldg. Official) There is. I actually walked around with Brian Smallwood, Boyd Bogle, and James Edwards. We looked at this two months ago and we just happened to see six or nine of them.

Q: The board generally looks at the footprint of the existing house before it is torn down and obviously the homeowner has a lot of advantages with the existing setbacks. Are they going to lose that privilege with this ordinance?

A: (City Attorney) The answer is no, because you are dealing with two different types of review. If somebody actually knows what house that they want to put on a corner lot, then they can go to the BZA. They can pick which way they want to orient the house. The BZA gets to pick the side setback from one of the streets. If they do that with an existing house and want to take advantage of the existing setbacks the BZA is looking at a designed house to go on a particular lot and can figure out whether they are going to allow that to happen. I think what Lyle is trying to address is the situation where given the house on the lot you just end up with a building envelope. Even if presented, the BZA will give you the advantage of the existing house. You just can't build a viable house on that lot and so this is the exception for people if they just can't figure out how to design a house to

take to the BZA. I want to emphasize that what Lyle has shown here is an example of how the ordinance works. The ordinance doesn't say that there won't be a side setback. The ordinance says that the Planning Commission within its jurisdiction can say that this is the way that we want the city to feel and can design any building envelope it wants to. Right now the BZA looks at the corner lot and somebody says I want to face Iroquois. The BZA generally looks at the front yard setbacks on Royal Oaks instead of the side setback line. This gives you (MPC) the latitude to design a brand new building envelope with all the restrictions you want to put on it; conditions on construction, conditions on landscaping, anything you want to do to maintain the beauty of the City. It gives the homeowner some more latitude to create a building envelope that otherwise would not be available for the BZA.

Q: Let's say we do several of these and probably see vacant lots pop up first. Let's say we've done two or three along the way and somebody shows up and they bring something to us and we don't like it under any circumstances whatsoever. Does that give us the ability to say no?

A: (City Attorney) Yes, you can say no. The zoning code defines a building envelope. The zoning code says if there is an existing structure outside the building envelope you can take advantage of that. You would only address those situations where the zoning code doesn't get the homeowner where they want to be and if you tell them no, we don't think that's consistent with the planning for the City, then the answer is no. They have to go back to the zoning code.

Q: To take this one step further, are you worried about us approving a few and then somebody comes in and we say no? What are the chances of the City being sued because some have been approved and then we just randomly decide not to approve one?

A: (City Attorney) No I am not. The challenge presented by the City of Belle Meade is that if we had nice square lots that were perpendicular to one another, then it would all be really easy. But, every lot is unique.

Q: Is there any reason for us to find out how many of the lots are available so that we do not have 50 possibilities? If this is one, then there is going to be another and another?

A: (City Attorney) The city would rather have the Planning Commission, on a case by case basis when needed, redefine the building envelope and just leave it up to the limitations of the BZA, rather than the risk that you end up with a lot like the one on Royal Oaks Place that just sits there.

C: I agree with all of that, but I keep thinking if we had some reference. You say there are six or nine, but I think there are more than that.

C: There will be several, but it will be on a case by case basis. Not everyone will run in at one time. Originally I looked at vacant lots, but then started looking at lots in general. For instance, there is one on the corner of Forsythe Place and Lynwood Boulevard. It is a Beautiful lot with an old home sitting way to the right of the property. This would be a perfect example. They are not utilizing the yard on the left. It is an older ranch home probably built in the 1940s. I would like to put a small article in the newsletter letting people know that the ordinance has passed and this is what it means if you own a corner lot.

Q: Boyd (Bogle) and Bob (Weigel), I know that this has been presented to you before. I would like to know if you have any thoughts that you would like to share with us.

A: B. Bogle: We got into it originally because of the fact that there are several corner lots. Some that are vacant and some like the one mentioned on Lynwood and Forsythe. Many of these are lots that sellers can't sell and buyers cannot use. We've got a lot of potential revenue if we can start building houses and collecting taxes on these empty lots that are sitting there and cannot be used. That's what got us thinking about this. The main thing is that every lot is different. I don't think that you can ever say there's a precedent by approving four lots and then someone comes in and says that theirs was denied. They are all different, so the problem with any precedent is not to me any problem at all.

A: B. Weigel: It adds flexibility to what the sellers and buyers want to do. It is so rigid in our setbacks. You just have a sliver of a building envelope so I like the ordinance and I think it's a workable ordinance that opens up a lot of possibilities.

Q: So, if you have an existing house on a lot like this and lived there a while, is this going to enable you to build out in the back of it, perhaps towards somebody else?

A: (Bldg. Official) Again, I think it's a case by case basis. Most of the corner lots that I have seen are tear downs or they are vacant. That's what I am looking at. As far as an existing home that someone wants to branch out of it, that's a case by case basis.

C: (Bldg. Official) You still have footprint, volume, and height, and all of those limitations that constrain the size and structure that goes on the house. If somebody has a house on a corner lot and they want to add on to it and they're going to the BZA, they're subject to the same restrictions they always have been.

Q: This would also be subject to volume and everything?

A: (City Attorney) This only applies by its terms if the homeowner comes to the Planning Commission and says I can't do what I want to do under the zoning code. It then gives you complete discretion to redefine a building envelope and talk about how it affects neighboring properties and physical characteristics. It gives you the discretion to say we will give you a building envelope but we are going to limit what you put in it. Frankly, one other benefit is because of the way lots in the City were divided, we have ended up with some houses that are outside of the building envelope but adjacent to the property line next door. This might give you the latitude to say, ok, you can tear that down and build in a new building envelope, but you cannot build so close to your neighbor.

C: This also gives the homeowner a footprint to start with before they go and design a home that may not get approved to begin with. To me, this is important, having lived on Royal Oaks Place for 13 ½ years and all of the issues we've had on that street with small lots and odd sized lots. The lot next door to me had a setback that was not going to work initially. The lot was lived in for many years and the building in the back was an eyesore. We need to use these lots and get property taxes from them and also remove what may be an eyesore in our neighborhood. It is a beautiful street and this would enhance our neighborhood and the property tax base. So to me, this is a no brainer in terms of giving the homeowner something that they can work with from day one before they go try to design a home. The only thing that concerns me about these lots is that people are investing in them and if we don't let them build on them, we are just kicking ourselves in the foot.

Q: It begs the question also - if I am sitting on one of these lots and I've had it for years and I can't do anything with it. Then all of a sudden, the door gets opened would it be possible to have a significant fee to the city for approval for these lots? In other words, if you want to get approval then there is a \$45,000 - \$50,000 fee payable to the city for the opportunity to turn your piece of property into a buildable lot?

Q: You would have to do that for all of them wouldn't you?

C: It is to our advantage for them to invest in that lot and build on it. I don't know if we would want to inhibit that with a significant fee.

A: (City Attorney) I would have to do a little research on it, but my guess is that the building code is a part of your property rights as a homeowner. Imposing a fee on one set of homeowners and not another becomes a constitutional issue.

C: This is impractical to build on this lot. What is impractical to me may be a lot different than what's impractical to another. So, it is basically just going to open it up if anybody wants to get a bigger lot, then they can come in and try to get a bigger lot. So, it is no real test for them to get an application and come before us. It has got to be a corner lot. It can be an empty lot, a lot with a house on it, or it can be a lot looking for an addition?

(Bldg. Official) Yes. They are going to have to come up with two envelopes and a fee for the Planning Commission.

C: You are either going to have people coming in that want to develop a new property or existing homeowners that want to make changes. We wrestled with different gateway standards before they could come to the Planning Commission. The real limit there is that when they come before the Planning Commission all bets are off. You get to start from zero and redefine exactly what they can do and how they can do it. You are just redesigning the building envelope so they have not even designed a house yet. The first stop should be to design a house and see if you can fit it on the lot that is there. If they are not happy with those restrictions they would then come before the Planning Commission and say "I cannot build the house that I want to build so you tell me what I can build. They will take a risk that you tell them something that they don't want to hear.

Q: Somebody who has a corner lot would have the option of going to the BZA first and if they did not like what they heard, could come before the Planning Commission, correct?

A: (City Attorney) If they can't design and get an approval for a house that they want to build under the existing BZA regulations, then they can come before you and ask for your discretions to design a building envelope and impose upon them any conditions that you want to concerning construction of a house.

Q: They've gone to the BZA and may not have gotten what they wanted. If they come to the Planning Commission and hear something that they don't want to hear, are they still going to have denial from the BZA, or does the Planning Commission decide that this is it?

A: (City Attorney) The Planning Commission creates a building envelope specific to that lot. The specific building envelope prompts the BZA to go back to the zoning code's definition of what the building envelope is.

Q: Once they appear here, they are bound by that decision?

A: (City Attorney) To the building envelope specific to that lot.

Q: So they have to make a decision about whether they are happy with the ruling of the BZA or whether they want to come before the Municipal Planning Commission?

A: (City Attorney) Yes.

Q: Do they have to have plans to show to the Planning Commission?

A: No.

Q: So they can get a building envelope established here and then go back to the BZA?

A: (City Attorney) They can go design a house, but the Planning Commission can say here is your building envelope, your volume limitations, height limitations, and landscaping requirements. The MPC can constrain what house gets designed, which is your failsafe.

C: It sounds to me like the logical thing is to make the Planning Commission the first stop. You have to have something defined from the Planning Commission. Why waste time going to the BZA when you don't know what your final answer is going to be? Let's get the final answer on the size of the building envelope first and then come to the BZA. You shouldn't be allowed to go the BZA first before the Planning Commission.

A: (City Attorney) Here is the way that it worked throughout the city—we have a zoning code. It defines setbacks for every lot. The only time that it needs to come for a special determination of the building envelope is when the zoning code doesn't otherwise work. It's not every corner lot that will need a special building envelope. The goal was not to create an ordinance where every corner lot would come before the Planning Commission. The presumption is that we have general guidelines within the zoning code that define a building envelope and the only time that this (ordinance) kicks in is if you own a strange corner lot where you just can't figure out how to put a building on it. Only in that instance will they come before the Planning Commission.

If there is already a house there, it defines the setbacks in which the homeowner can either renovate the house that is there or build a new house on the lot. If you have a house there that violates the existing setbacks, then you will need to take advantage of those setbacks. If you decide not to take advantage of them and come before the Planning Commission, the risk is that the Planning Commission is

going to redefine your building envelope and force the homeowner to tear the house down.

C: That is my point. There is a huge benefit in existing setbacks of any house, particularly those on a corner lot. Those people should go before the BZA and benefit from the existing setbacks and never come to the Planning Commission. Clearly lots like this (Royal Oaks Pl. and Iroquois) with no practically definable building envelope because of setbacks on both streets, those are more likely to come before us?

A: Yes.

Q: I just want to clarify that all corner lots don't have to come?

A: Yes.

C: I think we will need time ahead of the meeting to go visit lots if we are setting the rules to regulate them. I think this has to be something like the BZA currently does if this goes forward. Everybody gets the information, visits the site, and looks at the constraints. We will have to define rear setbacks that has no basis except for our judgement. We have to have something to base it on. Mechanically we have to figure out how this is going to work.

Lyle, would it be a good idea to require the homeowner to plot out a visual or allow us to go on to the property visualize.

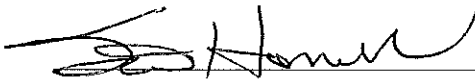
A: (Bldg. Official) No, we are going to require they have a survey showing the two building envelopes that they wish to have. It is required to have a survey submitted 15 days prior to this meeting. The BZA meets Sunday before the meeting and this board can pick which day they would like to go out. I think it's a good idea to walk the lot and look at it.

Motion to approve: Atwood

Second: Hastings

Vote: All aye

Meeting adjourned at 4:48pm.



Steve Horrell, Chairman



Kemishia Sadler, City Recorder